STATUTORY INSTRUMENTS

2021 No. 929

The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021

PART 3

Corresponding amendments to other regulations

CHAPTER 4

Amendment of the Education (Postgraduate Master's Degree Loans) Regulations 2016

SECTION 1

Introductory

Amendment of the Education (Postgraduate Master's Degree Loans) Regulations 2016

22. The Education (Postgraduate Master's Degree Loans) Regulations 2016(**1**) are amended in accordance with regulation 23 to 26.

SECTION 2

Citizens' rights and residency criteria

Amendment to regulation 2

23. In regulation 2(1), in the definition of "person with protected rights"—

(a) the existing text after "means—" is numbered as paragraph (1) of that definition;

(b) in that paragraph as so numbered, omit the terminal "or" after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv), insert—

"(v) otherwise has rights deemed to apply by virtue of any citizens' rights deeming provisions; or";

(c) after that paragraph as so numbered, insert—

"(2) In paragraph (1)(a)(v) "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

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(**1**) S.I. 2016/606; amendments corresponding to those made to S.I. 2011/1986 and described in footnotes to the amendments to that instrument were made to this instrument.

(c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement.".

Amendment to regulation 3

24. In regulation 3(9)(a)(i) for "paragraph (a)(iii) or (iv)" substitute "paragraph (a)(iii), (iv) or (v)".

Amendment to Schedule 1

25. In Schedule 1—

(a) in paragraph 2A—

(i) in sub-paragraph (1)(a), for "on the first day of the first academic year of the course" substitute "on the day on which the first term of the first academic year actually begins",

(ii) in sub-paragraph (1)(c), after "course" insert "and who has been ordinarily resident in the Republic of Ireland for least part of that period", and move the terminal "and" to after sub-paragraph (1)(d),

(iii) after sub-paragraph (1)(d) insert—

"(e)   who did not move to England from the Islands for the purpose of undertaking the designated course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.";

(b) in paragraph 3(1)(a)(iv)—

(i) in paragraph (bb), after "Regulations" insert "or otherwise has rights deemed to apply by virtue of any of the citizens' rights provisions specified in paragraph (3)",

(ii) in paragraph (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 paragraph (3)",

(iii) after sub-paragraph (2) insert—

"(3) For the purposes of sub-paragraph (1)(a)(iv), 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.";

(c) in paragraph 9C(1), move the terminal "and" after sub-paragraph (c) to after sub-paragraph (d), and after that sub-paragraph insert—

"(e)   who did not move to England from the Islands for the purpose of undertaking the designated course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.".

SECTION 3

Irish citizens in the EEA and Switzerland

Eligibility of Irish citizens in the EEA and Switzerland

26.—(1) In regulation 3—

    (a) in paragraph (2)(a), after "9B," insert "9BA,";

    (b) in paragraph (2B), for ", 9B and 9D" substitute ", 9B, 9BA and 9D".

(2) In Schedule 1, after paragraph 9B, insert—

"**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 and Switzerland; or

        (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland,

    and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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 attending or undertaking a designated course in England;

    (d) who 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

    (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(5).".