
WELSH STATUTORY INSTRUMENTS

2021 No. 481

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021

PART 2

AMENDMENTS TO THE EDUCATION (FEES AND AWARDS) (WALES) REGULATIONS 2007

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

3. The Education (Fees and Awards) (Wales) Regulations 2007(1) are amended in accordance with this Part.

4. In regulation 2 (interpretation)—

(a) in paragraph (1), at the appropriate place insert—

““specified British overseas territories” (*“tiriogaethau tramor Prydeinig penodedig”*) means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan da Cunha); and Turks and Caicos Islands;”;

(b) in paragraph (4)—

(i) after “Islands” insert “, in the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after “overseas territories”, in the first place it occurs, insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”;

(c) in paragraph (5), after sub-paragraph (a) insert—

“(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, the Islands and the Republic of Ireland as members of such forces;”;

(d) in paragraph (6)—

(i) after “Islands” insert “, in the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after “overseas territories” insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”.

5. In regulation 4 (fee charging)—

(1) S.I. 2007/2310 (W. 181), amended by S.I. 2008/1259 (W. 126); S.I. 2010/1142 (W. 101); S.I. 2011/1043; S.I. 2011/1978 (W. 218); S.I. 2013/1792 (W. 179); S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1192 (W. 209); S.I. 2020/1302 (W. 287) and S.I. 2021/9 (W. 4).

- (a) for paragraph (1) substitute—
- “(1) Subject to paragraph (1B), it is lawful for the institutions mentioned in paragraph (3) to charge higher fees in the case of a person who does not fall within any of—
- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule; or
 - (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (1A) applies, than in the case of a person who does fall within any of those paragraphs.”;

(b) after paragraph (1) insert—

“(1A) This paragraph applies where—

 - (a) in connection with a course beginning before 1 August 2021, a person (“A”) fell within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year of the course beginning before 1 August 2021; and
 - (b) A is liable for fees in connection with—
 - (i) that course, or
 - (ii) a course provided by an institution mentioned in paragraph (3) to which A transfers from that course in accordance with regulations made under section 22 of the Teaching and Higher Education Act 1998.

(1B) In relation to a course beginning on or after 1 January 2028, paragraph (1) has effect as if paragraphs 8A and 9B are omitted from paragraph (1)(a).”;

(c) in paragraph (2), after “within”, in the first place it occurs, insert “a paragraph of”.

6. In regulation 5 (awards by local authorities)—

 - (a) in paragraph (1), at the beginning insert “Subject to paragraph (4).”;
 - (b) for paragraph (1)(b) and (c) substitute—
 - (b) confine eligibility in the case of fees awards to those persons who fall within any of—
 - (i) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or
 - (ii) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (2) applies;
 - (c) confine eligibility in the case of maintenance awards to those persons who fall within any of—
 - (i) paragraphs 2, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9B, 10A, 11A or 12A of the Schedule, or
 - (ii) paragraphs 6, 7, 8, 10, 11 or 12 of the Schedule where paragraph (3) applies.”;
 - (c) after paragraph (1) insert—
 - (2) This paragraph applies—
 - (a) where, in connection with a course beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year of that course beginning before 1 August 2021, and
 - (b) where A’s eligibility for an award is being assessed in relation to that course.
 - (3) This paragraph applies—

(a) where in connection with a course beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 10, 11 or 12 of the Schedule in relation to an academic year of that course beginning before 1 August 2021, and

(b) where A’s eligibility for an award is being assessed in relation to that course.

(4) In relation to a course beginning on or after 1 January 2028 paragraph (1) has effect as if paragraphs 8A and 9B are omitted from paragraphs (1)(b)(i) and 1(c)(i).”

7.—(1) For the heading to regulation 6 substitute—

“Payments by HEFCW to training providers”.

(2) For regulation 6 substitute—

“6.—(1) Paragraph (2) applies where, under section 86 of the 2005 Act(2), HEFCW(3) makes grants, loans or other payments to a training provider.

