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STATUTORY INSTRUMENTS

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**2021 No. 929**

The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021

PART 3

Corresponding amendments to other regulations

CHAPTER 1

Amendment of the Education (Fees and Awards) (England) Regulations 2007

*SECTION 1*

*Introductory*

**Amendment of the Education (Fees and Awards) (England) Regulations 2007**

9. The Education (Fees and Awards) (England) Regulations 2007(1) are amended in accordance with regulations 10 and 11.

*SECTION 2*

*Citizens' rights and residency criteria*

**Amendment to Schedule 1**

10. In Schedule 1—

- (a) in paragraph 1(1), in the definition of “person with protected rights”—
  - (i) the existing text after “means—” is numbered as paragraph (1) of that definition,
  - (ii) in that paragraph as so numbered, omit the terminal “or” after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv), insert—
    - “(v) otherwise has rights deemed to apply by virtue of any citizens' rights deeming provisions; or”,
  - (iii) after that paragraph as so numbered, insert—
    - “(2) In paragraph (1)(a)(v) “citizens' rights deeming provisions” means—
      - (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
      - (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or

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(1) *S.I. 2007/779*; amendments corresponding to those made to *S.I. 2011/1986* and described in footnotes to the amendments to that instrument were made to this instrument.

- (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement.”;
- (b) in paragraph 2A(1)(a) and (b), for “on the first day of the first academic year of the course”, in each case substitute “on the day on which the first term of the first academic year actually begins”;
- (c) in paragraph 3(1)(a)(iv)—
  - (i) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (ii) in paragraph (cc), after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (iii) after sub-paragraph (2) insert—
    - “(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens’ rights provisions referred to are—
    - (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
    - (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
    - (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

### SECTION 3

#### *Irish citizens in the EEA and Switzerland*

#### **Eligibility of Irish citizens in the EEA and Switzerland**

- 11.—(1) In regulation 4—
  - (a) in paragraph (1)(a), after “9B,” insert “9BA,”;
  - (b) in paragraph (1B), for “8A and 9B” substitute “8A, 9B and 9BA”.
- (2) In regulation 5—
  - (a) in paragraph (1)(b), after “9B,” insert “9BA,”;
  - (b) in paragraph (2) for “8A and 9B” substitute “8A, 9B and 9BA”.
- (3) In regulation 6—
  - (a) in paragraph (1)(b)(i), after “9B,” insert “9BA,”;
  - (b) in paragraph (1C) for “8A and 9B” substitute “8A, 9B and 9BA,”;
  - (c) in sub-paragraph (3), after “paragraph 9B,” insert “paragraph 9BA,”.
- (4) In regulation 7—
  - (a) in paragraphs (1) and (2), after “9B,” insert “9BA,”;
  - (b) in paragraph (3) for “8A and 9B” substitute “8A, 9B and 9BA,”.
- (5) In regulation 8—
  - (a) in paragraphs (1)(a) and (2)(a), after “9B,” insert “9BA,”;
  - (b) in paragraph (4) for “8A and 9B” substitute “8A, 9B and 9BA”.

(6) In regulation 9—

- (a) in paragraphs (1)(a) and (2)(a), after “9B,” insert “9BA,”;
- (b) in paragraph (4) for “8A and 9B” substitute “8A, 9B and 9BA”.

(7) In regulation 9A—

- (a) in paragraphs (1) and (2), after “9B,” insert “9BA,”;
- (b) in paragraph (4) for “8A and 9B” substitute “8A, 9B and 9BA”.

(8) In Schedule 1—

- (a) after paragraph 9B insert—

“9BA.—(1) A person—

- (a) who is an Irish citizen on the first day of an academic year of the course;
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area, Switzerland and the EU overseas territories; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

- (c) who is undertaking the course in the United Kingdom;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

(3) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.”.

## CHAPTER 2

### Amendment of the Education (Student Support) (European University Institute) Regulations 2010

#### SECTION 1

##### *Introductory*

### **Amendment of the Education (Student Support) (European University Institute) Regulations 2010**

12. The Education (Student Support) (European University Institute) Regulations 2010(2) are amended in accordance with regulations 13 to 16.

