
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

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).”