
WELSH STATUTORY INSTRUMENTS

2021 No. 1365

The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021

PART 3

**AMENDMENTS TO THE HIGHER EDUCATION
(QUALIFYING COURSES, QUALIFYING PERSONS AND
SUPPLEMENTARY PROVISION) (WALES) REGULATIONS 2015**

CHAPTER 1

Introduction

10. The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015(1) are amended in accordance with this Part.

CHAPTER 2

Citizens' rights and residency criteria

Amendments to the Schedule

11. In the Schedule—

- (a) in paragraph 1(1), in the definition of “person with protected rights”—
 - (i) the existing text after “means—” is numbered as paragraph (1) of that definition;
 - (ii) in that paragraph as so numbered, omit the terminal “or” at the end of sub-paragraph (a)(ii), and after sub-paragraph (a)(iii) insert—
 - “(iv) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;
 - (iii) after that paragraph as so numbered, insert—
 - “(2) In paragraph (1)(iv) “citizens’ rights deeming provisions” means—
 - (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
 - (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
 - (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”

(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); S.I. 2019/1192 (W. 209); S.I. 2020/1302 (W. 287); S.I. 2021/9 (W. 4) and S.I. 2021/481 (W. 148).

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

CHAPTER 3

Eligibility of Irish citizens in the EEA and Switzerland

Amendment to regulation 4

- 12. In regulation 4—
 - (a) in paragraph (3A), for “paragraph 8A or 9B” substitute “paragraph 8A, 9B or 9BA”;
 - (b) in paragraph (9)(a), after “9B,” insert “9BA,”.

Amendment to the Schedule

- 13. In the Schedule, after paragraph 9B insert—

“Irish citizens in the EEA and Switzerland

- 9BA.**—(1) A person—
- (a) who is an Irish citizen on the first day of the first academic year of the course;
 - (b) who was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area, Switzerland and the EU overseas territories, or
 - (ii) in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories;
- and has remained ordinary resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas

territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

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

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(3).

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