(2) Subject to paragraph (5), it is lawful for HEFCW to adopt rules of eligibility for awards given by the training provider which confine eligibility to those persons who fall within any of—

(a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or

(b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(3) Subject to paragraph (5), it is lawful for a training provider who is receiving grants, loans or other payments under section 86 of the 2005 Act to adopt rules of eligibility for awards which confine eligibility to those persons who fall within any of—

(a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or

(b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(4) This paragraph applies—

(a) where, in connection with training beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021, and

(b) where A’s eligibility for an award is being assessed in relation to that training.

(5) In relation to training beginning on or after 1 January 2028, paragraphs (2) and (3) have effect as if paragraphs 8A and 9B are omitted from paragraphs (2)(a) and (3)(a).”

8. For regulation 7 (payments by HEFCW) substitute—

“7.—(1) Paragraph (2) applies where HEFCW makes grants, loans or other payments under section 65 of the Further and Higher Education Act 1992(4) to an institution for the purpose of training students (other than by a course leading to a first degree) to teach persons over compulsory school age.

(2) 2005 c. 18.

(3) The Higher Education Funding Council for Wales established under section 62 of the Further and Higher Education Act 1992.

(4) 1992 c. 13, amended by section 27 of the Teaching and Higher Education Act 1998 (c. 30); the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158); section 34(1) of the Special Educational Needs and Disability Act 2001 (c. 10); and Schedule 11 to the Higher Education and Research Act 2017 (c. 29).

(2) Subject to paragraph (5), it is lawful for HEFCW to adopt rules of eligibility for awards to be made to the students which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(3) Subject to paragraph (5), it is lawful for an institution to which HEFCW pays grants, loans or other payments for the purpose described in paragraph (1) to adopt rules of eligibility for awards which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule; or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(4) This paragraph applies—

- (a) where, in connection with training beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021, and
- (b) where A’s eligibility for an award is being assessed in relation to that training.

(5) In relation to training beginning on or after 1 January 2028, paragraphs (2) and (3) have effect as if paragraphs 8A and 9B are omitted from paragraphs (2)(a) and (3)(a).

(6) In paragraph (1), “compulsory school age” has the meaning given in section 8 of the Education Act 1996(5).”

9. For regulation 8 (payments by the Welsh Ministers) substitute—

“8.—(1) Subject to paragraph (4), it is lawful for the Welsh Ministers to adopt rules of eligibility for awards by an institution to which they make grants, loans or other payments under section 34 of the Learning and Skills Act 2000(6) which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (3) applies.

(2) Subject to paragraph (4), it is lawful for an institution to which the Welsh Ministers pay grants, loans or other payments under section 34 of the Learning and Skills Act 2000 to adopt rules of eligibility for awards which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (3) applies.

(3) This paragraph applies—

- (a) where a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021, and
- (b) where A’s eligibility for an award is being assessed.

(5) 1996 c. 56, amended by the Education Act 1997 (c. 44), section 52.

(6) 2000 c. 21, amended by Schedule 1 to the Learning and Skills (Wales) Measure 2009 (anaw 1).

(4) In relation to an award made on or after 1 January 2028, paragraphs (1) and (2) have effect as if paragraph 8A and 9B are omitted from paragraphs (1)(a) and (2)(a).”

