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OFFERYNNAU STATUDOL CYMRU

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**2020 Rhif 1302 (Cy. 287)**

**YMADAEL Â'R UNDEB EWROPEAIDD, CYMRU**

**ADDYSG, CYMRU**

Rheoliadau Addysg (Cyllid Myfyrwyr) (Diwygiadau Amrywiol)  
(Cymru) (Ymadael â'r UE) 2020

*Gwnaed*

*17 Tachwedd 2020*

*Gosodwyd gerbron Senedd Cymru*

*18 Tachwedd 2020*

*Yn dod i rym yn unol â rheoliad 1(2) a (3)*

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WELSH STATUTORY INSTRUMENTS

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**2020 No. 1302 (W. 287)**

**EXITING THE EUROPEAN UNION, WALES**

**EDUCATION, WALES**

The Education (Student Finance) (Miscellaneous Amendments)  
(Wales) (EU Exit) Regulations 2020

*Made*

*17 November 2020*

*Laid before Senedd Cymru*

*18 November 2020*

*Coming into force in accordance with regulation 1(2) and (3)*

**£11.50**





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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2020 Rhif 1302 (Cy. 287)**

**2020 No. 1302 (W. 287)**

**YMADAEL Â'R UNDEB  
EWROPEAIDD, CYMRU**

**EXITING THE EUROPEAN  
UNION, WALES**

**ADDYSG, CYMRU**

**EDUCATION, WALES**

Rheoliadau Addysg (Cyllid  
Myfyrwyr) (Diwygiadau  
Amrywiol) (Cymru) (Ymadael â'r  
UE) 2020

The Education (Student Finance)  
(Miscellaneous Amendments)  
(Wales) (EU Exit) Regulations 2020

**NODYN ESBONIADOL**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

Mae'r Rheoliadau hyn yn gwneud diwygiadau i—

- (a) Rheoliadau Addysg (Ffioedd a Dyfarniadau) (Cymru) 2007,
- (b) Rheoliadau Addysg (Athrofa Brifysgol Ewropeaidd) (Cymru) 2014,
- (c) Rheoliadau Addysg Uwch (Cyrsiau Cymhwysol, Personau Cymhwysol a Darpariaeth Atodol) (Cymru) 2015,
- (d) Rheoliadau Addysg (Cymorth i Fyfirwyr) (Cymru) 2017,
- (e) Rheoliadau Addysg (Benthyciadau at Radd Feistr Ôl-raddedig) (Cymru) 2017,
- (f) Rheoliadau Addysg (Cymorth i Fyfirwyr) (Cymru) 2018 (“y Rheoliadau Cymorth i Fyfirwyr”),
- (g) Rheoliadau Addysg (Benthyciadau at Radd Ddoethurol Ôl-raddedig) (Cymru) 2018, ac
- (h) Rheoliadau Addysg (Cymorth i Fyfirwyr) (Graddau Meistr Ôl-raddedig) (Cymru) 2019.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments to—

- (a) the Education (Fees and Awards) (Wales) Regulations 2007,
- (b) the Education (European University Institute) (Wales) Regulations 2014,
- (c) the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015,
- (d) the Education (Student Support) (Wales) Regulations 2017,
- (e) the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017,
- (f) the Education (Student Support) (Wales) Regulations 2018 (“the Student Support Regulations”),
- (g) the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018, and
- (h) the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

Mae rheoliad 2 yn dirymu Rheoliadau Addysg (Cyllid Myfyrwyr) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019 a Rheoliadau Addysg (Cymorth i Fyfywyr) (Graddau Meistr Ôl-raddedig) (Cymru) (Diwygio) (Ymadael â'r UE) 2019 a luniwyd ar gyfer Brexit "heb gytundeb" ac nad ydynt yn adlewyrchu diwygiadau sy'n ofynnol i weithredu y cytundeb ymadael â'r UE, cytundeb gwahanu Cymdeithas Masnach Rydd Ewrop (EFTA) yr AEE a'r cytundeb ar hawliau dinasyddion Swisaidd.

Y prif ddiwygiadau y mae'r Rheoliadau hyn yn eu gwneud i'r Rheoliadau Cymorth i Fyfywyr yn sicrhau bod y darpariaethau yn parhau i weithredu'n effeithiol yn dilyn ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd ac maent fel a ganlyn.

Mae rheoliadau 31 ac 32 yn diwygio diffiniadau a chyfeiriadau sy'n ymwneud â'r Ardal Economaidd Ewropeaidd a'r Undeb Ewropeaidd a ddefnyddir yn Atodlenni 2 a 3 i'r Rheoliadau Cymorth i Fyfywyr.

Mae rheoliad 32 hefyd yn diwygio cyfeiriadau at "Aelod-wladwriaeth" yn Atodlen 3.

Mae rheoliad 31(9) yn diwygio'r diffiniad o "hawl i breswyllo'n barhaol" ym mharagraff 11 o Atodlen 2 i'r Rheoliadau Cymorth i Fyfywyr. Bydd y diffiniad diwygiedig yn cwmpasu'r rheini y byddai wedi bod ganddynt hawl i breswyllo'n barhaol o dan Gyfarwyddeb 2004/38/EC fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu ond y bydd ganddynt yn lle hynny, ar ôl diwrnod cwblhau'r cyfnod gweithredu, yr hawliau hynny o dan y cytundeb ymadael â'r UE, cytundeb gwahanu EFTA yr AEE a'r cytundeb ar hawliau dinasyddion Swisaidd, fel y'u gweithredir gan reolau mewn fudo'r cynllun preswyllo (y diffinnir yr ymadrodd Saesneg cyfatebol, "residence scheme immigration rules" yn adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020).

Mae rheoliad 31(2)(a) yn diwygio paragraff 1(2) o Atodlen 2 i'r Rheoliadau Cymorth i Fyfywyr i sicrhau bod myfyrwyr y byddai wedi bod ganddynt hawl i breswyllo'n barhaol o dan Gyfarwyddeb 2004/38/EC ond sydd bellach yn bodloni'r gofynion yn Erthygl 18(2) neu (3) o'r cytundeb ymadael â'r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o'r cytundeb ar hawliau dinasyddion Swisaidd yn gymwys i gael cymorth i fyfywyr ar yr un sail ag fel pe bai ganddynt hawl i breswyllo'n barhaol.

Regulation 2 revokes the Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 and the Education (Student Support) (Postgraduate Master's Degrees) (Wales) (Amendment) (EU Exit) Regulations 2019 which were prepared for a "no-deal" Brexit and do not reflect amendments required to implement the EU withdrawal agreement, EEA EFTA separation agreement and the Swiss citizens' rights agreement.

The principal amendments which these Regulations make to the Student Support Regulations ensure that the provisions continue to operate effectively following the withdrawal of the United Kingdom from the European Union and are as follows.

Regulations 31 and 32 amend definitions and references relating to the European Economic Area and the European Union used in Schedules 2 and 3 to the Student Support Regulations.

Regulation 32 also amends references to "Member state" in Schedule 3.

Regulation 31(9) amends the definition of "right of permanent residence" in paragraph 11 of Schedule 2 to the Student Support Regulations. The amended definition will capture those who would have had a right of permanent residence under Directive 2004/38/EC as it had effect immediately before implementation period completion day but who, after implementation period completion day, will instead have such rights under the EU withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement, as implemented by the residence scheme immigration rules (defined in section 17(1) of the European Union (Withdrawal Agreement) Act 2020).

Regulation 31(2)(a) amends paragraph 1(2) of Schedule 2 to the Student Support Regulations to ensure that students who would have had a right of permanent residence under Directive 2004/38/EC but who now meet the requirements in Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens' rights agreement are eligible for student support on the same basis as if they had a right of permanent residence.

Mae rheoliad 31(3)(b) yn diwygio paragraff 4 o Atodlen 2 i sicrhau y bydd person a fyddai wedi bod yn gymwys i gael cymorth o dan y paragraff hwn cyn diwrnod cwblhau'r cyfnod gweithredu yn parhau i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu. Mae rheoliad 31(5) yn gwneud diwygiadau cyfatebol i baragraff 6 o Atodlen 2 ac mae rheoliad 31(6) yn gwneud diwygiadau cyfatebol i baragraff 7 o Atodlen 2.

Mae rheoliadau 29(a) a 33(2)(a) yn ganlyniadol i reoliad 31(5)(c) ac yn diwygio rheoliad 80 o'r Rheoliadau Cymorth i Fyfyrrwyr a pharagraff 4 o Atodlen 5 iddynt yn y drefn honno. Mae rheoliad 80(2)(a)(iii) a pharagraff 4(2)(c) o Atodlen 5 yn darparu y caiff myfyriwr sy'n dod yn aelod o deulu gwladolyn UE yn ystod blwyddyn academiaidd gymhwyso i gael cymorth mewn cysylltiad â'r flwyddyn academiaidd honno. Mae'r diwygiadau a wneir gan reoliadau 29 a 33 yn estyn y ddarpariaeth hon i fyfyriwr sy'n dod yn aelod o deulu person sy'n gymwys yn rhinwedd paragraff newydd 6(1A) o Atodlen 2.

Mae rheoliadau 29(b), 30 a 33(2)(b) yn ganlyniadol i reoliad 31(2)(a) ac yn diwygio rheoliadau 80 ac 81 o'r Rheoliadau Cymorth i Fyfyrrwyr a pharagraff 4 o Atodlen 2 iddynt. Pan fo'r darpariaethau hynny yn cyfeirio ar hyn o bryd at berson sy'n ennill yr hawl i breswyllo'n barhaol, byddant yn cyfeirio, yn lle hynny, at fyfyriwr yn dod yn berson a ddisgrifir ym mharagraff 1(2)(a) o Atodlen 2.

Mae rheoliad 31(4) yn gwneud diwygiadau i baragraff 5 o Atodlen 2 i'r Rheoliadau Cymorth i Fyfyrrwyr i adlewyrchu'r ffaith na fydd gan Gyfarwydddeb 2004/38/EC rym yn y Deyrnas Unedig mwyach ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.

Mae rheoliadau 3 i 5 yn gwneud diwygiadau cyfatebol i Reoliadau Addysg (Ffioedd a Dyfarniadau) (Cymru) 2007.

Mae rheoliadau 6 i 8 yn gwneud diwygiadau cyfatebol i Reoliadau Addysg (Athrofa Brifysgol Ewropeaidd) (Cymru) 2014.

Mae rheoliad 9 yn gwneud diwygiadau cyfatebol i Reoliadau Addysg Uwch (Cyrsiau Cymhwysol, Personau Cymhwysol a Darpariaeth Atodol) (Cymru) 2015.

Mae rheoliadau 10 i 23 yn gwneud diwygiadau cyfatebol i Reoliadau Addysg (Cymorth i Fyfyrrwyr) (Cymru) 2017.

Regulation 31(3)(b) amends paragraph 4 of Schedule 2 to ensure that a person who would have been eligible for support under this paragraph before implementation period completion day will continue to be eligible on and after implementation period completion day. Regulation 31(5) makes equivalent amendments to paragraph 6 of Schedule 2 and regulation 31(6) makes equivalent amendments to paragraph 7 of Schedule 2.

Regulations 29(a) and 33(2)(a) are consequential on regulation 31(5)(c) and amend regulation 80 of, and paragraph 4 of Schedule 5 to, the Student Support Regulations respectively. Regulation 80(2)(a)(iii) and paragraph 4(2)(c) of Schedule 5 provide that a student who becomes a family member of an EU national during the course of an academic year may qualify for support in respect of that academic year. The amendments made by regulations 29 and 33 extend this provision to a student who becomes a family member of a person who is eligible by virtue of the new paragraph 6(1A) of Schedule 2.

Regulations 29(b), 30 and 33(2)(b) are consequential on regulation 31(2)(a) and amend regulations 80 and 81 of, and paragraph 4 of Schedule 2 to, the Student Support Regulations. Where those provisions currently refer to a person acquiring the right of permanent residence, they will instead refer to a student becoming a person described in paragraph 1(2)(a) of Schedule 2.

Regulation 31(4) makes amendments to paragraph 5 of Schedule 2 to the Student Support Regulations to reflect the fact that Directive 2004/38/EC will no longer have force in the United Kingdom on and after implementation period completion day.

Regulations 3 to 5 make equivalent amendments to the Education (Fees and Awards) (Wales) Regulations 2007.

Regulations 6 to 8 make equivalent amendments to the Education (European University Institute) (Wales) Regulations 2014.

Regulation 9 makes equivalent amendments to the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015.

Regulations 10 to 23 make equivalent amendments to the Education (Student Support) (Wales) Regulations 2017.

Mae rheoliadau 24 i 27 yn gwneud diwygiadau cyfatebol i Reoliadau Addysg (Benthyciadau at Radd Feistr Ôl-raddedig) (Cymru) 2017.

Mae rheoliadau 34 i 37 yn gwneud diwygiadau cyfatebol i Reoliadau Addysg (Benthyciadau at Radd Ddoethurol Ôl-raddedig) (Cymru) 2018.

Mae rheoliadau 38 i 41 yn gwneud diwygiadau cyfatebol i Reoliadau Addysg (Cymorth i Fyfyrrwyr) (Graddau Meistr Ôl-raddedig) (Cymru) 2019.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn

Regulations 24 to 27 make equivalent amendments to the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017.

Regulations 34 to 37 make equivalent amendments to the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018.

Regulations 38 to 41 make equivalent amendments to the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

The Welsh Ministers Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

**2020 Rhif 1302 (Cy. 287)**

**YMADAEL Â'R UNDEB  
EWROPEAIDD, CYMRU**

**ADDYSG, CYMRU**

**Rheoliadau Addysg (Cyllid  
Myfyrwyr) (Diwygiadau  
Amrywiol) (Cymru) (Ymadael â'r  
UE) 2020**

*Gwnaed* 17 Tachwedd 2020

*Gosodwyd gerbron Senedd  
Cymru* 18 Tachwedd 2020

*Yn dod i rym yn unol â rheoliad 1(2) a (3)*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i'r Ysgrifennydd Gwladol o dan adrannau 1 a 2 o Ddeddf Addysg (Ffioedd a Dyfarniadau) 1983(1) ac adrannau 22, 42(6) a 43(1) o Ddeddf Addysgu ac Addysg Uwch 1998(2) sydd bellach yn arferadwy

**2020 No. 1302 (W. 287)**

**EXITING THE EUROPEAN  
UNION, WALES**

**EDUCATION, WALES**

**The Education (Student Finance)  
(Miscellaneous Amendments)  
(Wales) (EU Exit) Regulations 2020**

*Made* 17 November 2020

*Laid before Senedd Cymru* 18 November 2020

*Coming into force in accordance with  
regulation 1(2) and (3)*

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State under sections 1 and 2 of the Education (Fees and Awards) Act 1983(1) and sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(2) now exercisable by

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(1) 1983 p. 40; diwygiwyd adran 1 gan Ddeddf Diwygio Addysg 1988 (p. 40), Atodlen 12, paragraff 91; Deddf Addysg Bellach ac Uwch 1992 (p. 13), Atodlen 8, paragraff 19; Deddf Addysg 1994 (p. 30), Atodlen 2, paragraff 7; Deddf Addysg 1996 (p. 56), Atodlen 37, paragraff 57; Deddf Dysgu a Sgiliau 2000 (p. 21), Atodlen 9, paragraffau 1 ac 11; Deddf Addysg 2002 (p. 32), Atodlen 21, paragraff 5 ac Atodlen 22; Deddf Addysg 2005 (p. 18), Atodlen 14, paragraff 9; O.S. 2005/3238, Atodlen 1, paragraff 9; O.S. 2010/1158, Atodlen 2, paragraff 1; Deddf Addysg 2011 (p. 21), Atodlen 5, paragraff 5 ac Atodlen 16, paragraff 5; a Deddf Dadreoleiddio 2015 (p. 20), Atodlen 14, paragraff 33. Diwygiwyd adran 2 gan Ddeddf Addysgu ac Addysg Uwch 1998 (p. 30), adran 44 ac Atodlen 4.