#### SECTION 2

##### *Citizens' rights and residency criteria*

#### **Amendment to regulation 3**

13. In regulation 3(1), in the definition of “person with protected rights”—

- (a) the existing text after “means—” is numbered as paragraph (1) of that definition;
- (b) in that paragraph as so numbered, omit the terminal “or” after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv), insert—
  - “(v) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;
- (c) after that paragraph as so numbered, insert—

“(2) In paragraph (1)(a)(v) “citizens’ rights deeming provisions” means—

- (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

#### **Amendment to regulation 9**

14. In regulation 9(11B)(a)(i), for “paragraph (a)(iii) or (iv)” substitute “paragraph (a)(iii), (iv) or (v)”.

#### **Amendment to Schedule 1**

15. In Schedule 1—

- (a) in paragraph 3(1)(a)(iv)—
  - (i) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)”;

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(2) [S.I. 2010/447](#); amendments corresponding to those made to [S.I. 2011/1986](#) and described in footnotes to the amendments to that instrument were made to this instrument.

- (ii) in paragraph (cc), after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”;
- (iii) after sub-paragraph (2) insert—
  - “(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens’ rights provisions referred to are—
    - (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
    - (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
    - (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

### SECTION 3

#### *Irish citizens in the EEA and Switzerland*

#### **Eligibility of Irish citizens in the EEA and Switzerland**

**16.—**(1) In regulation 9—

- (a) in paragraph (2)(b)(i), after “9B,” insert “9BA,”;
  - (b) in paragraph (2B), for “, 9B and 9D” substitute “, 9B, 9BA and 9D”.
- (2) In regulation 17(2), after “9A,” insert “9BA,”.
- (3) In regulation 19(2), after “9A,” insert “9BA,”.
- (4) In regulation 22(3), after “9A,” insert “9BA,”.
- (5) In regulation 24(2), after “9A,” insert “9BA,”.
- (6) In Schedule 1, after paragraph 9B, insert—

**“9BA.—**(1) A person—

- (a) who on the relevant date is an Irish citizen;
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area and Switzerland, or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland,and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the relevant date;
- (c) who is ordinarily resident in England on the relevant date;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during

any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(7).”

## CHAPTER 3

### Amendment of the Further Education Loans Regulations 2012

#### SECTION 1

##### *Introductory*

### **Amendment of the Further Education Loans Regulations 2012**

17. The Further Education Loans Regulations 2012(3) are amended in accordance with regulations 18 to 21.

#### SECTION 2

##### *Citizens’ rights and residency criteria*

### **Amendment to regulation 2**

18. In regulation 2(1), in the definition of “person with protected rights”—

- (a) the existing text after “means—” is numbered as paragraph (1) of that definition;
- (b) in that paragraph as so numbered, omit the terminal “or” after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv) insert—

“(v) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;

- (c) after that paragraph as so numbered, insert—

“(2) In paragraph (1)(a)(v) “citizens’ rights deeming provisions” means—

- (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

### **Amendment to regulation 3**

19. In regulation 3(10)(a)(i) for “paragraph (a)(iii) or (iv)” substitute “paragraph (a)(iii), (iv) or (v)”.

### **Amendment to Schedule 1**

20. In Schedule 1—

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(3) [S.I. 2012/1818](#); amendments corresponding to those made to [S.I. 2011/1986](#) and described in footnotes to the amendments to that instrument were made to this instrument.

- (a) in paragraph 2A(1)—
  - (i) in sub-paragraph (c), after “course” insert “and who has been ordinarily resident in the Republic of Ireland for least part of that period”, and move the terminal “and” to after sub-paragraph (1)(d),
  - (ii) after sub-paragraph (d) insert—
    - “(e) who did not move to England from the Islands for the purpose of undertaking the current course or a course which the person undertook before undertaking the current course.”;
- (b) in paragraph 3(1)(a)(iv)—
  - (i) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (ii) in sub-paragraph (cc), after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (iii) after sub-paragraph (2) insert—
    - “(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens’ rights provisions referred to are—
      - (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
      - (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
      - (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”;
- (c) in paragraph 9C(1), move the terminal “and” after sub-paragraph (c) to after sub-paragraph (d), and after that sub-paragraph insert—
  - “(e) who did not move to England from the Islands for the purpose of undertaking the current course or a course which the person undertook before undertaking the current course.”.

### SECTION 3

#### *Irish citizens in the EEA and Switzerland*

#### **Eligibility of Irish citizens in the EEA and Switzerland**

##### **21.—(1) In regulation 3—**

- (a) in paragraph (2)(a)(i), after “9B,” insert “9BA,”;
- (b) in paragraph (2B), for “, 9B and 9D” substitute “, 9B, 9BA and 9D”.