10. In the Schedule, in paragraph 1—

- (a) in the definition of “family member”—
 - (i) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 6A(3)”;
 - (ii) in paragraph (c), after “Directive 2004/38”(7) insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within Article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
 - (iii) in paragraph (d), after “Directive 2004/38” insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within Article 7(1)(b) of Directive 2004/38 if that person were an EU national or solely an EU national”;
 - (iv) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9B, 9C, 9D and 9E”;
- (b) omit the definition of “person granted stateless leave”;
- (c) in the definition of “person with leave to enter or remain”, in paragraph (a)(i), omit “humanitarian protection or”;
- (d) omit the definition of “person with section 67 leave to remain”;
- (e) omit the definition of “right of permanent residence”;
- (f) at the appropriate place insert—
 - ““the 2020 Citizens’ Rights Regulations” (*“Rheoliadau Hawliau Dinasyddion 2020”*) means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020(8);”;
 - ““grace period” (*“cyfnod gras”*) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
 - ““person granted leave to remain as a protected partner” (*“person y rhodddwyd caniatâd iddo aros fel partner a ddiogelir”*) means a person who has extant leave to remain in the United Kingdom as either a victim of domestic violence or domestic abuse or as a bereaved partner under any of the following provisions of the immigration rules—
 - (a) paragraphs 289B and 289D (victims of domestic violence);
 - (b) paragraphs D-DVILR.1.1. and D-DVILR.1.2. of Appendix FM (victims of domestic abuse);
 - (c) paragraphs 40 and 41 of Appendix Armed Forces (victims of domestic violence who are partners of members of the armed forces);
 - (d) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of the immigration rules are met (bereaved spouses or civil partners);
 - (e) paragraphs D-BPILR.1.1. and D-BPILR.1.2. of Appendix FM (bereaved partners);
 - (f) paragraphs 36 and 37 of Appendix Armed Forces (bereaved partners); or

(7) OJ No L158, 30.04.2004, p. 77.

(8) S.I. 2020/1209, amended by S.I. 2020/1309.

- (g) paragraph 295N, as a person in relation to whom the requirements in paragraph 295M of the immigration rules are met (bereaved unmarried or same sex partner);”;

““person granted leave to enter or remain as a protected person” (“*person y rhodddwyd caniatâd iddo ddod i mewn neu aros fel person a ddiogelir*”) means a person who has—

- (a) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
- (b) extant leave to remain as a stateless person under the immigration rules;
- (c) extant leave to remain in the United Kingdom under section 67 of the Immigration Act 2016⁽⁹⁾ and in accordance with the immigration rules; or
- (d) extant leave to remain under paragraphs 352J, 352K, 352L or 352T of the immigration rules (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave);”;

““person with protected rights” (“*person sydd â hawliau gwarchoddedig*”) means—

- (a) a person within the personal scope of the citizens’ rights provisions who—
 - (i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules⁽¹⁰⁾;
 - (ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971⁽¹¹⁾ does not require leave to enter or remain in the United Kingdom;
 - (iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended; or
 - (iv) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations where the relevant period has not expired; or
- (b) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules where that family member has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;”;

““protected child” (“*plentyn a ddiogelir*”) means—

- (a) a child of a person who has—
 - (i) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
 - (ii) extant leave to remain as a stateless person under the immigration rules; or
 - (iii) extant leave to remain in the United Kingdom under section 67 of the Immigration Act 2016 and in accordance with the immigration rules;
- (b) a child of the spouse or civil partner of a person who has—
 - (i) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
 - (ii) extant leave to remain as a stateless person under the immigration rules;”;

⁽⁹⁾ 2016 c. 19.

⁽¹⁰⁾ Defined in section 17(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

⁽¹¹⁾ 1971 c. 77, section 3ZA inserted by the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20).

““protected spouse or civil partner” (“*prïod neu bartner sifil a ddiogelir*”) means a spouse or civil partner of a person who has—

- (a) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
- (b) extant leave to remain as a stateless person under the immigration rules;”;

““relevant period” (“*cyfnod perthnasol*”) has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;”;

““relevant person of Northern Ireland (“*person perthnasol o Ogledd Iwerddon*”) has the meaning given by residence scheme immigration rules;”;

““the Workers Regulation” (“*y Rheoliad Gweithwyr*”) means [Regulation \(EU\) No. 492/2011](#) of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union(12);”;

““United Kingdom national” (“*gwladolyn o’r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;”.