(2) 1998 p. 30; diwygiwyd adran 22 gan Ddeddf Dysgu a Sgiliau 2000 (p. 21), adran 146 ac Atodlen 11; Deddf Treth Incwm (Enillion a Phensiynau) 2003 (p. 1), Atodlen 6; Deddf Cyllid 2003 (p. 14), adran 147, Deddf Addysg Uwch 2004 (p. 8), adrannau 42 a 43 ac Atodlen 7; Deddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22), adran 257; Deddf Addysg 2011 (p. 21), adran 76; O.S. 2013/1181 a Deddf Addysg Uwch ac Ymchwil 2017 (p. 29), adran 88. *Gweler* adran 43(1) o Ddeddf Addysgu ac Addysg Uwch 1998 am y diffiniad o "prescribed" a "regulations".

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(1) 1983 c. 40; section 1 was amended by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91; the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 19; the Education Act 1994 (c. 30), Schedule 2, paragraph 7; the Education Act 1996 (c. 56), Schedule 37, paragraph 57; the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraphs 1 and 11; the Education Act 2002 (c. 32), Schedule 21, paragraph 5 and Schedule 22; the Education Act 2005 (c. 18), Schedule 14, paragraph 9; S.I. 2005/3238, Schedule 1, paragraph 9; S.I. 2010/1158, Schedule 2, paragraph 1; the Education Act 2011 (c. 21), Schedule 5, paragraph 5 and Schedule 16, paragraph 5; and the Deregulation Act 2015 (c. 20), Schedule 14, paragraph 33. Section 2 was amended by the Teaching and Higher Education Act 1998 (c. 30), section 44 and Schedule 4.

(2) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147; the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7; the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257; the Education Act 2011 (c. 21), section 76; S.I. 2013/1181 and the Higher Education and Research Act 2017 (c. 29), section 88. *See* section 43(1) of the Teaching and Higher Education Act 1998 for the definition of "prescribed" and "regulations".

ganddynt hwy(1) a'r pwerau a roddir iddynt o dan adrannau 5(5)(b) a 55(2) o Ddeddf Addysg Uwch (Cymru) 2015(2) yn gwneud y Rheoliadau a ganlyn.

them(1) and powers conferred on them under sections 5(5)(b) and 55(2) of the Higher Education (Wales) Act 2015(2) make the following Regulations.

## RHAN 1

### ENWI, CYCHWYN A CHYMHWYSO

#### Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Cyllid Myfyrwyr) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2020.

(2) Daw'r rheoliad hwn a rheoliad 2 i rym yn union cyn diwrnod cwblhau'r cyfnod gweithredu.

(3) Daw gweddill y Rheoliadau hyn i rym ar ddiwrnod cwblhau'r cyfnod gweithredu.

(4) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

## RHAN 2

### DIRYMU RHEOLIADAU

2. Mae Rheoliadau Addysg (Cyllid Myfyrwyr) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019(3) a Rheoliadau Addysg (Cymorth i Fyfirwyr) (Graddau Meistr Ôl-raddedig) (Cymru) (Diwygio) (Ymadael â'r UE) 2019(4) wedi eu dirymu.

## PART 1

### TITLE, COMMENCEMENT AND APPLICATION

#### Title, commencement and application

1.—(1) The title of these Regulations is the Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020.

(2) This regulation and regulation 2 come into force immediately before implementation period completion day.

(3) The remainder of these Regulations come into force on implementation period completion day.

(4) These Regulations apply in relation to Wales.

## PART 2

### REVOCATION OF REGULATIONS

2. The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019(3) and the Education (Student Support) (Postgraduate Master's Degrees) (Wales) (Amendment) (EU Exit) Regulations 2019(4) are revoked.

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(1) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol yn adran 1 o Ddeddf 1983 i Gynulliad Cenedlaethol Cymru i'r graddau y maent yn arferadwy o ran Cymru gan O.S. 2006/1458 gydag effaith o 8 Mehefin 2006. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol yn adran 2 o Ddeddf 1983 i Gynulliad Cenedlaethol Cymru i'r graddau y maent yn arferadwy o ran Cymru gan O.S. 1999/672. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol yn adran 22(2)(a) i (i) a (k) o Ddeddf 1998 i Gynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â gwneud darpariaeth o ran Cymru gan adran 44 o Ddeddf Addysg Uwch 2004 (p. 8), ac mae swyddogaethau o dan is-adran (2)(a), (c) a (k) yn arferadwy yn gydredol â'r Ysgrifennydd Gwladol. Trosglwyddwyd swyddogaeth yr Ysgrifennydd Gwladol yn adran 42, i'r graddau y mae'n arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan O.S. 1999/672. Trosglwyddwyd holl swyddogaethau Cynulliad Cenedlaethol Cymru uchod i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

(2) 2015 decc 1.

(3) O.S. 2019/424 (Cy. 98).

(4) O.S. 2019/1039 (Cy. 182).

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(1) The functions of the Secretary of State in section 1 of the 1983 Act were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by S.I. 2006/1458 with effect from 8 June 2006. The functions of the Secretary of State in section 2 of the 1983 Act were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by S.I. 1999/672. The Secretary of State's functions in section 22(2)(a) to (i) and (k) of the 1998 Act were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with functions under subsection (2)(a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State's function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. All the above functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(2) 2015 anaw 1.

(3) S.I. 2019/424 (W. 98).

(4) S.I. 2019/1039 (W. 182).



## RHAN 3

### DIWYGIADAU I REOLIADAU

#### Diwygiadau i Reoliadau Addysg (Ffioedd a Dyfarniadau) (Cymru) 2007

3. Mae Rheoliadau Addysg (Ffioedd a Dyfarniadau) (Cymru) 2007(1) wedi eu diwygio fel a ganlyn.

#### Diwygiadau i reoliad 2

4. Yn rheoliad 2 (dehongli)—

- (a) ym mharagraff (1), yn y diffiniad o “tiriogaethau tramor”, ar ôl “Tiriogaethau Deheuol ac Antarctig Ffrainc;” mewnosoder “Gibraltar;”;
- (b) ym mharagraff (4)—
  - (i) yn lle “y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd a’r Swistir” rhodder “y diriogaeth a ffurfir gan y Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir”;
  - (ii) yn lle “y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd, y Swistir a’r tiriogaethau tramor” rhodder “y diriogaeth a ffurfir gan y Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir a’r tiriogaethau tramor”;
  - (iii) yn lle “y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd, y Swistir, Twrci a’r tiriogaethau tramor” rhodder “y diriogaeth a ffurfir gan y Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir, Twrci a’r tiriogaethau tramor”;
- (c) ym mharagraff (5)(b) ac (c), ar ôl “y tu allan i’r diriogaeth a ffurfir gan” mewnosoder “y Deyrnas Unedig, Gibraltar;”;
- (d) ym mharagraff (6)—
  - (i) yn lle “y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd a’r Swistir” rhodder “y diriogaeth a ffurfir gan y Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir”;
  - (ii) yn lle “y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd, y Swistir a’r

## PART 3

### AMENDMENT OF REGULATIONS

#### Amendments to the Education (Fees and Awards) (Wales) Regulations 2007

3. The Education (Fees and Awards) (Wales) Regulations 2007(1) are amended as follows.

#### Amendments to regulation 2

4. In regulation 2 (interpretation)—

- (a) in paragraph (1), in the definition of “overseas territories”, after “French Southern and Antarctic Territories;” insert “Gibraltar;”;
- (b) in paragraph (4)—
  - (i) for “the territory comprising the European Economic Area and Switzerland” substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
  - (ii) for “the territory comprising the European Economic Area, Switzerland and the overseas territories” substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
  - (iii) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories” substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;
- (c) in paragraph (5)(b) and (c), after “the territory comprising” insert “the United Kingdom, Gibraltar;”;
- (d) in paragraph (6)—
  - (i) for “the territory comprising the European Economic Area and Switzerland” substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
  - (ii) for “the territory comprising the European Economic Area, Switzerland

(1) O.S. 2007/2310 (Cy. 181), a ddiwygiwyd gan O.S. 2008/1259 (Cy. 126), O.S. 2010/1142 (Cy. 101), O.S. 2011/1978 (Cy. 218), O.S. 2013/1792 (Cy. 179), O.S. 2018/814 (Cy. 165), O.S. 2019/235 (Cy. 54) ac O.S. 2019/1192 (Cy. 209); mae offerynnau diwygio eraill ond nid yw’r un ohonynt yn berthnasol.

(1) S.I. 2007/2310 (W. 181), amended by S.I. 2008/1259 (W. 126), S.I. 2010/1142 (W. 101), S.I. 2011/1978 (W. 218), S.I. 2013/1792 (W. 179), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54) and S.I. 2019/1192 (W. 209); there are other amending instruments but none is relevant.

tiriogaethau tramor” rhodder “y diriogaeth a ffurfir gan y Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir a’r tiriogaethau tramor”;

- (iii) yn lle “y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd, y Swistir a Thwrci” rhodder “y diriogaeth a ffurfir gan y Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd, y Swistir a Thwrci”;
- (e) ym mharagraff (7), ar ôl “mae ardal” mewnosoder “ac eithrio’r Deyrnas Unedig neu Gibraltar”.

## Diwygiadau i’r Atodlen

5.—(1) Mae’r Atodlen wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 1—

(a) yn y lle priodol mewnosoder—

“mae i “cytundeb ar hawliau dinasyddion Swisaidd” yr ystyr a roddir i “Swiss citizens’ rights agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“mae i “cytundeb gwahanu EFTA yr AEE” yr ystyr a roddir i “EEA EFTA separation agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020(1);”;

“ystyr “gwladolyn o’r UE” (“EU national”) yw gwladolyn o Aelod-wladwriaeth o’r Undeb Ewropeaidd;”;

“mae i “rheolau mewnfudo’r cynllun preswyllo” yr ystyr a roddir i “residence scheme immigration rules” gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

- (b) hepgorer y diffiniad o “gwladolyn o’r GE”;
- (c) hepgorer “ac eithrio’r Deyrnas Unedig” ym mhob lle y mae’n digwydd;
- (d) yn y diffiniad o “aelod o’r teulu”, yn lle “gwladolyn o’r GE” rhodder “gwladolyn o’r UE” ym mhob lle y mae’n digwydd;
- (e) yn lle’r diffiniad o “hawl i breswyllo’n barhaol” rhodder—

“ystyr “hawl i breswyllo’n barhaol” (“right of permanent residence”) yw, mewn perthynas â pherson (“A”), hawl i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy’n codi o dan reolau mewnfudo’r cynllun preswyllo, ond dim

and the overseas territories” substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;

- (iii) for “the territory comprising the European Economic Area, Switzerland and Turkey” substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey”;

(e) in paragraph (7), after “an area” insert “other than the United Kingdom or Gibraltar”.

## Amendments to the Schedule

5.—(1) The Schedule is amended as follows.

(2) In paragraph 1—

(a) at the appropriate place insert—

““EEA EFTA separation agreement” (“cytundeb gwahanu EFTA yr AEE”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020(1);”;

““EU national” (“gwladolyn o’r UE”) means a national of a Member State of the European Union;”;

““residence scheme immigration rules” (“rheolau mewnfudo’r cynllun preswyllo”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““Swiss citizens’ rights agreement” (“cytundeb ar hawliau dinasyddion Swisaidd”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

- (b) omit the definition of “EC national”;
- (c) omit “other than the United Kingdom” in each place it occurs;
- (d) in the definition of “family member”, for “EC national” substitute “EU national” in each place it occurs;
- (e) for the definition of “right of permanent residence” substitute—

““right of permanent residence” (“hawl i breswyllo’n barhaol”) means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where,

ond pan fyddai A, pe bai'r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu, wedi caffael hawl o'r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu;”.

(3) Ym mharagraff 3 (personau sydd wedi setlo yn y Deyrnas Unedig)—

(a) yn lle is-baragraff (a) rhodder—

“(a) sydd, ar ddiwrnod cyntaf blwyddyn academaidd y cwrs, naill ai—

(i) wedi setlo yn y Deyrnas Unedig yn rhinwedd caffael yr hawl i breswyllo'n barhaol, neu

(ii) yn dod o fewn Erthygl 18(2) neu (3) o'r cytundeb ymadael â'r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o'r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai'r person hwnnw wedi caffael yr hawl i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu pe bai'r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu;”;

(b) yn is-baragraff (ch), ar ôl “y diriogaeth a ffurfir gan” mewnosoder “y Deyrnas Unedig.”.

(4) Ym mharagraff 6(1)(c) (gweithwyr, personau cyflogedig, personau hunan-gyflogedig ac aelodau o'u teulu), ar ôl “y diriogaeth a ffurfir gan” mewnosoder “y Deyrnas Unedig.”.

(5) Ym mharagraff 7 (gweithwyr, personau cyflogedig, personau hunan-gyflogedig ac aelodau o'u teulu)—

(a) ailrifer is-baragraffau (a), (b) ac (c) yn is-baragraff (1)(a), (b) ac (c);

(b) yn is-baragraff (1)(b) fel y'i hailrifwyd felly, yn lle “y diriogaeth sy'n ffurfio'r Ardal Economaidd Ewropeaidd” rhodder “y diriogaeth a ffurfir gan y Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd”;

had the facts pertaining to the determination of A's right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;”.

(3) In paragraph 3 (persons who are settled in the United Kingdom)—

(a) for sub-paragraph (a) substitute—

“(a) who, on the first day of an academic year of the course, either—

(i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence, or

(ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens' rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person's right to reside fallen to be considered immediately before implementation period completion day;”;

(b) in sub-paragraph (d), after “the territory comprising” insert “the United Kingdom.”.

(4) In paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising” insert “the United Kingdom.”.

(5) In paragraph 7 (workers, employed persons, self-employed persons and their family members)—

(a) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);

(b) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising” insert “the United Kingdom.”;

- (c) ar ôl is-baragraff (1) fel y'i hailrifwyd felly mewnosoder—
- “(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi dod o fewn y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i'w drin fel pe bai'n dod o fewn y paragraff hwn ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”
- (6) Ym mharagraff 8 (personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo mewn man arall)—
- (a) yn is-baragraff (1)—
- (i) ym mharagraff (b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau'r cyfnod gweithredu”;
- (ii) ym mharagraff (ch), ar ôl “y diriogaeth a ffurfir gan” mewnosoder “y Deyrnas Unedig,”;
- (iii) ym mharagraff (d), ar ôl “y diriogaeth a ffurfir gan” mewnosoder “y Deyrnas Unedig, Gibraltar,”;
- (b) yn is-baragraff (2)—
- (i) yn lle “sydd a chanddo hawl i breswyllo'n barhaol ymhob achos” rhodder “yr oedd ganddo'r hawl i breswyllo'n barhaol ac sydd ymhob achos” ac yn lle “sydd â hawl” rhodder “yr oedd ganddo'r hawl”;
- (ii) yn lle “os yw'n mynd” rhodder “os yw wedi mynd”;
- (c) ar ôl is-baragraff (2) mewnosoder—
- “(3) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo'n barhaol os oedd ganddo hawl a gododd o dan Gyfarwyddeb 2004/38 i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad.”
- (7) Ym mharagraff 9 (gwladolion o'r GE)—
- (a) yn y pennawd, yn lle “Gwladolion o'r GE” rhodder “Gwladolion o'r UE”;
- (b) yn is-baragraff (1)—
- (i) ym mharagraff (a)(i), yn lle “yn wladolyn o'r GE” rhodder “yn wladolyn o'r UE”;
- (ii) ym mharagraff (c), ar ôl “y diriogaeth a ffurfir gan” mewnosoder “y Deyrnas Unedig,”;
- (c) yn lle is-baragraff (1A) rhodder—
- “(1A) Nid yw paragraff (c) o is-baragraff (1) yn gymwys i aelod o deulu person—
- (c) after sub-paragraph (1) as so renumbered insert—
- “(2) Any description of person who would have fallen within this paragraph immediately before implementation period completion day is to be treated as falling within this paragraph on and after implementation period completion day.”
- (6) In paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
- (a) in sub-paragraph (1)—
- (i) in paragraph (b), after “right of residence” insert “before implementation period completion day”;
- (ii) in paragraph (d), after “the territory comprising” insert “the United Kingdom,”;
- (iii) in paragraph (e), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (b) in sub-paragraph (2)—
- (i) for “has a right” substitute “had the right” in each place it occurs;
- (ii) for “goes” substitute “has gone”;
- (c) after sub-paragraph (2) insert—
- “(3) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”
- (7) In paragraph 9 (EC nationals)—
- (a) in the heading, for “EC nationals” substitute “EU nationals”;
- (b) in sub-paragraph (1)—
- (i) in paragraph (a)(i), for “EC national” substitute “EU national”;
- (ii) in paragraph (c), after “the territory comprising” insert “the United Kingdom,”;
- (c) for sub-paragraph (1A) substitute—
- “(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) sydd—
- (i) yn wladolyn o'r Deyrnas Unedig sydd wedi arfer hawl i breswyllo yn nhiriogaeth Aelod-wladwriaeth o dan Erthygl 7(1) o Gyfarwyddeb 2004/38; neu
  - (ii) yn wladolyn o'r UE; a
- (b) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth a ffurfir gan y Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir a'r tiriogaethau tramor drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs.”;
- (d) ar ôl is-baragraff (2) mewnosoder—
- “(3) Mae unrhyw ddisgrifiad o berson a fyddai wedi dod o fewn y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i'w drin fel pe bai'n dod o fewn y paragraff hwn ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”
- (8) Ym mharagraff 10 (gwladolion o'r GE)—
- (a) yn is-baragraff (1)(a), yn lle “sy'n wladolyn o'r GE ac eithrio gwladolyn o'r Deyrnas Unedig” rhodder “sy'n wladolyn o'r UE”;
  - (b) yn is-baragraff (1)(ch), ar ôl “y diriogaeth a ffurfir gan” mewnosoder “y Deyrnas Unedig,”;
  - (c) yn is-baragraff (2), yn lle “yn wladolyn o'r GE ac eithrio gwladolyn o'r Deyrnas Unedig” rhodder “yn wladolyn o'r UE”.
- (9) Yn lle paragraff 11 (plant gwladolion o'r Swistir) rhodder—

