

## WELSH STATUTORY INSTRUMENTS

### 2023 No. 87

#### The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023

##### PART 6

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

##### CHAPTER 2

##### Students from British overseas territories and related amendments

**38.** In regulation 9(1)(a)(i), after “6BA,” insert “6BB,”.

##### Commencement Information

**I1** Reg. 38 in force at 22.2.2023, see [reg. 1\(2\)](#)

**39.** In regulation 44(1), in Exception 2, for the words from “paragraphs 1(3)” to the end substitute “paragraphs 1(2)(d)(ii), 1(3), 4A(1)(b)(ii), 4A(2)(b)(ii), 6(1), 6A(1), 6A(2)(d)(ii), 6BA, 6BB, 6C, 6D, 7A(c)(ii) or 8A(1)(d)(ii).”

##### Commencement Information

**I2** Reg. 39 in force at 22.2.2023, see [reg. 1\(2\)](#)

**40.** In regulation 54, in Exception 2, for the words from “paragraphs 1(3)” to the end substitute “paragraphs 1(2)(d)(ii), 1(3), 4A(1)(b)(ii), 4A(2)(b)(ii), 6(1), 6A(1), 6A(2)(d)(ii), 6BA, 6BB, 6C, 6D, 7A(c)(ii) or 8A(1)(d)(ii).”

##### Commencement Information

**I3** Reg. 40 in force at 22.2.2023, see [reg. 1\(2\)](#)

**41.** In regulation 62(2), in Exception 2, for the words from “paragraphs 1(3)” to the end substitute “paragraphs 1(2)(d)(ii), 1(3), 4A(1)(b)(ii), 4A(2)(b)(ii), 6(1), 6A(1), 6A(2)(d)(ii), 6BA, 6BB, 6C, 6D, 7A(c)(ii) or 8A(1)(d)(ii).”

##### Commencement Information

**I4** Reg. 41 in force at 22.2.2023, see [reg. 1\(2\)](#)

**42.** In regulation 69(2), in Exception 2, for the words from “paragraphs 1(3)” to the end substitute “paragraphs 1(2)(d)(ii), 1(3), 4A(1)(b)(ii), 4A(2)(b)(ii), 6(1), 6A(1), 6A(2)(d)(ii), 6BA, 6BB, 6C, 6D, 7A(c)(ii) or 8A(1)(d)(ii).”

#### Commencement Information

**I5** Reg. 42 in force at 22.2.2023, see [reg. 1\(2\)](#)

**43.** In regulation 80(2)(b)(iii), for “or 6D(a)” substitute “, 6D(1)(a) or 6D(2)(a)”.

#### Commencement Information

**I6** Reg. 43 in force at 22.2.2023, see [reg. 1\(2\)](#)

**44.** In Schedule 2—

(a) for paragraph 1(2)(d) substitute—

“(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 immediately before the period of ordinary residence referred to in paragraph (c) in the territory comprising—

- (i) the United Kingdom, Gibraltar, the EEA and Switzerland, or
- (ii) the overseas territories.”;

(b) in paragraph 4A—

(i) for sub-paragraph (1)(b) substitute—

“(b) has been ordinarily resident throughout the three-year period preceding the first day of the first academic year of the course either—

- (i) in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland, or
- (ii) in the territory comprising the United Kingdom, the EEA, Switzerland and the overseas territories, where at least part of that ordinary residence was in the overseas territories.”

(ii) for sub-paragraph (2)(b) substitute—

“(b) has been ordinarily resident throughout the three-year period preceding the first day of the first academic year of the course either—

- (i) in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland, or
- (ii) in the territory comprising the United Kingdom, the EEA, Switzerland and the overseas territories where at least part of that ordinary residence was in the overseas territories, and”;

(c) in paragraph 6A(1)(c)—

- (i) omit “Gibraltar,”;
- (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;

(d) in paragraph 6A(1)(d)—

- (i) omit “Gibraltar,”;
- (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;

(e) in paragraph 6A(2)(d), for the words from “ordinarily resident” to the end substitute—

“ordinarily resident immediately before the period of ordinary residence referred to in paragraph (c) in the territory comprising—

- (i) the United Kingdom, Gibraltar, the EEA and Switzerland, or
  - (ii) the overseas territories.”;
- (f) after paragraph 6BA insert—