11. In the Schedule, after paragraph 1 insert—

“**1A.** For the purposes of this Schedule, a reference to a “Member State” or “State” in Article 7 of Directive 2004/38 is to be read as including the United Kingdom.

1B. For the purposes of this Schedule, a person is within the personal scope of the citizens’ rights provisions if that person falls within—

- (a) Article 10 (personal scope) of the EU withdrawal agreement,
- (b) Article 9 (personal scope) of the EEA EFTA separation agreement, or
- (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”

12. In the Schedule, in paragraph 2 (persons who are settled in the United Kingdom), for sub-paragraph (1)(a) substitute—

“(a) is settled in the United Kingdom and does not fall within paragraph 3;”.

13. In the Schedule, after paragraph 2 insert—

“**2A.**—(1) A person—

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within paragraph 3;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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 Islands and the Republic of Ireland in accordance with regulation 2(4).”

(12) OJ L 141, 27.05.2011, p. 1, amended by Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 (OJ L 107, 22.4.2016, p. 1) and Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).

14. In the Schedule, in paragraph 3—

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph, for paragraph (a) substitute—
 - “(a) who meets one of the following conditions on the first day of an academic year of the course—
 - (i) the person is within the personal scope of the citizens’ rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;
 - (ii) the person—
 - (aa) is within the personal scope of the citizens’ rights provisions;
 - (bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and
 - (cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;
 - (iii) the person—
 - (aa) is within the personal scope of the citizens’ rights provisions;
 - (bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations; and
 - (cc) has or is treated as having a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016(13), as those Regulations continue to have effect by virtue of the 2020 Citizens’ Rights Regulations in relation to that person during the grace period;
 - (iv) the person—
 - (aa) is within the personal scope of the citizens’ rights provisions;
 - (bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations; and
 - (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens’ Rights Regulations in relation to that person during the relevant period; or
 - (v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;
 - (c) after that sub-paragraph insert—
 - “(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence

(13) S.I. 2016/1052, amended by S.I. 2017/1, S.I. 2017/1242, S.I. 2018/801, S.I. 2019/468, S.I. 2019/1155. S.I. 2016/1052 was revoked on implementation period completion day by paragraph 2(2) of Schedule 1 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), subject to the savings in S.I. 2020/1309.

scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

15. In the Schedule, for paragraph 4A (persons granted stateless leave and their family members) substitute—

“Protected persons and their family members

4A.—(1) A person—

- (a) granted leave to enter or remain as a protected person;
- (b) who is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(2) A person who—

- (a) is a protected spouse or civil partner;
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);
- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(3) A person who—

- (a) is a protected child;
- (b) on the leave application date was—
 - (i) under 18 years old; and
 - (ii) the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);
- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person.”

16. In the Schedule, after paragraph 4A insert—

“Persons granted leave to remain as a protected partner and their children

4B.—(1) A person—

- (a) granted leave to remain as a protected partner;
 - (b) who is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted such leave; and
 - (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.
- (2) A person who—
- (a) is the child of a person granted leave to remain as a protected partner;
 - (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
 - (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
 - (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.
- (3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.”

17. In the Schedule, omit paragraph 5A (persons with section 67 leave to remain).

18. In the Schedule, after paragraph 6 (workers, employed persons, self-employed persons and their family members) insert—

“**6A.**—(1) A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020⁽¹⁴⁾ who—

- (a) is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person;
 - or
 - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (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.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

19. In the Schedule, in paragraph 7 (workers, employed persons, self-employed persons and their family members)—

(a) in sub-paragraph (1)—

(i) in paragraph (c), for the words from “Article 12” to the end substitute “Article 10 of the Workers Regulation as it had effect immediately before IP completion day, as extended by the EEA Agreement⁽¹⁵⁾, as it had effect immediately before IP completion day;”;

(ii) after paragraph (c) insert—

“(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;

(b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

20. In the Schedule, after paragraph 7 insert—

“**7A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (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; and
- (c) is entitled to support by virtue of Article 10 of the Workers Regulation, as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

- (a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and
- (b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.”