“11.—(1) Person—

- (a) sy'n blentyn i wladolyn o'r Swistir y mae ganddo hawl i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir;
- (b) sy'n preswyllo fel arfer yn y Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs;
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth a ffurfir gan y Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir a'r tiriogaethau tramor drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; ac
- (ch) mewn achos pan oedd preswyliaid arferol y person y cyfeirir ato ym mharagraff (c) yn gyfan gwbl neu'n bennaf er mwyn cael addysg

- (a) is—
- (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or
  - (ii) an EU national; and
- (b) 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.”;

- (d) after sub-paragraph (2) insert—

“(3) Any description of person who would have fallen within this paragraph immediately before implementation period completion day is to be treated as falling within this paragraph on and after implementation period completion day.”

- (8) In paragraph 10 (EC nationals)—

- (a) in sub-paragraph (1)(a), for “an EC national other than a United Kingdom national” substitute “an EU national”;
- (b) in sub-paragraph (1)(d), after “the territory comprising” insert “the United Kingdom,”;
- (c) in sub-paragraph (2), for “an EC national other than a United Kingdom national” substitute “an EU national”.

- (9) For paragraph 11 (children of Swiss nationals) substitute—

“11.—(1) A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) 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
- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory

lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth a ffurfir gan y Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a'r Swistir yn union cyn y cyfnod o breswyliaid arferol y cyfeirir ato ym mharagraff (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi dod o fewn y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i'w drin fel pe bai'n dod o fewn y paragraff hwn ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu."

(10) Ym mharagraff 12(c) (plant gweithwyr o Dwrci), ar ôl "y diriogaeth a ffurfir gan" mewnosoder "y Deyrnas Unedig,".

#### **Diwygiadau i Reoliadau Addysg (Athrofa Brifysgol Ewropeaidd) (Cymru) 2014**

6. Mae Rheoliadau Addysg (Athrofa Brifysgol Ewropeaidd) (Cymru) 2014(1) wedi eu diwygio fel a ganlyn.

#### **Diwygiadau i Atodlen 1**

7.—(1) Mae Atodlen 1 (myfyrwyr cymwys) wedi ei diwygio fel a ganlyn.

(2) Yn Rhan 1 (dehongli), paragraff 1—

(a) yn is-baragraff (1)—

(i) yn y lle priodol mewnosoder—

"mae i "cytundeb ar hawliau dinasyddion Swisaidd" yr ystyr a roddir i "Swiss citizens' rights agreement" gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"

"mae i "cytundeb gwahanu EFTA yr AEE" yr ystyr a roddir i "EEA EFTA separation agreement" gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"

"mae i "rheolau mewnfudo'r cynllun preswyllo" yr ystyr a roddir i "residence scheme immigration rules" gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"

(ii) yn y diffiniad o "gwladolyn o'r AEE", hepgorer "ac eithrio'r Deyrnas Unedig";

(iii) yn lle'r diffiniad o "hawl i breswyllo'n barhaol" rhodder—

"ystyr "hawl i breswyllo'n barhaol" ("*right of permanent residence*") yw, mewn

comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Any description of person who would have fallen within this paragraph immediately before implementation period completion day is to be treated as falling within this paragraph on and after implementation period completion day."

(10) In paragraph 12(c) (children of Turkish workers), after "the territory comprising" insert "the United Kingdom,".

#### **Amendments to the Education (European University Institute) (Wales) Regulations 2014**

6. The Education (European University Institute) (Wales) Regulations 2014(1) are amended as follows.

#### **Amendments to Schedule 1**

7.—(1) Schedule 1 (eligible students) is amended as follows.

(2) In Part 1 (interpretation), paragraph 1—

(a) in sub-paragraph (1)—

(i) at the appropriate place insert—

"“EEA EFTA separation agreement” ("*cytundeb gwahanu EFTA yr AEE*") has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;"

"“residence scheme immigration rules” ("*rheolau mewnfudo'r cynllun preswyllo*") has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;"

"“Swiss citizens' rights agreement” ("*cytundeb ar hawliau dinasyddion Swisaidd*") has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;"

(ii) in the definition of "EEA national", omit "other than the United Kingdom";

(iii) for the definition of "right of permanent residence" substitute—

"“right of permanent residence” ("*hawl i breswyllo'n barhaol*") means, in relation to

(1) O.S. 2014/3037 (Cy. 303), a ddiwygiwyd gan O.S. 2016/211 (Cy. 84), O.S. 2018/814 (Cy. 165) ac O.S. 2019/235 (Cy. 54).

(1) S.I. 2014/3037 (W. 303), amended by S.I. 2016/211 (W. 84), S.I. 2018/814 (W. 165) and S.I. 2019/235 (W. 54).

perthynas â pherson (“A”), hawl i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy’n codi o dan reolau mewnfudo’r cynllun preswyllo, ond dim ond pan fyddai A, pe bai’r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu, wedi caffael hawl o’r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;

- (b) yn yr is-baragraffau a ganlyn, hepgorer “ac eithrio’r Deyrnas Unedig” ym mhob lle y mae’n digwydd—
  - (i) is-baragraff (2)(b);
  - (ii) is-baragraff (3)(b);
  - (iii) is-baragraff (4)(b);
  - (iv) is-baragraff (5)(b);
- (c) yn is-baragraffau (7) ac (8), ar ôl “diriogaeth y mae’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr” ym mhob lle y mae’n digwydd.

(3) Yn Rhan 2 (categoriâu)—

- (a) ym mharagraff 3 (personau sydd wedi setlo yn y Deyrnas Unedig)—
  - (i) yn lle is-baragraff (a) rhodder—
    - “(a) sydd, ar y dyddiad perthnasol, naill ai—
      - (i) wedi setlo yn y Deyrnas Unedig yn rhinwedd caffael yr hawl i breswyllo’n barhaol; neu
      - (ii) yn dod o fewn Erthygl 18(2) neu (3) o’r cytundeb ymadael â’r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o’r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai’r person hwnnw wedi caffael yr hawl i breswyllo’n barhaol yn y Deyrnas Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu pe bai’r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;
  - (ii) yn is-baragraff (d), ar ôl “y diriogaeth y mae’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;

a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;”;

- (b) in the following sub-paragraphs, omit “other than the United Kingdom” in each place it occurs—
  - (i) sub-paragraph (2)(b);
  - (ii) sub-paragraph (3)(b);
  - (iii) sub-paragraph (4)(b);
  - (iv) sub-paragraph (5)(b);
- (c) in sub-paragraphs (7) and (8), after “the territory comprising” insert “the United Kingdom, Gibraltar,” in each place it occurs.

(3) In Part 2 (categories)—

- (a) in paragraph 3 (persons who are settled in the United Kingdom)—
  - (i) for sub-paragraph (a) substitute—
    - “(a) who, on the relevant date, either—
      - (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
      - (ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before implementation period completion day;”;
  - (ii) in sub-paragraph (d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;

- (b) ym mharagraff 6(1)(c), (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd), ar ôl “y diriogaeth y mae'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (c) ym mharagraff 7 (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd)—
- (i) ailrifer is-baragraffau (a), (b) ac (c) yn is-baragraff (1)(a), (b) ac (c);
- (ii) yn is-baragraff (1)(b) fel y'i hailrifwyd felly, ar ôl “y diriogaeth y mae'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) ar ôl is-baragraff (1) fel y'i hailrifwyd felly mewnosoder—
- “(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;
- (d) ym mharagraff 8 (personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo mewn man arall)—
- (i) yn is-baragraff (1)(b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau'r cyfnod gweithredu”;
- (ii) yn is-baragraff (1)(d) ac (e), ar ôl “y diriogaeth y mae'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (2)—
- (aa) yn lle “a chanddo hawl” rhodder “yr oedd ganddo'r hawl”;
- (bb) yn lle “sydd â hawl” rhodder “yr oedd ganddo'r hawl”;
- (cc) yn lle “yn mynd” rhodder “wedi mynd”;
- (iv) ar ôl is-baragraff (2) mewnosoder—
- “(3) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo'n barhaol os oedd ganddo hawl a gododd o dan Gyfarwyddeb 2004/38 i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad.”;
- (e) ym mharagraff 9 (gwladolion o'r UE)—
- (i) yn lle is-baragraff (1)(a) rhodder—
- “(a) sydd, ar y dyddiad perthnasol—
- (i) yn wladolyn o'r UE;
- (ii) yn wladolyn o'r Deyrnas Unedig sydd wedi arfer hawl i breswyllo; neu
- (b) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (c) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—
- (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
- (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) after sub-paragraph (1) as so renumbered insert—
- “(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (d) in paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
- (i) in sub-paragraph (1)(b), after “right of residence” insert “before implementation period completion day”;
- (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (2)—
- (aa) for “has the right” substitute “had the right”;
- (bb) for “has a right” substitute “had the right”;
- (cc) for “goes” substitute “has gone”;
- (iv) after sub-paragraph (2) insert—
- “(3) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”;
- (e) in paragraph 9 (EU nationals)—
- (i) for sub-paragraph (1)(a) substitute—
- “(a) on the relevant date is—
- (i) an EU national;
- (ii) a United Kingdom national who has exercised a right of residence; or



- (iii) yn aelod o deulu person yn is-baragraff (i) neu (ii);”;
- (ii) yn is-baragraffau (1)(c) a (d) a (2), ar ôl “y diriogaeth y mae’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (4), yn lle “os yw’r person hwnnw” rhodder “os oedd y person hwnnw yn preswyllo yn Gibraltar neu os yw’r person hwnnw”;
- (iv) ar ôl is-baragraff (4) mewnosoder—  
“(5) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;
- (f) ym mharagraff 10 (gwladolion o’r UE)—  
(i) yn is-baragraff (a), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
- (ii) yn is-baragraff (d), ar ôl “yn y diriogaeth y mae’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (g) yn lle paragraff 11 (plant gwladolion Swisaidd) rhodder—  
“11.—(1) Person—  
(a) sydd, ar y dyddiad perthnasol, yn blentyn i wladolyn Swisaidd â hawlogaeth i gael cymorth gan yr Ysgrifennydd Gwladol yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir;
- (b) sy’n preswyllo fel arfer yng Nghymru ar y dyddiad perthnasol;
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth y mae’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir yn ei ffurfio drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; a
- (d) mewn achos pan oedd preswyllo arferol y person y cyfeirir ato ym mharagraff (c) yn gyfan gwbl neu’n bennaf at y diben o dderbyn addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth y mae’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir yn ei ffurfio yn union cyn y cyfnod o breswyllo arferol y cyfeirir ato ym mharagraff (c).
- (iii) the family member of a person in sub-paragraph (i) or (ii);”;
- (ii) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (4), after “that person” insert “resided in Gibraltar or”;
- (iv) after sub-paragraph (4) insert—  
“(5) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (f) in paragraph 10 (EU nationals)—  
(i) in sub-paragraph (a), omit “other than a United Kingdom national”;
- (ii) in sub-paragraph (d), after “the territory comprising” insert “the United Kingdom, Gibraltar”;
- (g) for paragraph 11 (children of Swiss nationals) substitute—  
“11.—(1) A person who—  
(a) on the relevant date, is the child of a Swiss national who is entitled to support from the Secretary of State by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) 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
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;

(h) ym mharagraff 12(c) (plant gweithwyr Twrcaidd), ar ôl “y diriogaeth y mae'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”.

## Diwygiadau i Atodlen 2

8.—(1) Mae Atodlen 2 (cyfraniad y myfyriwr) wedi ei diwygio fel a ganlyn.

(2) Yn Rhan 1 (dehongli), paragraff 1(1), yn y diffiniad o “incwm trethadwy”—

(a) ym mharagraff (b), yn lle “un o Aelod-wladwriaethau eraill yr AEE” rhodder “un o Wladwriaethau'r AEE”;

(b) yn lle paragraff (c) rhodder—

“(c) pan fo deddfwriaeth—

(i) y Deyrnas Unedig ac un neu ragor o Wladwriaethau'r AEE neu'r Swistir;

(ii) mwy nag un o Wladwriaethau'r AEE; neu

(iii) un o Wladwriaethau'r AEE a'r Swistir,

yn gymwys i'r cyfnod, y ddeddfwriaeth y mae Gweinidogion Cymru o'r farn y bydd y person yn talu'r swm mwyaf o dreth oddi tani yn y cyfnod hwnnw (ac eithrio fel y darperir fel arall ym mharagraff 4).”.

(3) Yn Rhan 2 (cyfrifo cyfraniad)—

(a) ym mharagraff 3(1)(b) (cyfrifo incwm gweddilliol y myfyriwr), yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”;

(b) ym mharagraff 4 (cyfrifo incwm gweddilliol partner y myfyriwr cymwys), yn lle “un o Wladwriaethau eraill yr AEE” rhodder “un o Wladwriaethau'r AEE” ym mhob lle y mae'n digwydd.

(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;

(h) in paragraph 12(c) (children of Turkish workers), after “the territory comprising” insert “the United Kingdom, Gibraltar,”.

## Amendments to Schedule 2

8.—(1) Schedule 2 (student's contribution) is amended as follows.

(2) In Part 1 (interpretation), paragraph 1(1), in the definition of “taxable income”—

(a) in paragraph (b), for “another EEA State” substitute “an EEA State”;

(b) for paragraph (c) substitute—

“(c) where the legislation of—

(i) the United Kingdom and one or more EEA State or Switzerland;

(ii) more than one EEA State; or

(iii) an EEA State and Switzerland,

applies to the period, the legislation under which the Welsh Ministers consider the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 4).”.

(3) In Part 2 (calculation of contribution)—

(a) in paragraph 3(1)(b) (calculation of the student's residual income), for “another Member State” substitute “a Member State”;

(b) in paragraph 4 (calculation of eligible student's partner's residual income), for “another EEA State” substitute “an EEA State” in each place it occurs.