##### **(2) In Schedule 1, after paragraph 9B, insert—**

##### **“9BA.—(1) A person—**

- (a) who is an Irish citizen on the first day of the designated further education course;
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area and Switzerland; or

(ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland,

and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the first day of the designated further education course;

- (c) who is attending or undertaking a designated further education course in England;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the designated further education course; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(5).”

## CHAPTER 4

### Amendment of the Education (Postgraduate Master’s Degree Loans) Regulations 2016

#### *SECTION 1*

##### *Introductory*

### **Amendment of the Education (Postgraduate Master’s Degree Loans) Regulations 2016**

**22.** The Education (Postgraduate Master’s Degree Loans) Regulations 2016(4) are amended in accordance with regulation 23 to 26.

#### *SECTION 2*

##### *Citizens’ rights and residency criteria*

### **Amendment to regulation 2**

**23.** In regulation 2(1), in the definition of “person with protected rights”—

- (a) the existing text after “means—” is numbered as paragraph (1) of that definition;
- (b) in that paragraph as so numbered, omit the terminal “or” after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv), insert—
  - “(v) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;
- (c) after that paragraph as so numbered, insert—
  - “(2) In paragraph (1)(a)(v) “citizens’ rights deeming provisions” means—

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(4) *S.I. 2016/606*; amendments corresponding to those made to *S.I. 2011/1986* and described in footnotes to the amendments to that instrument were made to this instrument.



- (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement.”.

### **Amendment to regulation 3**

**24.** In regulation 3(9)(a)(i) for “paragraph (a)(iii) or (iv)” substitute “paragraph (a)(iii), (iv) or (v)”.

### **Amendment to Schedule 1**

**25.** In Schedule 1—

(a) in paragraph 2A—

- (i) in sub-paragraph (1)(a), for “on the first day of the first academic year of the course” substitute “on the day on which the first term of the first academic year actually begins”,
- (ii) in sub-paragraph (1)(c), after “course” insert “and who has been ordinarily resident in the Republic of Ireland for least part of that period”, and move the terminal “and” to after sub-paragraph (1)(d),
- (iii) after sub-paragraph (1)(d) insert—
  - “(e) who did not move to England from the Islands for the purpose of undertaking the designated course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.”;

(b) in paragraph 3(1)(a)(iv)—

- (i) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
- (ii) in paragraph (cc), after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,

(iii) after sub-paragraph (2) insert—

“(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens’ rights provisions referred to are—

- (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”;

(c) in paragraph 9C(1), move the terminal “and” after sub-paragraph (c) to after sub-paragraph (d), and after that sub-paragraph insert—

- “(e) who did not move to England from the Islands for the purpose of undertaking the designated course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.”.

### SECTION 3

#### *Irish citizens in the EEA and Switzerland*

#### **Eligibility of Irish citizens in the EEA and Switzerland**

**26.**—(1) In regulation 3—

- (a) in paragraph (2)(a), after “9B,” insert “9BA,”;
- (b) in paragraph (2B), for “, 9B and 9D” substitute “, 9B, 9BA and 9D”.

(2) In Schedule 1, after paragraph 9B, insert—

“**9BA.**—(1) A person—

- (a) who is an Irish citizen on the first day of the first academic year of the course;
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland,
 and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;
- (c) who is attending or undertaking a designated course in England;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(5).”.

## CHAPTER 5

### Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017

#### SECTION 1

##### *Introductory*

### **Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017**

27. The Higher Education (Fee Limit Condition) (England) Regulations 2017(5) are amended in accordance with regulations 28 and 29.

#### SECTION 2

##### *Citizens' rights and residency criteria*

### **Amendment to the Schedule**

28. In the Schedule—

- (a) in paragraph 1(1), in the definition of “person with protected rights”—
  - (i) the existing text after “means—” is numbered as paragraph (1) of that definition;
  - (ii) in that paragraph as so numbered, omit the terminal “or” after sub-paragraph (a)(ii), and after sub-paragraph (a)(iii), insert—
    - “(iv) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;
  - (iii) after that paragraph as so numbered, insert—
    - “(2) In paragraph (1)(iv) “citizens’ rights deeming provisions” means—
      - (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
      - (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
      - (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.
- (b) in paragraph 3A(1)(a) and (b), for “on the first day of the first academic year of the course”, in each case substitute “on the day on which the first term of the first academic year actually begins”;
- (c) in paragraph 4(1)(a)(iii)—
  - (i) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (ii) in paragraph (cc) after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (iii) after sub-paragraph (2) insert—

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(5) [S.I. 2017/1189](#); amendments corresponding to those made to [S.I. 2011/1986](#) and described in footnotes to the amendments to that instrument were made to this instrument.