**“Category 6BB – Settled persons from the British overseas territories**

**6BB.—(1) A person—**

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course,
  - (b) who is—
    - (i) undertaking a designated course in Wales, or
    - (ii) undertaking a designated postgraduate course in Wales,
  - (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,
  - (e) who did not move to Wales from the Islands for the purpose of undertaking the current course, or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the current course, and
  - (f) 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 (f) 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 paragraph 9(2).”;
- (g) for paragraph 6D substitute—

**“6D.—(1) A person—**

- (a) who is—
    - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar, or
    - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar,
  - (b) who is undertaking—
    - (i) a designated course in Wales, or
    - (ii) a designated postgraduate course in Wales,
  - (c) who 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) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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) A person—

(a) who is—

(i) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement, or

(ii) 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—

(i) undertaking a designated course in Wales, or

(ii) undertaking a designated postgraduate course in Wales,

(c) who has been ordinarily resident in the territory comprising the United Kingdom, the EEA, 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 EEA, 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.

(3) Paragraph (d) of sub-paragraphs (1) and (2) does not apply to a person treated as being ordinarily resident in the territory referred to in paragraph (c) of those sub-paragraphs in accordance with paragraph 9(2).”;

(h) for paragraph 7A(c) substitute—

“(c) has been ordinarily resident throughout the three-year period preceding the first day of the first academic year of the course either—

(i) in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland, or

(ii) in the territory comprising the United Kingdom, the EEA, Switzerland and the overseas territories where at least part of that ordinary residence was in the overseas territories, and”;

(i) in paragraph 8A(1), for paragraph (d) substitute—

“(d) has been ordinarily resident throughout the three-year period preceding the first day of the first academic year of the course either—

(i) in the territory comprising the United Kingdom, Gibraltar, the EEA, Switzerland and Turkey, or

(ii) in the territory comprising the United Kingdom, the EEA, Switzerland and the overseas territories where at least part of that ordinary residence was in the overseas territories.”;

(j) in paragraph 9—

(i) for sub-paragraph (2) substitute—

“(2) For the purposes of this Schedule, a person (“P”) is to be treated as ordinarily resident in an area if P would have been so resident but for the fact that—

(a) P,

(b) P’s spouse or civil partner, or

- (c) in the case of a dependent direct relative in the ascending line, P's child or child's spouse or civil partner,  
is or was temporarily employed outside the area in question.”;
- (ii) for sub-paragraph (3) substitute—

“(3) For the purposes of sub-paragraph (2), temporary employment outside the area in question includes—

  - (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces;
  - (b) in the case of members of the regular armed forces of a specified British overseas territory, any period which they serve outside the territory comprising the United Kingdom and the specified British overseas territories as members of such forces;
  - (c) 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 the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland as members of such forces;
  - (e) in the case of members of the regular armed forces of Turkey, any period which they serve outside the territory comprising the United Kingdom, Gibraltar, the EEA, Switzerland and Turkey as members of such forces;
  - (f) in the case of members of the regular armed forces of an EU overseas territory, any period which they serve outside the territory comprising the United Kingdom, the EEA, Switzerland and the overseas territories.”;
- (k) in paragraph 11(1), at the appropriate places insert—

““overseas territories” (“*tiriogaethau tramor*”) means Anguilla, Aruba, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Faroe Islands, French Polynesia, French Southern and Antarctic Territories, Gibraltar, Greenland, Mayotte, Montserrat, Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten), Pitcairn, Henderson, Ducie and Oeno Islands, South Georgia and the South Sandwich Islands, St Barthélemy, St Helena and Dependencies (Ascension Island and Tristan da Cunha), St Pierre et Miquelon, the Territory of New Caledonia and Dependencies, Turks and Caicos Islands, and Wallis and Futuna;”;

““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;”.

#### Commencement Information

**I7** Reg. 44 in force at 22.2.2023, see [reg. 1\(2\)](#)

**45.** In Schedule 4, in paragraph 4(1)(a)(i)—

- (a) for “6A(2)” substitute “6A(2)(d)(i)”;
- (b) omit “6BA,”.

#### Commencement Information

**18** Reg. 45 in force at 22.2.2023, see [reg. 1\(2\)](#)

**46.** In Schedule 7, in Table 16, at the appropriate places insert the following table entries—

|                         |                              |
|-------------------------|------------------------------|
| ““overseas territories” | Schedule 2, paragraph 11(1)” |
|-------------------------|------------------------------|

|                                      |                                      |
|--------------------------------------|--------------------------------------|
| ““specified<br>overseas territories” | British Schedule 2, paragraph 11(1)” |
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#### Commencement Information

**19** Reg. 46 in force at 22.2.2023, see [reg. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023, CHAPTER 2.