**Diwygiadau i Reoliadau Addysg Uwch (Cyrsiau Cymhwysol, Personau Cymhwysol a Darpariaeth Atodol) (Cymru) 2015**

9.—(1) Mae'r Atodlen i Reoliadau Addysg Uwch (Cyrsiau Cymhwysol, Personau Cymhwysol a Darpariaeth Atodol) (Cymru) 2015(1) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 1—

(a) yn is-baragraff (1)—

(i) hepgorer “ac eithrio'r Deyrnas Unedig” ym mhob lle y mae'n digwydd;

(ii) yn y lle priodol mewnosoder—

“mae i “cytundeb ar hawliau dinasyddion Swisaidd” yr ystyr a roddir i “Swiss citizens’ rights agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“mae i “cytundeb gwahanu EFTA yr AEE” yr ystyr a roddir i “EEA EFTA separation agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“mae i “rheolau mewnfudo'r cynllun preswyllo” yr ystyr a roddir i “residence scheme immigration rules” gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

(iii) yn y diffiniad o “tiriogaethau tramor”, ar ôl “Tiriogaethau Deheuol ac Antarcig Ffrainc;” mewnosoder “Gibraltar;”;

(iv) yn lle'r diffiniad o “hawl i breswyllo'n barhaol” rhodder—

“ystyr “hawl i breswyllo'n barhaol” (*“right of permanent residence”*) yw, mewn perthynas â pherson (“A”), hawl i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy'n codi o dan reolau mewnfudo'r cynllun preswyllo, ond dim ond pan fyddai A, pe bai'r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu, wedi caffael hawl o'r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu;”;

(b) yn is-baragraff (3)—

**Amendments to the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015**

9.—(1) The Schedule to the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015(1) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1)—

(i) omit “other than the United Kingdom” in each place it occurs;

(ii) at the appropriate place insert—

““EEA EFTA separation agreement” (*“cytundeb gwahanu EFTA yr AEE”*) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““residence scheme immigration rules” (*“rheolau mewnfudo'r cynllun preswyllo”*) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““Swiss citizens’ rights agreement” (*“cytundeb ar hawliau dinasyddion Swisaidd”*) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

(iii) in the definition of “overseas territories”, after “French Southern and Antarctic Territories;” insert “Gibraltar;”;

(iv) for the definition of “right of permanent residence” substitute—

““right of permanent residence” (*“hawl i breswyllo'n barhaol”*) means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A's right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;”;

(b) in sub-paragraph (3)—

(1) O.S. 2015/1484 (Cy. 163), a ddiwygiwyd gan O.S. 2016/276 (Cy. 100), O.S. 2018/814 (Cy. 165), O.S. 2019/235 (Cy. 54) ac O.S. 2019/1192 (Cy. 209).

(1) S.I. 2015/1484 (W. 163), amended by S.I. 2016/276 (W. 100), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54) and S.I. 2019/1192 (W. 209).

- (i) yn lle “y diriogaeth sy’n ffurfio’r Ardal Economaidd Ewropeaidd a’r Swistir” rhodder “y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir”;
  - (ii) yn lle “y diriogaeth sy’n ffurfio’r Ardal Economaidd Ewropeaidd, y Swistir a’r tiriogaethau tramor” rhodder “y diriogaeth sy’n ffurfio’r Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir a’r tiriogaethau tramor”;
  - (iii) yn lle “y diriogaeth sy’n ffurfio’r Ardal Economaidd Ewropeaidd, y Swistir, Twrci a’r tiriogaethau tramor” rhodder “y diriogaeth sy’n ffurfio’r Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir, Twrci a’r tiriogaethau tramor”;
- (c) yn is-baragraff (4)(b) ac (c), ar ôl “i’r diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (d) yn is-baragraff (5), ar ôl “ardal” mewnosoder “ac eithrio’r Deyrnas Unedig neu Gibraltar”.
- (3) Ym mharagraff 3 (personau sydd wedi setlo yn y Deyrnas Unedig)—
- (a) yn lle is-baragraff (a) rhodder—
    - “(a) sydd, ar ddiwrnod cyntaf blwyddyn academaidd y cwrs, naill ai—
      - (i) wedi setlo yn y Deyrnas Unedig yn rhinwedd caffael yr hawl i breswyllo’n barhaol; neu
      - (ii) yn dod o fewn Erthygl 18(2) neu (3) o’r cytundeb ymadael â’r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o’r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai’r person hwnnw wedi caffael yr hawl i breswyllo’n barhaol yn y Deyrnas Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu pe bai’r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;
  - (b) yn is-baragraff (d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, yr”.
- (i) for “the territory comprising the European Economic Area and Switzerland” substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
  - (ii) for “the territory comprising the European Economic Area, Switzerland and the overseas territories” substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
  - (iii) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories” substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;
- (c) in sub-paragraph (4)(b) and (c), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (d) in sub-paragraph (5), after “an area” insert “other than the United Kingdom or Gibraltar”.
- (3) In paragraph 3 (persons who are settled in the United Kingdom)—
- (a) for sub-paragraph (a) substitute—
    - “(a) on the first day of an academic year of the course either—
      - (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
      - (ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before implementation period completion day;”;
  - (b) in sub-paragraph (d), after “the territory comprising” insert “the United Kingdom,”.

(4) Ym mharagraff 6(1)(c) (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teulu), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, yr”.

(5) Ym mharagraff 7 (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teulu)—

- (a) ailrifer is-baragraffau (a), (b) ac (c) yn is-baragraff (1)(a), (b) ac (c);
- (b) yn is-baragraff (1)(b) fel y'i hailrifwyd felly, ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, yr”;
- (c) ar ôl is-baragraff (1) fel y'i hailrifwyd felly mewnosoder—

“(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi dod o fewn y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i'w drin fel pe bai'n dod o fewn y paragraff hwn ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”

(6) Ym mharagraff 8 (personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo mewn man arall)—

- (a) yn is-baragraff (1)(b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau'r cyfnod gweithredu”;
- (b) yn is-baragraff (1)(d), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, yr”;
- (c) yn is-baragraff (1)(e), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (d) yn is-baragraff (2)—
  - (i) ym mharagraff (a), yn lle “sydd â hawl” rhodder “yr oedd ganddo'r hawl”;
  - (ii) ym mharagraff (b)—
    - (aa) yn lle “a'i fod â hawl” rhodder “ac yr oedd ganddo'r hawl”;
    - (bb) yn lle “yn mynd” rhodder “wedi mynd”;
- (e) ar ôl is-baragraff (2) mewnosoder—

“(3) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo'n barhaol os oedd ganddo hawl a gododd o dan Gyfarwyddeb 2004/38 i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad.”

(7) Ym mharagraff 9 (gwladolion o'r UE)—

- (a) yn is-baragraff (1)(c), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, yr”;
- (b) yn lle is-baragraff (2) rhodder—

(4) In paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising” insert “the United Kingdom,”.

(5) In paragraph 7 (workers, employed persons, self-employed persons and their family members)—

- (a) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
- (b) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising” insert “the United Kingdom,”;
- (c) after sub-paragraph (1) as so renumbered insert—

“(2) Any description of person who would have fallen within this paragraph immediately before implementation period completion day is to be treated as falling within this paragraph on and after implementation period completion day.”

(6) In paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—

- (a) in sub-paragraph (1)(b), after “right of residence” insert “before implementation period completion day”;
- (b) in sub-paragraph (1)(d), after “the territory comprising” insert “the United Kingdom,”;
- (c) in sub-paragraph (1)(e), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (d) in sub-paragraph (2)—
  - (i) in paragraph (a), for “has a right” substitute “had the right”;
  - (ii) in paragraph (b)—
    - (aa) for “has a right” substitute “had the right”;
    - (bb) for “goes” substitute “has gone”;
- (e) after sub-paragraph (2) insert—

“(3) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”

(7) In paragraph 9 (EU nationals)—

- (a) in sub-paragraph (1)(c), after “territory comprising” insert “the United Kingdom,”;
- (b) for sub-paragraph (2) substitute—

“(2) Nid yw paragraff (c) o is-baragraff (1) yn gymwys i aelod o deulu person—

(a) sydd—

(i) yn wladolyn o'r Deyrnas Unedig sydd wedi arfer hawl i breswyllo yn nhiriogaeth Aelod-wladwriaeth o dan Erthygl 7(1) o Gyfarwyddeb 2004/38; neu

(ii) yn wladolyn o'r UE; a

(b) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir a'r tiriogaethau tramor drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs.”;

(c) ar ôl is-baragraff (3) mewnosoder—

“(4) Mae unrhyw ddisgrifiad o berson a fyddai wedi dod o fewn y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i'w drin fel pe bai'n dod o fewn y paragraff hwn ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”

(8) Ym mharagraff 10 (gwladolion o'r UE)—

(a) yn is-baragraff (1)(a), hepgorer “ac eithrio gwladolyn o'r Deyrnas Unedig”;

(b) yn is-baragraff (1)(d), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, yr”;

(c) yn is-baragraff (2), hepgorer “ac eithrio gwladolyn o'r Deyrnas Unedig”.

(9) Yn lle paragraff 11 (plant gwladolion Swisaidd), rhodder—

“11.—(1) Person—

(a) sy'n blentyn i wladolyn Swisaidd ac sydd â hawlogaeth i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad I i Gytundeb y Swistir;

(b) sy'n preswyllo fel arfer yn y Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs;

(c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r Deyrnas Unedig, yr Ardal Economaidd Ewropeaidd, y Swistir a'r tiriogaethau tramor drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; a

(d) mewn achos pan oedd y preswyliaid arferol y cyfeirir ato ym mharagraff (c) yn gyfan gwbl neu'n bennaf at ddiben cael addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth sy'n

“(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

(a) is—

(i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or

(ii) an EU national; and

(b) 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.”;

(c) after sub-paragraph (3) insert—

“(4) Any description of person who would have fallen within this paragraph immediately before implementation period completion day is to be treated as falling within this paragraph on and after implementation period completion day.”

(8) In paragraph 10 (EU nationals)—

(a) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;

(b) in sub-paragraph (1)(d), after “the territory comprising” insert “the United Kingdom,”;

(c) in sub-paragraph (2), omit “other than a United Kingdom national”.

(9) For paragraph 11 (children of Swiss nationals) substitute—

“11.—(1) A person who—

(a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;

(b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;

(c) 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

(d) in a case where the ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the

ffurfio'r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a'r Swistir yn union cyn y cyfnod o breswyllo fel arfer y cyfeirir ato ym mharagraff (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi dod o fewn y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i'w drin fel pe bai'n dod o fewn y paragraff hwn ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu."

(10) Ym mharagraff 12(c) (plant gweithwyr Twrcaidd), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, yr".

### **Diwygiadau i Reoliadau Addysg (Cymorth i Fyfirwyr) (Cymru) 2017**

10. Mae Rheoliadau Addysg (Cymorth i Fyfirwyr) (Cymru) 2017(1) wedi eu diwygio fel a ganlyn.

#### **Diwygiad i reoliad 2**

11. Yn rheoliad 2(1) (dehongli), hepgorer y diffiniad o "hawl i breswyllo'n barhaol".

#### **Diwygiadau i reoliad 15**

12. Yn rheoliad 15 (digwyddiadau)—

(a) ym mharagraff (d), ar ôl "gwladolyn o'r UE" mewnosoder "neu berson sy'n gymwys o dan baragraff 9 o Atodlen 1 yn rhinwedd paragraff 9(5) o'r Atodlen honno ac eithrio fel aelod o'r teulu";

(b) yn lle paragraff (e) rhodder—

"(e) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;"

#### **Diwygiad i reoliad 23**

13. Yn lle rheoliad 23(12)(d) (amodau cyffredinol yr hawl i gael grantiau at gostau byw) rhodder—

"(d) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;"

#### **Diwygiadau i reoliad 30**

14. Yn rheoliad 30(1) (grantiau ar gyfer dibynyddion – dehongli), yn is-baragraff (o)—

United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary resident referred to in paragraph (c).

(2) Any description of person who would have fallen within this paragraph immediately before implementation period completion day is to be treated as falling within this paragraph on and after implementation period completion day."

(10) In paragraph 12(c) (children of Turkish workers), after "the territory comprising" insert "the United Kingdom,".

### **Amendments to the Education (Student Support) (Wales) Regulations 2017**

10. The Education (Student Support) (Wales) Regulations 2017(1) are amended as follows.

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

11. In regulation 2(1) (interpretation), omit the definition of "right of permanent residence".

#### **Amendments to regulation 15**

12. In regulation 15 (events)—

(a) in paragraph (d), after "EU national" insert "or of a person who is eligible under paragraph 9 of Schedule 1 by virtue of paragraph 9(5) of that Schedule other than as a family member";

(b) for paragraph (e) substitute—

"(e) the student becomes a person described in paragraph 3(a) of Schedule 1;"

#### **Amendment to regulation 23**

13. For regulation 23(12)(d) (general qualifying conditions for grants for living costs) substitute—

"(d) the student becomes a person described in paragraph 3(a) of Schedule 1;"

#### **Amendments to regulation 30**

14. In regulation 30(1) (grants for dependants – interpretation), in sub-paragraph (o)—

(1) O.S. 2017/47 (Cy. 21), a ddiwygiwyd gan O.S. 2018/191 (Cy. 42), O.S. 2018/814 (Cy. 165), O.S. 2019/235 (Cy. 54), O.S. 2019/1192 (Cy. 209) ac O.S. 2020/142 (Cy. 25).

(1) S.I. 2017/47 (W. 21), amended by S.I. 2018/191 (W. 42), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54), S.I. 2019/1192 (W. 209) and S.I. 2020/142 (W. 25).

- (a) ym mharagraff (ii), yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”;
  - (b) yn lle paragraff (iii) rhodder—
    - “(iii) pan fo deddfwriaeth—
      - (aa) y Deyrnas Unedig ac un neu ragor o Aelod-wladwriaethau; neu
      - (bb) mwy nag un Aelod-wladwriaeth,
- yn gymwys i'r cyfnod, cyfanswm incwm person o bob ffynhonnell fel y'i pennir at ddibenion y ddeddfwriaeth treth incwm y mae Gweinidogion Cymru yn ystyried bod cyfanswm incwm person yn y cyfnod hwnnw ar ei fwyaf odani,”.

- (a) in paragraph (ii), for “another Member State” substitute “a Member State”;
  - (b) for paragraph (iii) substitute—
    - “(iii) where the legislation of—
      - (aa) the United Kingdom and one or more Member State; or
      - (bb) more than one Member State,
- applies to the period, a person’s total income from all sources as determined for the purposes of the income tax legislation under which the Welsh Ministers consider that a person’s total income in that period is greatest,”.

### Diwygiad i reoliad 49

15. Yn lle rheoliad 49(2)(d) (myfyrwyr sy'n dod yn gymwys yn ystod blwyddyn academaidd) rhodder—

- “(d) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;”.

### Amendment to regulation 49

15. For regulation 49(2)(d) (students becoming eligible during the course of an academic year) substitute—

- “(d) the student becomes a person described in paragraph 3(a) of Schedule 1;”.

### Diwygiadau i reoliad 65

16. Yn rheoliad 65(4) (myfyrwyr sy'n dod yn gymwys yn ystod y flwyddyn academaidd)—

- (a) yn is-baragraff (d), ar ôl “gwladolyn o'r UE” mewnosoder “neu berson sy'n gymwys o dan baragraff 9 o Atodlen 1 yn rhinwedd paragraff 9(5) o'r Atodlen honno ac eithrio fel aelod o'r teulu”;
- (b) yn lle is-baragraff (f) rhodder—
  - “(f) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;”.

### Amendments to regulation 65

16. In regulation 65(4) (students becoming eligible during the course of the academic year)—

- (a) in sub-paragraph (d), after “EU national” insert “or of a person who is eligible under paragraph 9 of Schedule 1 by virtue of paragraph 9(5) of that Schedule other than as a family member”;
- (b) for sub-paragraph (f) substitute—
  - “(f) the student becomes a person described in paragraph 3(a) of Schedule 1;”.

### Diwygiadau i reoliad 82

17. Yn rheoliad 82(4) (myfyrwyr sy'n dod yn gymwys yn ystod y flwyddyn academaidd)—

- (a) yn is-baragraff (d), ar ôl “gwladolyn o'r UE” mewnosoder “neu berson sy'n gymwys o dan baragraff 9 o Atodlen 1 yn rhinwedd paragraff 9(5) o'r Atodlen honno ac eithrio fel aelod o'r teulu”;
- (b) yn lle is-baragraff (f) rhodder—
  - “(f) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;”.