“(3) For the purposes of sub-paragraph (1)(a)(iii), the citizens’ rights provisions referred to are—

- (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

### *SECTION 3*

#### *Irish citizens in the EEA and Switzerland*

#### **Eligibility of Irish citizens in the EEA and Switzerland**

**29.**—(1) In regulation 4—

- (a) in paragraph (4)(a), after “10B,” insert “10BA,”;
- (b) in paragraph (6), for “9A and 10B” substitute “9A, 10B and 10BA”.

(2) In the Schedule, after paragraph 10B, insert—

“**10BA.**—(1) A person—

- (a) who is an Irish citizen on the first day of an academic year of the course;
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area, Switzerland and the EU overseas territories; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

- (c) who is undertaking the course in the United Kingdom;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 2(2).

(3) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire,

Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.”.

## CHAPTER 6

### Amendment of the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No 2) etc.) Regulations 2018

#### SECTION 1

##### *Introductory*

#### **Amendment of the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018**

**30.** The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018(6) are amended in accordance with regulations 31 to 34.

#### SECTION 2

##### *Citizens' rights and residency criteria*

#### **Amendment to regulation 2**

**31.** In regulation 2(1), in the definition of “person with protected rights”—

- (a) the existing text after “means—” is numbered as paragraph (1) of that definition;
- (b) in that paragraph as so numbered, omit the terminal “or” after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv), insert—

“(v) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;

- (c) after that paragraph as so numbered, insert—

“(2) In paragraph (1)(a)(v) “citizens’ rights deeming provisions” means—

- (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

#### **Amendment to regulation 3**

**32.** In regulation 3(12)(a)(i) for “paragraph (a)(iii) or (iv)” substitute “paragraph (a)(iii), (iv) or (v)”.

#### **Amendment to Schedule 1**

**33.** In Schedule 1—

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(6) [S.I. 2018/599](#); amendments corresponding to those made to [S.I. 2011/1986](#) and described in footnotes to the amendments to that instrument were made to this instrument.

- (a) in paragraph 2A—
- (i) in sub-paragraph (1)(a), for “on the first day of the first academic year of the course” substitute “on the day on which the first term of the first academic year actually begins”;
  - (ii) in sub-paragraph (1)(c), after “course” insert “and who has been ordinarily resident in the Republic of Ireland for least part of that period”, and move the terminal “and” to after sub-paragraph (1)(d),
  - (iii) after sub-paragraph (1)(d) insert—
    - “(e) who did not move to England from the Islands for the purpose of undertaking the designated course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.”;
- (b) in paragraph 3(1)(a)(iv)—
- (i) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (ii) in paragraph (cc), after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
  - (iii) after sub-paragraph (2) insert—
    - “(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens’ rights provisions referred to are—
    - (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
    - (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
    - (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”;
- (c) in paragraph 10C(1), move the terminal “and” after sub-paragraph (c) to after sub-paragraph (d), and after that sub-paragraph insert—
- “(e) who did not move to England from the Islands for the purpose of undertaking the designated course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.”.

### SECTION 3

#### *Irish citizens in the EEA and Switzerland*

#### **Eligibility of Irish citizens in the EEA and Switzerland**

- 34.**—(1) In regulation 3—
- (a) in paragraph (2)(a), after “10B,” insert “10BA,”;
  - (b) in paragraph (2B), for “, 10B and 10D” substitute “, 10B, 10BA and 10D”.
- (2) In Schedule 1, after paragraph 10B, insert—
- “**10BA.**—(1) A person—
  - (a) who is an Irish citizen on the first day of the first academic year of the course;

- (b) who was ordinarily resident immediately before IP completion day—
    - (i) in the territory comprising the European Economic Area and Switzerland; or
    - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland, and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;
  - (c) who is attending or undertaking a designated course in England;
  - (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
  - (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.
- (2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(5).”.