21. In the Schedule, in paragraph 8(1)(b) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), in the English language text, for “implementation period” substitute “IP”.

22. In the Schedule, after paragraph 8 insert—

“**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence before IP completion day after having been settled in the United Kingdom;
- (c) was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area, Switzerland and the overseas territories; or

(15) Annex V of the EEA Agreement refers to [Regulation \(EU\) No. 492/2011](#), with modifications that are not relevant for these purposes. Section 3(1) and (2)(b) of the European Union (Withdrawal) Act 2018 (c. 18) make provision for incorporation of Annexes to the EEA Agreement into domestic law.

- (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 overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the 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;

- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) 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
- (f) in a case where the person's ordinary residence referred to in paragraph (e) 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 (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(3) For the purposes of sub-paragraph (2), 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.”

23. In the Schedule, in paragraph 9 (EU nationals)—

- (a) in the heading, at the end insert “etc.”;
- (b) in sub-paragraph (3), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

24. In the Schedule, after paragraph 9 insert—

“**9A.**—(1) A person with protected rights—

- (a) who is—
 - (i) an EU national on the first day of the first academic year of the course;
 - (ii) a family member of a person mentioned in sub-paragraph (i); or
 - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is undertaking the course in the United Kingdom;
- (c) who, subject to sub-paragraph (2), 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) subject to sub-paragraph (3), 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 (c) been wholly or mainly for the purpose of receiving full-time education.

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

- (a) is an EU national or a relevant person of Northern Ireland; 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 year of the first academic year of the course.

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

United Kingdom nationals

9B.—(1) A person—

- (a) who is—
 - (i) a United Kingdom national on the first day of an academic year of the course; or
 - (ii) a family member of a person mentioned in sub-paragraph (i);
- (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 ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

- (c) who is undertaking the course in the United Kingdom;
- (d) who, subject to sub-paragraph (2), 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 (3), 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 (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; 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.

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

(4) Where a person (“P”) falls within sub-paragraph (1)(a)(ii), the person in relation to whom P is a family member must also meet the requirements of sub-paragraph (1)(b) and (d).

(5) 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.

9C.—(1) A person—

- (a) who is—
 - (i) a United Kingdom national on the first day of the first academic year of the course; or
 - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the specified British overseas territories for at least part of the three-year period preceding the first day of the first academic year of the course;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British 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 Islands and the specified British 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 Islands and the specified British overseas territories in accordance with regulation 2(4).

9D.—(1) A person—

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and the Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and the Islands in accordance with regulation 2(4).

Persons resident in Gibraltar

9E.—(1) A person—

- (a) who is—
 - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
 - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
 - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
 - (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is undertaking the course in the United Kingdom;
- (c) who, subject to paragraph (2), 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) subject to sub-paragraph (3), 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 (c) been wholly or mainly for the purpose of receiving full-time education.

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

- (a) is an EU national or a relevant person of Northern Ireland; 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.

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

25. In the Schedule, before paragraph 10 insert the heading—

“EU nationals – ordinarily resident in the United Kingdom and the Islands”.

26. In the Schedule, after paragraph 10 insert—

“10A. A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (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 United Kingdom and the Islands throughout the three-year period immediately 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 sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in sub-paragraph (c)."

27. In the Schedule, in paragraph 11(2) (children of Swiss nationals), in the English language text, for "implementation period", in each place it occurs, substitute "IP".

28. In the Schedule, after paragraph 11 insert—

"11A. A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens' rights 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 sub-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 prior to the period of ordinary residence referred to in sub-paragraph (c)."

29. In the Schedule, after paragraph 12 (children of Turkish workers) insert—

"12A. A person who—

- (a) is the child of a Turkish worker ("T"), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
 - (i) was the child of T; and
 - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course."