### Amendments to regulation 82

17. In regulation 82(4) (students becoming eligible during the course of the academic year)—

- (a) in sub-paragraph (d), after “EU national” insert “or of a person who is eligible under paragraph 9 of Schedule 1 by virtue of paragraph 9(5) of that Schedule other than as a family member”;
- (b) for sub-paragraph (f) substitute—
  - “(f) the student becomes a person described in paragraph 3(a) of Schedule 1;”.



## Diwygiadau i reoliad 95

18. Yn rheoliad 95(1) (grantiau rhan-amser ar gyfer dibynyddion – dehongli), yn is-baragraff (o)—

(a) ym mharagraff (ii), yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”;

(b) yn lle paragraff (iii) rhodder—

“(iii) pan fo deddfwriaeth—

(aa) y Deyrnas Unedig ac un neu ragor o Aelod-wladwriaethau; neu

(bb) mwy nag un Aelod-wladwriaeth,

yn gymwys i’r cyfnod, cyfanswm incwm person o bob ffynhonnell fel y’i pennir at ddibenion y ddeddfwriaeth treth incwm y mae Gweinidogion Cymru yn ystyried bod cyfanswm incwm person yn y cyfnod hwnnw ar ei fwyaf odani,”.

## Diwygiad i reoliad 111

19. Yn lle rheoliad 111(2)(d) (myfyrwyr sy’n dod yn gymwys yn ystod y flwyddyn academiaidd) rhodder—

“(d) y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;”.

## Diwygiadau i Atodlen 1

20.—(1) Mae Atodlen 1 (myfyrwyr cymwys) wedi ei diwygio fel a ganlyn.

(2) Yn Rhan 1 (dehongli), paragraff 1—

(a) yn is-baragraff (1)—

(i) hepgorer “ac eithrio’r Deyrnas Unedig” ym mhob lle y mae’n digwydd;

(ii) yn y lle priodol mewnosoder—

“mae i “cytundeb ar hawliau dinasyddion Swisaidd” yr ystyr a roddir i “Swiss citizens’ rights agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“mae i “cytundeb gwahanu EFTA yr AEE” yr ystyr a roddir i “EEA EFTA separation agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“ystyr “hawl i breswyllo’n barhaol” (“*right of permanent residence*”) yw, mewn perthynas â pherson (“A”), hawl i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy’n codi o dan reolau mewnfudo’r cynllun preswyllo, ond dim

## Amendments to regulation 95

18. In regulation 95(1) (part-time grants for dependants – interpretation), in sub-paragraph (o)—

(a) in paragraph (ii), for “another Member State” substitute “a Member State”;

(b) for paragraph (iii) substitute—

“(iii) where the legislation of—

(aa) the United Kingdom and one or more Member State; or

(bb) more than one Member State,

applies to the period, a person’s total income from all sources as determined for the purposes of the income tax legislation under which the Welsh Ministers consider that a person’s total income in that period is the greatest,”.

## Amendment to regulation 111

19. For regulation 111(2)(d) (students becoming eligible during the course of an academic year) substitute—

“(d) the student becomes a person described in paragraph 3(a) of Schedule 1;”.

## Amendments to Schedule 1

20.—(1) Schedule 1 (eligible students) is amended as follows.

(2) In Part 1 (interpretation), paragraph 1—

(a) in sub-paragraph (1)—

(i) omit “other than the United Kingdom” in each place it occurs;

(ii) at the appropriate place insert—

““EEA EFTA separation agreement” (“*cytundeb gwahanu EFTA yr AEE*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““residence scheme immigration rules” (“*rheolau mewnfudo’r cynllun preswyllo*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““right of permanent residence” (“*hawl i breswyllo’n barhaol*”) means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where,

ond pan fyddai A, pe bai'r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu, wedi ennill hawl o'r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu;";

"mae i "rheolau mewnfudo'r cynllun preswyllo" yr ystyr a roddir i "residence scheme immigration rules" gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;";

- (b) yn is-baragraffau (4) a (5), ar ôl "diriogaeth sy'n ffurfio'r" a "diriogaeth sydd yn ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr" ym mhob lle y maent yn digwydd, ac ar ôl "diriogaeth a ffurfir gan" mewnosoder "y Deyrnas Unedig, Gibraltar, yr";
- (c) yn is-baragraff (6), ar ôl "ardal" mewnosoder "ac eithrio'r Deyrnas Unedig neu Gibraltar".

(3) Yn Rhan 2 (categoriâu)—

- (a) ym mharagraff 3 (personau sydd wedi setlo yn y Deyrnas Unedig)—

- (i) yn lle is-baragraff (a) rhodder—

"(a) sydd naill ai—

- (i) wedi setlo yn y Deyrnas Unedig yn rhinwedd y ffaith ei fod wedi ennill yr hawl i breswyllo'n barhaol; neu

- (ii) yn dod o fewn Erthygl 18(2) neu (3) o'r cytundeb ymadael â'r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o'r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai'r person hwnnw wedi ennill yr hawl i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu pe bai'r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu;";

- (ii) yn is-baragraff (d), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr";

had the facts pertaining to the determination of A's right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;";

"Swiss citizens' rights agreement" ("cytundeb ar hawliau dinasyddion Swisaidd") has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;";

- (b) in sub-paragraphs (4) and (5), after "the territory comprising" insert "the United Kingdom, Gibraltar" in each place it occurs;

- (c) in sub-paragraph (6), after "an area" insert "other than the United Kingdom or Gibraltar".

(3) In Part 2 (categories)—

- (a) in paragraph 3 (persons who are settled in the United Kingdom)—

- (i) for sub-paragraph (a) substitute—

"(a) either—

- (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or

- (ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens' rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person's right to reside fallen to be considered immediately before implementation period completion day;";

- (ii) in sub-paragraph (d), after "the territory comprising" insert "the United Kingdom, Gibraltar;";

- (b) ym mharagraff 6(1)(c) (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (c) ym mharagraff 7 (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd)—
- (i) ailrifer is-baragraffau (a), (b) ac (c) yn is-baragraff (1)(a), (b) ac (c);
- (ii) yn is-baragraff (1)(b) fel y'i hailrifwyd felly, ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) ar ôl is-baragraff (1) fel y'i hailrifwyd felly mewnosoder—
- “(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;
- (d) ym mharagraff 8 (personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo yn rhywle arall)—
- (i) yn is-baragraff (1)(b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau'r cyfnod gweithredu”;
- (ii) yn is-baragraff (1)(d) ac (e), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (2)—
- (aa) yn lle “sydd â hawl” rhodder “yr oedd ganddo hawl” ym mhob lle y mae'n digwydd;
- (bb) yn lle “os yw'n mynd” rhodder “os yw wedi mynd”;
- (iv) ar ôl is-baragraff (2) mewnosoder—
- “(3) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo'n barhaol os oedd ganddo hawl a gododd o dan Gyfarwyddeb 2004/38 i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad.”;
- (e) ym mharagraff 9 (gwladolion o'r UE)—
- (i) yn lle is-baragraff (1)(a) rhodder—
- “(a) sydd ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs—
- (i) yn wladolyn o'r UE;
- (ii) yn wladolyn o'r Deyrnas Unedig sydd wedi arfer hawl i breswyllo; neu
- (b) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (c) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—
- (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
- (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) after sub-paragraph (1) as so renumbered insert—
- “(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (d) in paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
- (i) in sub-paragraph (1)(b), after “right of residence” insert “before implementation period completion day”;
- (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (2)—
- (aa) for “has a right” substitute “had the right” in each place it occurs;
- (bb) for “goes” substitute “has gone”;
- (iv) after sub-paragraph (2) insert—
- “(3) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”;
- (e) in paragraph 9 (EU nationals)—
- (i) for sub-paragraph (1)(a) substitute—
- “(a) on the first day of the first academic year of the course is—
- (i) an EU national;
- (ii) a United Kingdom national who has exercised a right of residence; or

- (iii) yn aelod o deulu person yn is-baragraff (i) neu (ii);”;
- (ii) yn is-baragraffau (1)(c) a (d) a (2), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (4), ar ôl “os yw’r person hwnnw” mewnosoder “wedi preswyllo yn Gibraltar neu”;
- (iv) ar ôl is-baragraff (4) mewnosoder—  
“(5) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;
- (f) ym mharagraff 10 (gwladolion o’r UE)—
  - (i) yn is-baragraff (1)(a), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
  - (ii) yn is-baragraff (1)(d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
  - (iii) yn is-baragraff (2), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
- (g) yn lle paragraff 11 (plant gwladolion Swisaidd) rhodder—

**“11.—(1) Person—**

- (a) sy’n blentyn i wladolyn Swisaidd y mae ganddo hawlogaeth i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir;
- (b) sy’n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs;
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; a
- (d) mewn achos lle’r oedd ei breswyllo arferol y cyfeirir ato ym mharagraff (c) yn gyfan gwbl neu’n bennaf at ddiben derbyn addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir yn union cyn y cyfnod preswyllo arferol y cyfeirir ato ym mharagraff (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau’r cyfnod

- (iii) the family member of a person in sub-paragraph (i) or (ii);”;
- (ii) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (4), after “that person” insert “has resided in Gibraltar or”;
- (iv) after sub-paragraph (4) insert—  
“(5) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (f) in paragraph 10 (EU nationals)—
  - (i) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;
  - (ii) in sub-paragraph (1)(d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
  - (iii) in sub-paragraph (2), omit “other than a United Kingdom national”;
- (g) for paragraph 11 (children of Swiss nationals) substitute—

**“11.—(1) A person who—**

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) 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
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Any description of person who would have been eligible under this paragraph immediately before implementation period

gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;

- (h) ym mharagraff 12(c) (plant gweithwyr Twrcaidd), ar ôl “y diriogaeth sydd yn ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”.

#### Diwygiadau i Atodlen 4

21. Yn Atodlen 4 (benthyciadau at ffioedd coleg), paragraff 6—

- (a) yn is-baragraff (c), ar ôl “gwladolyn o'r UE” mewnosoder “neu berson sy'n gymwys o dan baragraff 9 o Atodlen 1 yn rhinwedd paragraff 9(5) o'r Atodlen honno ac eithrio fel aelod o'r teulu”;
- (b) yn lle is-baragraff (d) rhodder—
  - “(d) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;”.

#### Diwygiadau i Atodlen 5

22.—(1) Mae Atodlen 5 (asesiad ariannol) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 1(1) (diffiniadau), paragraff (n)—

- (a) yn is-baragraff (ii), yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”;
- (b) yn lle is-baragraff (iii) rhodder—
  - “(iii) pan fo deddfwriaeth—
    - (aa) y Deyrnas Unedig ac un neu ragor o Aelod-wladwriaethau; neu
    - (bb) mwy nag un Aelod-wladwriaeth,

yn gymwys i'r cyfnod, cyfanswm incwm person o bob ffynhonnell fel y'i pennir at ddibenion y ddeddfwriaeth treth incwm y mae Gweinidogion Cymru yn ystyried bod cyfanswm incwm person yn y cyfnod hwnnw ar ei fwyaf odani (ac eithrio fel y darperir fel arall ym mharagraff 5).”.

(3) Ym mharagraff 2(1)(g) (myfyriwr cymwys annibynnol), o flaen “Undeb Ewropeaidd” mewnosoder “Deyrnas Unedig, Gibraltar a'r”.

(4) Yn y paragraffau a ganlyn, yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”—

- (a) paragraff 4(1)(b) (cyfrifo incwm gweddilliol y myfyriwr cymwys);

completion day is to be eligible on and after implementation period completion day.”;

- (h) in paragraph 12(c) (children of Turkish workers), after “the territory comprising” insert “the United Kingdom, Gibraltar.”.

#### Amendments to Schedule 4

21. In Schedule 4 (college fee loans), paragraph 6—

- (a) in sub-paragraph (c), after “EU national” insert “or of a person who is eligible under paragraph 9 of Schedule 1 by virtue of paragraph 9(5) of that Schedule other than as a family member”;
- (b) for sub-paragraph (d) substitute—
  - “(d) the student becomes a person described in paragraph 3(a) of Schedule 1;”.

#### Amendments to Schedule 5

22.—(1) Schedule 5 (financial assessment) is amended as follows.

(2) In paragraph 1(1) (definitions), paragraph (n)—

- (a) in sub-paragraph (ii), for “another Member State” substitute “a Member State”;
- (b) for sub-paragraph (iii) substitute—
  - “(iii) where the legislation of—
    - (aa) the United Kingdom and one or more Member State; or
    - (bb) more than one Member State,

applies to the period, a person's total income from all sources as determined for the purposes of the income tax legislation under which the Welsh Ministers consider that a person's total income in that period is greatest (except as otherwise provided in paragraph 5).”.

(3) In paragraph 2(1)(g) (independent eligible student), before “the European Union” insert “the United Kingdom, Gibraltar and”.

(4) In the following paragraphs, for “another Member State” substitute “a Member State”—

- (a) paragraff 4(1)(b) (calculation of eligible student's residual income);

- (b) paragraff 5 (cyfrifo incwm gweddilliol y rhiant)—
  - (i) is-baragraff (1)(a);
  - (ii) is-baragraff (6), ym mhob lle y mae'n digwydd;
  - (iii) is-baragraff (7).

- (b) paragraph 5 (calculation of parent's residual income)—
  - (i) sub-paragraph (1)(a);
  - (ii) sub-paragraph (6), in each place it occurs;
  - (iii) sub-paragraph (7).

### Diwygiadau i Atodlen 6

**23.**—(1) Mae Atodlen 6 (asesiad ariannol – grantiau rhan-amser ar gyfer dibynnyddion) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 1(1) (diffiniadau), paragraff (j)—

- (a) yn is-baragraff (ii), yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”;
- (b) yn lle is-baragraff (iii) rhodder—
  - “(iii) pan fo deddfwriaeth—
    - (aa) y Deyrnas Unedig ac un neu ragor o Aelod-wladwriaethau; neu
    - (bb) mwy nag un Aelod-wladwriaeth,

yn gymwys i'r cyfnod, cyfanswm incwm person o bob ffynhonnell fel y'i pennir at ddibenion y ddeddfwriaeth treth incwm y mae Gweinidogion Cymru yn ystyried bod cyfanswm incwm person yn y cyfnod hwnnw ar ei fwyaf odani (ac eithrio fel y darperir fel arall ym mharagraff 4).”

(3) Yn y paragraffau a ganlyn, yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”—

- (a) paragraff 3(1) (cyfrifo incwm gweddilliol y myfyriwr rhan-amser cymwys);
- (b) paragraff 4 (cyfrifo incwm gweddilliol partner myfyriwr rhan-amser cymwys)—
  - (i) is-baragraff (1)(a);
  - (ii) is-baragraff (6), ym mhob lle y mae'n digwydd;
  - (iii) is-baragraff (7).

### Diwygiadau i Reoliadau Addysg (Benthyciadau at Radd Feistr Ôl-raddedig) (Cymru) 2017

**24.** Mae Rheoliadau Addysg (Benthyciadau at Radd Feistr Ôl-raddedig) (Cymru) 2017(1) wedi eu diwygio fel a ganlyn.

### Amendments to Schedule 6

**23.**—(1) Schedule 6 (financial assessment – part-time grants for dependants) is amended as follows.

(2) In paragraph 1(1) (definitions), paragraph (j)—

- (a) in sub-paragraph (ii), for “another Member State” substitute “a Member State”;
- (b) for sub-paragraph (iii) substitute—
  - “(iii) where the legislation of—
    - (aa) the United Kingdom and one or more Member State; or
    - (bb) more than one Member State,

applies to the period, a person's total income from all sources as determined for the purposes of the income tax legislation under which the Welsh Ministers consider that a person's total income in that period is greatest (except as otherwise provided in paragraph 4).”

(3) In the following paragraphs, for “another Member State” substitute “a Member State”—

- (a) paragraph 3(1) (calculation of eligible part-time student's residual income);
- (b) paragraph 4 (calculation of eligible part-time student's partner's residual income)—
  - (i) sub-paragraph (1)(a);
  - (ii) sub-paragraph (6), in each place it occurs;
  - (iii) sub-paragraph (7).

### Amendments to the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017

**24.** The Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017(1) are amended as follows.

(1) O.S. 2017/523 (Cy. 109), a ddiwygiwyd gan O.S. 2017/712 (Cy. 169), O.S. 2018/277 (Cy. 53), O.S. 2018/814 (Cy. 165), O.S. 2019/895 (Cy. 161), O.S. 2019/1192 (Cy. 209) ac O.S. 2020/142 (Cy. 25).

(1) S.I. 2017/523 (W. 109), amended by S.I. 2017/712 (W. 169), S.I. 2018/277 (W. 53), S.I. 2018/814 (W. 165), S.I. 2019/895 (W. 161), S.I. 2019/1192 (W. 209) and S.I. 2020/142 (W. 25).

## Diwygiad i reoliad 2

25. Yn rheoliad 2(1) (dehongli), hepgorer y diffiniad o “hawl i breswyllo’n barhaol”.

## Diwygiadau i reoliad 8

26. Yn rheoliad 8 (digwyddiadau)—

- (a) ym mharagraff (d), ar ôl “gwladolyn UE” mewnosoder “neu berson sy’n gymwys o dan baragraff 9 o Atodlen 1 yn rhinwedd paragraff 9(5) o’r Atodlen honno ac eithrio fel aelod o’r teulu”;
- (b) yn lle paragraff (e) rhodder—

“(e) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;”.

## Diwygiadau i Atodlen 1

27.—(1) Mae Atodlen 1 (myfyrwyr cymwys) wedi ei diwygio fel a ganlyn.

(2) Yn Rhan 1 (dehongli), paragraff 1—

- (a) yn is-baragraff (1)—
  - (i) hepgorer “ac eithrio’r Deyrnas Unedig” ym mhob lle y mae’n digwydd;
  - (ii) yn y lle priodol mewnosoder—

“mae i “cytundeb ar hawliau dinasyddion Swisaidd” yr ystyr a roddir i “Swiss citizens’ rights agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“mae i “cytundeb gwahanu EFTA yr AEE” yr ystyr a roddir i “EEA EFTA separation agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“ystyr “hawl i breswyllo’n barhaol” (“*right of permanent residence*”) yw, mewn perthynas â pherson (“A”), hawl i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy’n codi o dan reolau mewnfudo’r cynllun preswyllo, ond dim ond pan fyddai A, pe bai’r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu, wedi ennill hawl o’r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;

“mae i “rheolau mewnfudo’r cynllun preswyllo” yr ystyr a roddir i “residence scheme immigration rules” gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

## Amendment to regulation 2

25. In regulation 2(1) (interpretation), omit the definition of “right of permanent residence”.

## Amendments to regulation 8

26. In regulation 8 (events)—

- (a) in paragraph (d), after “EU national” insert “or of a person who is eligible under paragraph 9 of Schedule 1 by virtue of paragraph 9(5) of that Schedule other than as a family member”;
- (b) for paragraph (e) substitute—

“(e) the student becomes a person described in paragraph 3(a) of Schedule 1;”.

## Amendments to Schedule 1

27.—(1) Schedule 1 (eligible students) is amended as follows.

(2) In Part 1 (interpretation), paragraph 1—

- (a) in sub-paragraph (1)—
  - (i) omit “other than the United Kingdom” in each place it occurs;
  - (ii) at the appropriate place insert—

““EEA EFTA separation agreement” (“*cytundeb gwahanu EFTA yr AEE*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““residence scheme immigration rules” (“*rheolau mewnfudo’r cynllun preswyllo*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““right of permanent residence” (“*hawl i breswyllo’n barhaol*”) means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;”;

““Swiss citizens’ rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

- (b) yn is-baragraffau (4) a (5), ar ôl “dirioaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr” ym mhob lle y mae’n digwydd;
- (c) yn is-baragraff (6), ar ôl “ardal” mewnosoder “ac eithrio’r Deyrnas Unedig neu Gibraltar”.
- (3) Yn Rhan 2 (categoriâu)—
- (a) ym mharagraff 3 (personau sydd wedi setlo yn y Deyrnas Unedig)—
- (i) yn lle is-baragraff (a) rhodder—
- “(a) sydd naill ai—
- (i) wedi setlo yn y Deyrnas Unedig yn rhinwedd ennill yr hawl i breswyllo’n barhaol; neu
- (ii) yn dod o fewn Erthygl 18(2) neu (3) o’r cytundeb ymadael â’r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o’r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai’r person hwnnw wedi ennill yr hawl i breswyllo’n barhaol yn y Deyrnas Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu pe bai’r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;
- (ii) yn is-baragraff (d), ar ôl “y dirioaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (b) ym mharagraff 6(1)(c) (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o’u teuluoedd), ar ôl “y dirioaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (c) ym mharagraff 7 (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o’u teuluoedd)—
- (i) ailrifer is-baragraffau (a), (b) ac (c) yn is-baragraff (1)(a), (b) ac (c);
- (ii) yn is-baragraff (1)(b) fel y’i hailrifwyd felly, ar ôl “y dirioaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) ar ôl is-baragraff (1) fel y’i hailrifwyd felly mewnosoder—
- (b) in sub-paragraphs (4) and (5), after “the territory comprising” insert “the United Kingdom, Gibraltar,” in each place it occurs;
- (c) in sub-paragraph (6), after “an area” insert “other than the United Kingdom or Gibraltar”.
- (3) In Part 2 (categories)—
- (a) in paragraph 3 (persons who are settled in the United Kingdom)—
- (i) for sub-paragraph (a) substitute—
- “(a) either—
- (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
- (ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before implementation period completion day;”;
- (ii) in sub-paragraph (d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (b) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (c) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—
- (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
- (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) after sub-paragraph (1) as so renumbered insert—



- “(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;
- (d) ym mharagraff 8 (personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo yn rhywle arall)—
- (i) yn is-baragraff (1)(b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau’r cyfnod gweithredu”;
- (ii) yn is-baragraff (1)(d) ac (e), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (2)—
- (aa) yn lle “sydd â hawl” rhodder “yr oedd ganddo’r hawl” ym mhob lle y mae’n digwydd;
- (bb) yn lle “os yw’n mynd” rhodder “os yw wedi mynd”;
- (iv) ar ôl is-baragraff (2) mewnosoder—
- “(3) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo’n barhaol os oedd ganddo hawl a gododd o dan Gyfarwyddeb 2004/38 i breswyllo’n barhaol yn y Deyrnas Unedig heb gyfyngiad.”;
- (e) ym mharagraff 9 (gwladolion UE)—
- (i) yn lle is-baragraff (1)(a) rhodder—
- “(a) sydd, ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs—
- (i) yn wladolyn UE;
- (ii) yn wladolyn o’r Deyrnas Unedig sydd wedi arfer hawl i breswyllo; neu
- (iii) yn aelod o deulu person yn is-baragraff (i) neu (ii);”;
- (ii) yn is-baragraffau (1)(c) a (d) a (2), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (4), ar ôl “os yw’r person hwnnw” mewnosoder “wedi preswyllo yn Gibraltar neu”;
- (iv) ar ôl is-baragraff (4) mewnosoder—
- “(5) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;
- (f) ym mharagraff 10 (gwladolion UE)—
- (i) yn is-baragraff (1)(a), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
- “(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (d) in paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
- (i) in sub-paragraph (1)(b), after “right of residence” insert “before implementation period completion day”;
- (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (2)—
- (aa) for “has a right” substitute “had the right” in each place it occurs;
- (bb) for “goes” substitute “has gone”;
- (iv) after sub-paragraph (2) insert—
- “(3) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”;
- (e) in paragraph 9 (EU nationals)—
- (i) for sub-paragraph (1)(a) substitute—
- “(a) who, on the first day of the first academic year of the course, is—
- (i) an EU national;
- (ii) a United Kingdom national who has exercised a right of residence; or
- (iii) the family member of a person in sub-paragraph (i) or (ii);”;
- (ii) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (4), after “that person” insert “has resided in Gibraltar or”;
- (iv) after sub-paragraph (4) insert—
- “(5) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (f) in paragraph 10 (EU nationals)—
- (i) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;

- (ii) yn is-baragraff (1)(d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (2), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
- (g) yn lle paragraff 11 (plant gwladolion Swisaidd) rhodder—

“11.—(1) Person—

- (a) sy’n blentyn i wladolyn Swisaidd y mae ganddo hawlogaeth i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir;
- (b) sy’n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs;
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; a
- (d) mewn achos pan oedd ei breswyllo fel arfer, y cyfeirir ato ym mharagraff (c), yn gyfan gwbl neu’n bennaf at ddiben cael addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir yn union cyn y cyfnod o breswyllo fel arfer y cyfeirir ato ym mharagraff (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;

- (h) ym mharagraff 12(c) (plant gweithwyr Twrcaidd), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”.

- (ii) in sub-paragraph (1)(d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;

- (iii) in sub-paragraph (2), omit “other than a United Kingdom national”;

- (g) for paragraph 11 (children of Swiss nationals) substitute—

“11.—(1) A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) 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
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;

- (h) in paragraph 12(c) (children of Turkish workers), after “the territory comprising” insert “the United Kingdom, Gibraltar,”.

## Diwygiadau i Reoliadau Addysg (Cymorth i Fyfywrwr) (Cymru) 2018

28. Mae Rheoliadau Addysg (Cymorth i Fyfywrwr) (Cymru) 2018(1) wedi eu diwygio fel a ganlyn.

## Amendments to the Education (Student Support) (Wales) Regulations 2018

28. The Education (Student Support) (Wales) Regulations 2018(1) are amended as follows.

(1) O.S. 2018/191 (Cy. 42), a ddiwygiwyd gan O.S. 2018/813 (Cy. 164), O.S. 2018/814 (Cy. 165), O.S. 2019/235 (Cy. 54) ac O.S. 2020/142 (Cy. 25).

(1) S.I. 2018/191 (W. 42), amended by S.I. 2018/813 (W. 164), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54) and S.I. 2020/142 (W. 25).

## Diwygiadau i reoliad 80

29. Yn rheoliad 80(2)(b) (cymhwyso i gael benthyciad at ffioedd dysgu yn ystod y flwyddyn academaidd)—

- (a) ym mharagraff (iii), ar ôl “gwladolyn o’r UE” mewnosoder “neu berson sy’n gymwys o dan baragraff 6(1) o Atodlen 2 yn rhinwedd paragraff 6(1A) o’r Atodlen honno ac eithrio fel aelod o’r teulu”;
- (b) yn lle paragraff (iv) rhodder—
  - “(iv) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 1(2)(a) o Atodlen 2;”.

## Diwygiad i reoliad 81

30. Yn lle rheoliad 81(3)(b)(iii) (cymhwyso i gael benthyciad cynhaliath neu grantiau yn ystod y flwyddyn academaidd) rhodder—

- “(iii) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 1(2)(a) o Atodlen 2;”.

## Diwygiadau i Atodlen 2

31.—(1) Mae Atodlen 2 (categoriâu o fyfyrwyr cymwys) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 1(2) (categori 1 – personau sydd wedi setlo yn y Deyrnas Unedig)—

- (a) yn lle paragraff (a) rhodder—
  - “(a) sydd naill ai—
    - (i) wedi setlo yn y Deyrnas Unedig yn rhinwedd ennill yr hawl i breswyllo’n barhaol, neu
    - (ii) yn dod o fewn Erthygl 18(2) neu (3) o’r cytundeb ymadael â’r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o’r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai’r person hwnnw wedi ennill yr hawl i breswyllo’n barhaol yn y Deyrnas Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu pe bai’r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;

## Amendments to regulation 80

29. In regulation 80(2)(b) (qualifying for a tuition fee loan during the academic year)—

- (a) in paragraph (iii), after “EU national” insert “or of a person who is eligible under paragraph 6(1) of Schedule 2 by virtue of paragraph 6(1A) of that Schedule other than as a family member”;
- (b) for paragraph (iv) substitute—
  - “(iv) the student becomes a person described in paragraph 1(2)(a) of Schedule 2;”.

## Amendment to regulation 81

30. For regulation 81(3)(b)(iii) (qualifying for grants or maintenance loan during the academic year) substitute—

- “(iii) the student becomes a person described in paragraph 1(2)(a) of Schedule 2;”.

## Amendments to Schedule 2

31.—(1) Schedule 2 (categories of eligible student) is amended as follows.

(2) In paragraph 1(2) (category 1 – persons settled in the United Kingdom)—

- (a) for paragraph (a) substitute—
  - “(a) either—
    - (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence, or
    - (ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before implementation period completion day;”;

- (b) ym mharagraff (d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”.
- (3) Ym mharagraff 4 (categori 4 – gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o’u teuluoedd)—
- (a) yn is-baragraffau (1)(b) a (2)(b), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (b) ar ôl is-baragraff (2) mewnosoder—  
“(2A) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan is-baragraff (2) yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;
- (c) yn is-baragraffau (3) a (4), hepgorer “ac eithrio’r Deyrnas Unedig” ym mhob lle y mae’n digwydd.
- (4) Ym mharagraff 5 (categori 5 – personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo yn rhywle arall)—
- (a) yn is-baragraff (1)(b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau’r cyfnod gweithredu”;
- (b) yn is-baragraff (1)(d) ac (e), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (c) yn is-baragraff (3)(c), yn lle “sydd â hawl” rhodder “yr oedd ganddo’r hawl”;
- (d) yn is-baragraff (4)—
- (i) ym mharagraff (a), yn lle “a chanddo hawl” rhodder “ac yr oedd ganddo’r hawl”;
- (ii) ym mharagraff (b), yn lle “sy’n mynd” rhodder “sydd wedi mynd”;
- (e) ar ôl is-baragraff (5) mewnosoder—  
“(6) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo’n barhaol os oedd ganddo hawl a gododd o dan Gyfarwyddeb 2004/38 i breswyllo’n barhaol yn y Deyrnas Unedig heb gyfyngiad.”
- (5) Ym mharagraff 6 (categori 6 – gwladolion UE)—
- (a) yn lle is-baragraff (1)(a) rhodder—  
“(a) sydd, ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs—
- (i) yn wladolyn UE,
- (ii) yn wladolyn o’r Deyrnas Unedig sydd wedi arfer hawl i breswyllo, neu
- (b) in paragraph (d), after “territory comprising” insert “the United Kingdom, Gibraltar.”.
- (3) In paragraph 4 (category 4 – workers, employed persons, self-employed persons and their family members)—
- (a) in sub-paragraphs (1)(b) and (2)(b), after “the territory comprising” insert “the United Kingdom, Gibraltar.”;
- (b) after sub-paragraph (2) insert—  
“(2A) Any description of person who would have been eligible under sub-paragraph (2) immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (c) in sub-paragraphs (3) and (4), omit “other than the United Kingdom” in each place it occurs.
- (4) In paragraph 5 (category 5 – persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
- (a) in sub-paragraph (1)(b), after “right of residence” insert “before implementation period completion day”;
- (b) in sub-paragraph (1)(d) and (e), after “the territory comprising” insert “the United Kingdom, Gibraltar.”;
- (c) in sub-paragraph (3)(c), for “has a right” substitute “had the right”;
- (d) in sub-paragraph (4)—
- (i) in paragraph (a), for “has a right” substitute “had the right”;
- (ii) in paragraph (b), for “goes” substitute “has gone”;
- (e) after sub-paragraph (5) insert—  
“(6) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”
- (5) In paragraph 6 (category 6 - EU nationals)—
- (a) for sub-paragraph (1)(a) substitute—  
“(a) who, on the first day of the first academic year of the course, is—
- (i) an EU national,
- (ii) a United Kingdom national who has exercised a right of residence, or

- (iii) yn aelod o deulu person yn is-baragraff (i) neu (ii);”;
- (b) yn is-baragraff (1)(c) a (d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (c) ar ôl is-baragraff (1) mewnosoder—  
“(1A) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan is-baragraff (1) yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;
- (d) yn is-baragraff (2)(a), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
- (e) yn is-baragraff (2)(d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (f) yn lle is-baragraff (4) rhodder—  
“(4) At ddibenion is-baragraff (1)(a), mae gwladolyn o’r Deyrnas Unedig wedi arfer hawl i breswyllo os yw’r person hwnnw wedi preswyllo yn Gibraltar neu wedi arfer hawl o dan Erthygl 7 o Gyfarwyddeb 2004/38 neu unrhyw hawl gyfatebol o dan Gytundeb yr AEE neu Gytundeb y Swistir mewn gwladwriaeth ac eithrio’r Deyrnas Unedig.”

(6) Yn lle paragraff 7 (categori 7 – plant gwladolion Swisaidd) rhodder—

#### “Categori 7 – Plant gwladolion Swisaidd

##### 7.—(1) Person—

- (a) sy’n blentyn i wladolyn Swisaidd y mae ganddo hawlogaeth i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir,
- (b) sy’n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs,
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr AEE a’r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs, a
- (d) mewn achos pan oedd ei breswyllo fel arfer, y cyfeirir ato ym mharagraff (c), yn gyfan gwbl neu’n bennaf at ddiben cael addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr AEE a’r Swistir yn union cyn y cyfnod o breswyllo fel arfer y cyfeirir ato ym mharagraff (c).

- (iii) the family member of a person in sub-paragraph (i) or (ii);”;
- (b) in sub-paragraph (1)(c) and (d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (c) after sub-paragraph (1) insert—  
“(1A) Any description of person who would have been eligible under sub-paragraph (1) immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (d) in sub-paragraph (2)(a), omit “other than a United Kingdom national”;
- (e) in sub-paragraph (2)(d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (f) for sub-paragraph (4) substitute—  
“(4) For the purpose of sub-paragraph (1)(a), a United Kingdom national has exercised a right of residence if that person has resided in Gibraltar or has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.”

(6) For paragraph 7 (category 7 - children of Swiss nationals) substitute—

#### “Category 7 – Children of Swiss nationals

##### 7.—(1) A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement,
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu."

(7) Ym mharagraff 8(1)(c) (categori 8 – plant gweithwyr Twrcaidd), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr".

(8) Ym mharagraff 9 (preswyllo fel arfer – darpariaeth ychwanegol)—

- (a) ar ôl "diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr" ym mhob lle y mae'n digwydd;
- (b) yn is-baragraff (5), ar ôl "ardal" mewnosoder "ac eithrio'r Deyrnas Unedig neu Gibraltar".

(9) Ym mharagraff 11 (dehongli)—

(a) yn y lle priodol mewnosoder—

"mae i "cytundeb ar hawliau dinasyddion Swisaidd" yr ystyr a roddir i "Swiss citizens' rights agreement" gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"

"mae i "cytundeb gwahanu EFTA yr AEE" yr ystyr a roddir i "EEA EFTA separation agreement" gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"

"mae i "rheolau mewnfudo'r cynllun preswyllo" yr ystyr a roddir i "residence scheme immigration rules" gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"

(b) yn lle'r diffiniad o "hawl i breswyllo'n barhaol" rhodder—

"ystyr "hawl i breswyllo'n barhaol" ("*right of permanent residence*") yw, mewn perthynas â pherson ("A"), hawl i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy'n codi o dan reolau mewnfudo'r cynllun preswyllo, ond dim ond pan fyddai A, pe bai'r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu, wedi ennill hawl o'r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu;"

(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day."

(7) In paragraph 8(1)(c) (category 8 – children of Turkish workers), after "the territory comprising" insert "the United Kingdom, Gibraltar,".

(8) In paragraph 9 (ordinary residence – additional provision)—

- (a) after "the territory comprising" insert "the United Kingdom, Gibraltar," in each place it occurs;
- (b) in sub-paragraph (5), after "an area" insert "other than the United Kingdom or Gibraltar".

(9) In paragraph 11 (interpretation)—

(a) at the appropriate place insert—

"EEA EFTA separation agreement" ("*cytundeb gwahanu EFTA yr AEE*") has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;"

"residence scheme immigration rules" ("*rheolau mewnfudo'r cynllun preswyllo*") has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;"

"Swiss citizens' rights agreement" ("*cytundeb ar hawliau dinasyddion Swisaidd*") has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;"

(b) for the definition of "right of permanent residence" substitute—

"right of permanent residence" ("*hawl i breswyllo'n barhaol*") means, in relation to a person ("A"), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A's right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;"

### Diwygiadau i Atodlen 3

**32.**—(1) Mae Atodlen 3 (cyfrifo incwm) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 4(1) (myfyrwyr cymwys annibynnol), yn Achos 6, o flaen “Undeb Ewropeaidd” mewnosoder “Deyrnas Unedig, Gibraltar a’r”.

(3) Ym mharagraff 9 (incwm trethadwy)—

(a) yn is-baragraff (1)(b), yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”;

(b) yn lle is-baragraff (2) rhodder—

“(2) At ddibenion is-baragraff (1)(b), pan fo deddfwriaeth treth incwm—

(a) y Deyrnas Unedig ac un neu ragor o Aelod-wladwriaethau, neu

(b) mwy nag un Aelod-wladwriaeth,

yn gymwys i’r person mewn cysylltiad â’r flwyddyn sydd o dan ystyriaeth, cyfanswm incwm y person o bob ffynhonnell yw’r swm sy’n deillio o’r penderfyniad sy’n arwain at swm mwyaf cyfanswm yr incwm, gan gynnwys unrhyw incwm y mae’n ofynnol ei ystyried o dan baragraff 18.”

(4) Yn y paragraffau a ganlyn, yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”—

(a) paragraff 11 (didyniadau at ddiben cyfrifo incwm gweddilliol myfyriwr cymwys), Didyniad B;

(b) paragraff 15 (didyniadau at ddiben cyfrifo incwm gweddilliol personau ac eithrio myfyriwr cymwys), Didyniad A;

(c) paragraff 18 (trin incwm nas trinnir fel incwm at ddibenion treth incwm), ym mhob lle y mae’n digwydd;

(d) paragraff 19(1) (incwm P mewn arian cyfred ac eithrio sterling).

### Diwygiadau i Atodlen 5

**33.**—(1) Mae Atodlen 5 (benthyciadau at ffioedd colegau Oxbridge) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 4(2) (myfyrwyr sy’n dod yn gymwys yn ystod blwyddyn academiaidd)—

(a) ym mharagraff (c), ar ôl “gwladolyn UE” mewnosoder “neu berson sy’n gymwys o dan baragraff 6(1) o Atodlen 2 yn rhinwedd paragraff 6(1A) o’r Atodlen honno ac eithrio fel aelod o’r teulu”;

### Amendments to Schedule 3

**32.**—(1) Schedule 3 (calculation of income) is amended as follows.

(2) In paragraph 4(1) (independent eligible students), in Case 6, before “the European Union” insert “the United Kingdom, Gibraltar and”.

(3) In paragraph 9 (taxable income)—

(a) in sub-paragraph (1)(b), for “another member State” substitute “a member State”;

(b) for sub-paragraph (2) substitute—

“(2) For the purposes of sub-paragraph (1)(b), where the income tax legislation of—

(a) the United Kingdom and one or more member State, or

(b) more than one member State,

applies to the person in respect of the year under consideration, the person’s total income from all sources is the amount derived from the determination resulting in the greatest amount of total income, including any income which is required to be taken into account under paragraph 18.”

(4) In the following paragraphs, for “another member State” substitute “a member State”—

(a) paragraph 11 (deductions for the purpose of calculating residual income of an eligible student), Deduction B;

(b) paragraph 15 (deductions for the purpose of calculating residual income of persons other than eligible student), Deduction A;

(c) paragraph 18 (treatment of income not treated as income for income tax purposes), in each place it occurs;

(d) paragraph 19(1) (P’s income in currency other than sterling).

### Amendments to Schedule 5

**33.**—(1) Schedule 5 (Oxbridge college fee loans) is amended as follows.

(2) In paragraph 4(2) (students becoming eligible during the course of an academic year)—

(a) in paragraph (c), after “EU national” insert “or of a person who is eligible under paragraph 6(1) of Schedule 2 by virtue of paragraph 6(1A) of that Schedule other than as a family member”;

(b) yn lle paragraff (d) rhodder—

“(d) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 1(2)(a) o Atodlen 2;”.

### **Diwygiadau i Reoliadau Addysg (Benthyciadau at Radd Ddoethurol Ôl-raddedig) (Cymru) 2018**

34. Mae Rheoliadau Addysg (Benthyciadau at Radd Ddoethurol Ôl-raddedig) (Cymru) 2018(1) wedi eu diwygio fel a ganlyn.

#### **Diwygiad i reoliad 2**

35. Yn rheoliad 2(1) (dehongli), hepgorer y diffiniad o “haw i breswyllo’n barhaol”.

#### **Diwygiadau i reoliad 8**

36. Yn rheoliad 8 (digwyddiadau)—

(a) ym mharagraff (d), ar ôl “gwladolyn UE” mewnosoder “neu berson sy’n gymwys o dan baragraff 10 o Atodlen 1 yn rhinwedd paragraff 10(5) o’r Atodlen honno ac eithrio fel aelod o’r teulu”;

(b) yn lle paragraff (e) rhodder—

“(e) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 3(a) o Atodlen 1;”.

#### **Diwygiadau i Atodlen 1**

37.—(1) Mae Atodlen 1 (myfyrwyr cymwys) wedi ei diwygio fel a ganlyn.

(2) Yn Rhan 1, paragraff 1 (dehongli)—

(a) yn is-baragraff (1)—

(i) hepgorer “ac eithrio’r Deyrnas Unedig” ym mhob lle y mae’n digwydd;

(ii) yn y lle priodol mewnosoder—

“mae i “cytundeb ar hawliau dinasyddion Swisaidd” yr ystyr a roddir i “Swiss citizens’ rights agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

“mae i “cytundeb gwahanu EFTA yr AEE” yr ystyr a roddir i “EEA EFTA separation agreement” gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

(b) for paragraph (d) substitute—

“(d) the student becomes a person described in paragraph 1(2)(a) of Schedule 2;”.

### **Amendments to the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018**

34. The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018(1) are amended as follows.

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

35. In regulation 2(1) (interpretation), omit the definition of “right of permanent residence”.

#### **Amendments to regulation 8**

36. In regulation 8 (events)—

(a) in paragraph (d), after “EU national” insert “or of a person who is eligible under paragraph 10 of Schedule 1 by virtue of paragraph 10(5) of that Schedule other than as a family member”;

(b) for paragraph (e) substitute—

“(e) the student becomes a person described in paragraph 3(a) of Schedule 1;”.

#### **Amendments to Schedule 1**

37.—(1) Schedule 1 (eligible students) is amended as follows.

(2) In Part 1, paragraph 1 (interpretation)—

(a) in sub-paragraph (1)—

(i) omit “other than the United Kingdom” in each place it occurs;

(ii) at the appropriate place insert—

““EEA EFTA separation agreement” (“*cytundeb gwahanu EFTA yr AEE*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““residence scheme immigration rules” (“*rheolau mewnfudo’r cynllun preswyllo*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

(1) O.S. 2018/656 (Cy. 124), a ddiwygiwyd gan O.S. 2018/814 (Cy. 165), O.S. 2019/235 (Cy. 54) ac O.S. 2019/1192 (Cy. 209).

(1) S.I. 2018/656 (W. 124), amended by S.I. 2018/814 (W. 165) S.I. 2019/235 (W. 54) and S.I. 2019/1192 (W. 209).



“ystyr “hawl i breswyllo’n barhaol” (“*right of permanent residence*”) yw, mewn perthynas â pherson (“A”), hawl i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy’n codi o dan reolau mewnfudo’r cynllun preswyllo, ond dim ond pan fyddai A, pe bai’r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu, wedi ennill hawl o’r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;

“mae i “rheolau mewnfudo’r cynllun preswyllo” yr ystyr a roddir i “residence scheme immigration rules” gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;”;

- (b) yn is-baragraffau (4) a (5), ar ôl “diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr” ym mhob lle y mae’n digwydd;
- (c) yn is-baragraff (6), ar ôl “ardal” mewnosoder “ac eithrio’r Deyrnas Unedig neu Gibraltar”.

(3) Yn Rhan 2 (categoriâu)—

- (a) ym mharagraff 3 (personau sydd wedi setlo yn y Deyrnas Unedig)—
  - (i) yn lle is-baragraff (a) rhodder—
    - “(a) sydd naill ai—
      - (i) wedi setlo yn y Deyrnas Unedig yn rhinwedd ennill yr hawl i breswyllo’n barhaol; neu
      - (ii) yn dod o fewn Erthygl 18(2) neu (3) o’r cytundeb ymadael â’r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o’r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai’r person hwnnw wedi ennill yr hawl i breswyllo’n barhaol yn y Deyrnas Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau’r cyfnod gweithredu pe bai’r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i’w hystyried yn union cyn diwrnod cwblhau’r cyfnod gweithredu;”;
  - (ii) yn is-baragraff (d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;

““right of permanent residence” (“*hawl i breswyllo’n barhaol*”) means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;”;

““Swiss citizens’ rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

- (b) in sub-paragraphs (4) and (5), after “the territory comprising” insert “the United Kingdom, Gibraltar,” in each place it occurs;
- (c) in sub-paragraph (6), after “an area” insert “other than the United Kingdom or Gibraltar”.

(3) In Part 2 (categories)—

- (a) in paragraph 3 (persons who are settled in the United Kingdom)—
  - (i) for sub-paragraph (a) substitute—
    - “(a) either—
      - (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
      - (ii) falls with Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before implementation period completion day;”;
  - (ii) in sub-paragraph (d), after “the territory comprising” insert “the United Kingdom, Gibraltar;”;

- (b) ym mharagraff 7(1)(c) (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (c) ym mharagraff 8 (gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd)—
- (i) ailrifer is-baragraffau (a), (b) ac (c) yn is-baragraff (1)(a), (b) ac (c);
- (ii) yn is-baragraff (1)(b) fel y'i hailrifwyd felly, ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) ar ôl is-baragraff (1) fel y'i hailrifwyd felly mewnosoder—
- “(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;
- (d) ym mharagraff 9 (personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo yn rhywle arall)—
- (i) yn is-baragraff (1)(b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau'r cyfnod gweithredu”;
- (ii) yn is-baragraff (1)(d) ac (e), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (2)—
- (aa) yn lle “sydd â hawl” rhodder “yr oedd ganddo'r hawl” ym mhob lle y mae'n digwydd;
- (bb) yn lle “os yw'n mynd” rhodder “os yw wedi mynd”;
- (iv) ar ôl is-baragraff (2) mewnosoder—
- “(3) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo'n barhaol os oedd ganddo hawl a gododd o dan Gyfarwydddeb 2004/38 i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad.”;
- (e) ym mharagraff 10 (gwladolion UE)—
- (i) yn lle is-baragraff (1)(a) rhodder—
- “(a) sydd, ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs—
- (i) yn wladolyn UE;
- (ii) yn wladolyn o'r Deyrnas Unedig sydd wedi arfer hawl i breswyllo; neu
- (b) in paragraph 7(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (c) in paragraph 8 (workers, employed persons, self-employed persons and their family members)—
- (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
- (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) after sub-paragraph (1) as so renumbered insert—
- “(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (d) in paragraph 9 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
- (i) in sub-paragraph (1)(b), after “right of residence” insert “before implementation period completion day”;
- (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (2)—
- (aa) for “has a right” substitute “had the right” in each place it occurs;
- (bb) for “goes” substitute “has gone”;
- (iv) after sub-paragraph (2) insert—
- “(3) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”;
- (e) in paragraph 10 (EU nationals)—
- (i) for sub-paragraph (1)(a) substitute—
- “(a) who, on the first day of the first academic year of the course, is—
- (i) an EU national;
- (ii) a United Kingdom national who has exercised a right of residence; or

- (iii) yn aelod o deulu person yn is-baragraff (i) neu (ii);”;
- (ii) yn is-baragraffau (1)(c) a (d) a (2), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (iii) yn is-baragraff (4), ar ôl “os yw’r person hwnnw” mewnosoder “wedi preswyllo yn Gibraltar neu”;
- (iv) ar ôl is-baragraff (4) mewnosoder—  
“(5) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau’r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau’r cyfnod gweithredu.”;
- (f) ym mharagraff 11 (gwladolion UE)—
  - (i) yn is-baragraff (1)(a), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
  - (ii) yn is-baragraff (1)(d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
  - (iii) yn is-baragraff (2), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
- (g) yn lle paragraff 12 (plant gwladolion Swisaidd) rhodder—

**“12.—(1) Person—**

- (a) sy’n blentyn i wladolyn Swisaidd y mae ganddo hawlogaeth i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir;
- (b) sy’n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs;
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs;
- (d) mewn achos pan oedd ei breswyllo fel arfer, y cyfeirir ato ym mharagraff (c), yn gyfan gwbl neu’n bennaf at ddiben cael addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth sy’n ffurfio’r Deyrnas Unedig, Gibraltar, yr Ardal Economaidd Ewropeaidd a’r Swistir yn union cyn y cyfnod o breswyllo fel arfer y cyfeirir ato ym mharagraff (c).

- (iii) the family member of a person in sub-paragraph (i) or (ii);”;
- (ii) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (iii) in sub-paragraph (4), after “that person” insert “has resided in Gibraltar or”;
- (iv) after sub-paragraph (4) insert—  
“(5) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;
- (f) in paragraph 11 (EU nationals)—
  - (i) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;
  - (ii) in sub-paragraph (1)(d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
  - (iii) in sub-paragraph (2), omit “other than a United Kingdom national”;
- (g) for paragraph 12 (children of Swiss nationals) substitute—

**“12.—(1) A person who—**

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) 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;
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;

- (h) ym mharagraff 13(c) (plant gweithwyr Twrciaidd), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”.

### **Diwygiadau i Reoliadau Addysg (Cymorth i Fyfyrrwyr) (Graddau Meistr Ôl-raddedig) (Cymru) 2019**

**38.** Mae Rheoliadau Addysg (Cymorth i Fyfyrrwyr) (Graddau Meistr Ôl-raddedig) (Cymru) 2019(1) wedi eu diwygio fel a ganlyn.

#### **Diwygiadau i reoliad 16**

**39.** Yn rheoliad 16(1)(b) (myfyrrwyr sy'n dod yn gymwys yn ystod cwrs)—

- (a) ym mharagraff (iii), ar ôl “gwladolyn UE” mewnosoder “neu berson sy'n gymwys o dan baragraff 8(1) o Atodlen 2 yn rhinwedd paragraff 8(1A) o'r Atodlen honno ac eithrio fel aelod o'r teulu”;
- (b) yn lle paragraff (iv) rhodder—  
“(iv) bod y myfyriwr yn dod yn berson a ddisgrifir ym mharagraff 1(2)(a) o Atodlen 2;”.

#### **Diwygiadau i Atodlen 2**

**40.**—(1) Mae Atodlen 2 (categoriâu o fyfyrrwyr cymwys) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 1(2) (categori 1 – personau sydd wedi setlo yn y Deyrnas Unedig)—

- (a) yn lle paragraff (a) rhodder—  
“(a) sydd naill ai—
- (i) wedi setlo yn y Deyrnas Unedig yn rhinwedd ennill yr hawl i breswyllo'n barhaol, neu
- (ii) yn dod o fewn Erthygl 18(2) neu (3) o'r cytundeb ymadael â'r UE, Erthygl 17(2) neu (3) o gytundeb gwahanu EFTA yr AEE neu Erthygl 16(2) neu (3) o'r cytundeb ar hawliau dinasyddion Swisaidd, ond dim ond pan fyddai'r person hwnnw wedi ennill yr hawl i breswyllo'n barhaol yn y Deyrnas

(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;

- (h) in paragraph 13(c) (children of Turkish workers), after “the territory comprising” insert “the United Kingdom, Gibraltar,”.

### **Amendments to the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019**

**38.** The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019(1) are amended as follows.

#### **Amendments to regulation 16**

**39.** In regulation 16(1)(b) (students becoming eligible during a course)—

- (a) in paragraph (iii), after “EU national” insert “or of a person who is eligible under paragraph 8(1) of Schedule 2 by virtue of paragraph 8(1A) of that Schedule other than as a family member”;
- (b) for paragraph (iv) substitute—  
“(iv) the student becomes a person described in paragraph 1(2)(a) of Schedule 2;”.

#### **Amendments to Schedule 2**

**40.**—(1) Schedule 2 (categories of eligible students) is amended as follows.

(2) In paragraph 1(2) (category 1 – persons settled in the United Kingdom)—

- (a) for paragraph (a) substitute—  
“(a) either—
- (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence, or
- (ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens' rights agreement, but only where that person would have acquired the right to reside permanently in the United

(1) O.S. 2019/895 (Cy. 161), a ddiwygiwyd gan O.S. 2020/142 (Cy. 25).

(1) S.I. 2019/895 (W. 161), amended by S.I. 2020/142 (W. 25).

Unedig heb gyfyngiad o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu pe bai'r ffeithiau a oedd yn ymwneud â hawl y person hwnnw i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu.”;

(b) ym mharagraff (d), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”.

(3) Ym mharagraff 6 (categori 6 – gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd)—

(a) yn is-baragraffau (1)(b) a (2)(b), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;

(b) ar ôl is-baragraff (2) mewnosoder—

“(2A) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan is-baragraff (2) yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;

(c) yn is-baragraffau (3) a (4), hepgorer “ac eithrio'r Deyrnas Unedig” ym mhob lle y mae'n digwydd.

(4) Ym mharagraff 7 (categori 7 – personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo yn rhywle arall)—

(a) yn is-baragraff (1)(b), ar ôl “hawl i breswyllo” mewnosoder “cyn diwrnod cwblhau'r cyfnod gweithredu”;

(b) yn is-baragraff (1)(d) ac (e), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;

(c) yn is-baragraff (3)(c), yn lle “sydd wedi arfer hawl i breswyllo'n barhaol” rhodder “yr oedd ganddo'r hawl i breswyllo'n barhaol”;

(d) yn is-baragraff (4)—

(i) ym mharagraff (a), yn lle “a chanddo hawl” rhodder “ac yr oedd ganddo'r hawl”;

(ii) ym mharagraff (b), yn lle “sy'n mynd” rhodder “sydd wedi mynd”;

(e) ar ôl is-baragraff (5) mewnosoder—

“(6) At ddibenion y paragraff hwn, roedd gan berson yr hawl i breswyllo'n barhaol os oedd ganddo hawl a gododd o dan Gyfarwyddeb 2004/38 i breswyllo'n barhaol yn y Deyrnas Unedig heb gyfyngiad.”

Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person's right to reside fallen to be considered immediately before implementation period completion day.”;

(b) in paragraph (d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”.

(3) In paragraph 6 (category 6 – workers, employed persons, self-employed persons and their family members)—

(a) in sub-paragraphs (1)(b) and (2)(b), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;

(b) after sub-paragraph (2) insert—

“(2A) Any description of person who would have been eligible under sub-paragraph (2) immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;

(c) in sub-paragraphs (3) and (4), omit “other than the United Kingdom” in each place it occurs.

(4) In paragraph 7 (category 7 – persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—

(a) in sub-paragraph (1)(b), after “right of residence” insert “before implementation period completion day”;

(b) in sub-paragraph (1)(d) and (e), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;

(c) in sub-paragraph (3)(c), for “has exercised a right of permanent residence” substitute “had the right of permanent residence”;

(d) in sub-paragraph (4)—

(i) in paragraph (a), for “has a right” substitute “had the right”;

(ii) in paragraph (b), for “goes” substitute “has gone”;

(e) after sub-paragraph (5) insert—

“(6) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”

(5) Ym mharagraff 8 (categori 8 – gwladolion UE)—

(a) yn lle is-baragraff (1)(a) rhodder—

“(a) sydd, ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs—

(i) yn wladolyn UE,

(ii) yn wladolyn o'r Deyrnas Unedig sydd wedi arfer hawl i breswyllo, neu

(iii) yn aelod o deulu person yn is-baragraff (i) neu (ii);”;

(b) yn is-baragraff (1)(c) a (d), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;

(c) ar ôl is-baragraff (1) mewnosoder—

“(1A) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan is-baragraff (1) yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu.”;

(d) yn is-baragraff (2)(a), hepgorer “ac eithrio gwladolyn o'r Deyrnas Unedig”;

(e) yn is-baragraff (2)(d), ar ôl “y diriogaeth sy'n ffurfio'r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;

(f) yn lle is-baragraff (4) rhodder—

“(4) At ddibenion is-baragraff (1)(a), mae gwladolyn o'r Deyrnas Unedig wedi arfer hawl i breswyllo os yw'r person hwnnw wedi preswyllo yn Gibraltar neu wedi arfer hawl o dan Erthygl 7 o Gyfarwyddeb 2004/38 neu unrhyw hawl gyfatebol o dan Gytundeb yr AEE neu Gytundeb y Swistir mewn gwladwriaeth ac eithrio'r Deyrnas Unedig.”

(6) Yn lle paragraff 9 (categori 9 – plant gwladolion Swisaidd) rhodder—

#### “Categori 9 – Plant gwladolion Swisaidd

9.—(1) Person—

(a) sy'n blentyn i wladolyn Swisaidd y mae ganddo hawlogaeth i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir,

(b) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs,

(5) In paragraph 8 (category 8 – EU nationals)—

(a) for sub-paragraph (1)(a) substitute—

“(a) who, on the first day of the first academic year of the course is—

(i) an EU national,

(ii) a United Kingdom national who has exercised a right of residence, or

(iii) the family member of a person in sub-paragraph (i) or (ii);”;

(b) in sub-paragraph (1)(c) and (d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;

(c) after sub-paragraph (1) insert—

“(1A) Any description of person who would have been eligible under sub-paragraph (1) immediately before implementation period completion day is to be eligible on and after implementation period completion day.”;

(d) in sub-paragraph (2)(a), omit “other than a United Kingdom national”;

(e) in sub-paragraph (2)(d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;

(f) for sub-paragraph (4) substitute—

“(4) For the purposes of sub-paragraph (1)(a), a United Kingdom national has exercised a right of residence if that person has resided in Gibraltar or has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.”

(6) For paragraph 9 (category 9 – children of Swiss nationals) substitute—

#### “Category 9 - Children of Swiss nationals

9.—(1) A person who—

(a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement,

(b) is ordinarily resident in Wales on the first day of the first academic year of the course,

- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r Deyrnas Unedig, Gibraltar, yr AEE a'r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs, a
- (d) mewn achos pan oedd ei breswyllo fel arfer, y cyfeirir ato ym mharagraff (c), yn gyfan gwbl neu'n bennaf at ddiben cael addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r Deyrnas Unedig, Gibraltar, yr AEE a'r Swistir yn union cyn y cyfnod o breswyllo fel arfer y cyfeirir ato ym mharagraff (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn diwrnod cwblhau'r cyfnod gweithredu i fod yn gymwys ar ac ar ôl diwrnod cwblhau'r cyfnod gweithredu."

(7) Ym mharagraff 10(1)(c) (categori 10 – plant gweithwyr Twrcaidd), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr".

(8) Ym mharagraff 11 (preswyllo fel arfer – darpariaeth ychwanegol)—

- (a) ar ôl "diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr" ym mhob lle y mae'n digwydd;
- (b) yn is-baragraff (5), ar ôl "ardal" mewnosoder "ac eithrio'r Deyrnas Unedig neu Gibraltar".

(9) Ym mharagraff 13 (dehongli)—

- (a) yn y lle priodol mewnosoder—
  - "mae i "cytundeb ar hawliau dinasyddion Swisaidd" yr ystyr a roddir i "Swiss citizens' rights agreement" gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"
  - "mae i "cytundeb gwahanu EFTA yr AEE" yr ystyr a roddir i "EEA EFTA separation agreement" gan adran 39(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"
  - "mae i "rheolau mewnfudo'r cynllun preswyllo" yr ystyr a roddir i "residence scheme immigration rules" gan adran 17(1) o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020;"
- (b) yn lle'r diffiniad o "hawl i breswyllo'n barhaol" rhodder—
  - "ystyr "hawl i breswyllo'n barhaol" ("*right of permanent residence*") yw, mewn perthynas â pherson ("A"), hawl i breswyllo

- (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day."

(7) In paragraph 10(1)(c) (category 10 – children of Turkish workers), after "the territory comprising" insert "the United Kingdom, Gibraltar,".

(8) In paragraph 11 (ordinary residence – additional provision)—

- (a) after "the territory comprising" insert "the United Kingdom, Gibraltar," in each place it occurs;
- (b) in sub-paragraph (5), after "an area" insert "other than the United Kingdom or Gibraltar".

(9) In paragraph 13 (interpretation)—

- (a) at the appropriate place insert—
  - "EEA EFTA separation agreement" ("*cytundeb gwahanu EFTA yr AEE*") has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;"
  - "residence scheme immigration rules" ("*rheolau mewnfudo'r cynllun preswyllo*") has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;"
  - "Swiss citizens' rights agreement" ("*cytundeb ar hawliau dinasyddion Swisaidd*") has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;"
- (b) for the definition of "right of permanent residence" substitute—
  - "right of permanent residence" ("*hawl i breswyllo'n barhaol*") means, in relation to a person ("A"), a right to reside in the

yn y Deyrnas Unedig yn barhaol heb gyfyngiad sy'n codi o dan reolau mewnfudo'r cynllun preswyllo, ond dim ond pan fyddai A, pe bai'r ffeithiau a oedd yn ymwneud â phenderfynu hawl A i breswyllo yn dod i'w hystyried yn union cyn diwrnod cwblhau'r cyfnod gweithredu, wedi ennill hawl o'r fath o dan Gyfarwyddeb 2004/38 fel yr oedd yn cael effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu;”.

United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A's right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;”.

### Diwygiadau i Atodlen 3

41.—(1) Mae Atodlen 3 (cyfrifo incwm) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 4(1) (myfyrwyr cymwys annibynnol), yn Achos 6, o flaen “Undeb Ewropeaidd” mewnosoder “Deyrnas Unedig, Gibraltar a’r”.

(3) Ym mharagraff 9 (incwm trethadwy)—

(a) yn is-baragraff (1)(b), yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”;

(b) yn lle is-baragraff (2) rhodder—

“(2) At ddibenion is-baragraff (1)(b), pan fo deddfwriaeth treth incwm—

(a) y Deyrnas Unedig ac un neu ragor o Aelod-wladwriaethau, neu

(b) mwy nag un Aelod-wladwriaeth,

yn gymwys i'r person mewn cysylltiad â'r flwyddyn sydd o dan ystyriaeth, cyfanswm incwm y person o bob ffynhonnell yw'r swm sy'n deillio o'r penderfyniad sy'n arwain at swm mwyaf cyfanswm yr incwm, gan gynnwys unrhyw incwm y mae'n ofynnol ei ystyried o dan baragraff 18.”

(4) Yn y paragraffau a ganlyn, yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”—

(a) paragraff 11 (didyniadau at ddiben cyfrifo incwm gweddilliol myfyriwr cymwys), Didyniad B;

(b) paragraff 15 (didyniadau at ddiben cyfrifo incwm gweddilliol personau ac eithrio myfyriwr cymwys), Didyniad A;

(c) paragraff 18 (trin incwm nas trinnir fel incwm at ddibenion treth incwm), ym mhob lle y mae'n digwydd;

(d) paragraff 19(1) (incwm P mewn arian cyfred ac eithrio sterling).

### Amendments to Schedule 3

41.—(1) Schedule 3 (calculation of income) is amended as follows.

(2) In paragraph 4(1) (independent eligible students), in Case 6, before “the European Union” insert “the United Kingdom, Gibraltar and”.

(3) In paragraph 9 (taxable income)—

(a) in sub-paragraph (1)(b), for “another member State” substitute “a member State”;

(b) for sub-paragraph (2) substitute—

“(2) For the purposes of sub-paragraph (1)(b), where the income tax legislation of—

(a) the United Kingdom and one or more member State, or

(b) more than one member State,

applies to the person in respect of the year under consideration, the person's total income from all sources is the amount derived from the determination resulting in the greatest amount of total income, including any income which is required to be taken into account under paragraph 18.”

(4) In the following paragraphs, for “another member State” substitute “a member State”—

(a) paragraph 11 (deductions for the purpose of calculating residual income of an eligible student), Deduction B;

(b) paragraph 15 (deductions for the purpose of calculating residual income of persons other than eligible student), Deduction A;

(c) paragraph 18 (treatment of income not treated as income for income tax purposes), in each place it occurs;

(d) paragraph 19(1) (P's income in currency other than sterling).



*Kirsty Williams*

Y Gweinidog Addysg, un o Weinidogion Cymru  
17 Tachwedd 2020

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Minister for Education, one of the Welsh Ministers  
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