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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1484 (W. 163)**

**EDUCATION, WALES**

**The Higher Education (Qualifying Courses, Qualifying Persons  
and Supplementary Provision) (Wales) Regulations 2015**

<i>Made</i>	- - - -	7 July 2015
<i>Laid before the National Assembly for Wales</i>	- -	9 July 2015
<i>Coming into force</i>	- -	31 July 2015

The Welsh Ministers in exercise of the powers conferred on them by sections 5(2)(b), 5(5)(b), 55(2) and 58(3) of the Higher Education (Wales) Act 2015(1) make the following Regulations.

**Title, commencement and application** **E+W**

1.—(1) The title of these Regulations is the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015 and they come into force on 31 July 2015.

(2) These Regulations apply in relation to Wales.

**Commencement Information**

**II** Reg. 1 in force at 31.7.2015, see **reg. 1(1)**

**Interpretation** **E+W**

2.—(1) In these Regulations—

[<sup>F1</sup>“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998;]

“the 2004 Act” (“*Deddf 2004*”) means the Higher Education Act 2004(2);

“the 2015 Act” (“*Deddf 2015*”) means the Higher Education (Wales) Act 2015;

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the Education (Student Support) (Wales) Regulations 2015(3);

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(1) 2015 anaw 1.

(2) 2004 c. 8.

(3) S.I. 2015/54 (W. 5).

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[<sup>F2</sup>“the 2017 Regulations” (“*Rheoliadau 2017*”) means the Education (Student Support) (Wales) Regulations 2017;]

[<sup>F2</sup>“the 2018 Regulations” (“*Rheoliadau 2018*”) means the Education (Student Support) (Wales) Regulations 2018;]

“course for the initial training of teachers” (“*cwrs ar gyfer hyfforddiant cychwynnol athrawon*”) includes such a course leading to a first degree;

“course of higher education” (“*cwrs addysg uwch*”) means a course falling within paragraph 1 of Schedule 6 to the Education Reform Act 1988(4);

“end-on course” (“*cwrs penben*”) has the meaning given in regulation 2(1) of the 2015 Regulations [<sup>F3</sup>or regulation 2(1) of the 2017 Regulations];

“equivalent or lower qualification” (“*cymhwyster cyfwerth neu is*”) means a qualification determined by the Welsh Ministers in accordance with paragraph (2) to be an equivalent or lower qualification;

“preceding course” (“*cwrs blaenorol*”) means a course mentioned in paragraph 2 or 3 of Schedule 2 to the 2015 Regulations [<sup>F4</sup>, a course mentioned in paragraph 2 or 3 of Schedule 2 to the 2017 Regulations] or a course for a foundation degree or a course for the initial training of teachers which (disregarding any intervening vacation) a person ceases to attend immediately before beginning to attend an end-on course;

[<sup>F1</sup>“publicly-funded” (“*yn cael ei gyllido’n gyhoeddus*”) means maintained or assisted by recurrent grants out of public funds;]

“qualified teacher” (“*athro cymwysedig neu athrawes gymwysedig*”) has the meaning given in section 132(1) of the Education Act 2002(5); and

[<sup>F5</sup>“single course” (“*cwrs sengl*”) means a course to which—

- (a) regulation 5(6) of the 2015 Regulations applies and which falls within the description of a course in that regulation;
- (b) regulation 5(6) of the 2017 Regulations applies and which falls within the description of a course in that regulation; or
- (c) regulation 6(4) of the 2018 Regulations applies and which falls within the description of a course in regulation 6(3) of the 2018 Regulations.]

(2) The Welsh Ministers may determine that a qualification is an equivalent or lower qualification if—

- (a) the person holds a higher education qualification from an institution in the United Kingdom; and
- (b) the qualification referred to in sub-paragraph (a) is of an academic level which is equivalent to or higher than a qualification to which the current course leads.

### Textual Amendments

**F1** Words in [reg. 2\(1\)](#) inserted (26.3.2016) by [The Higher Education \(Qualifying Courses, Qualifying Persons and Supplementary Provision\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/276\)](#), [regs. 1\(1\), 3](#)

**F2** Words in [reg. 2\(1\)](#) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), [regs. 1\(2\), 47\(a\)](#)

(4) 1988 c. 40.

(5) 2002 c. 32.

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- F3** Words in [reg. 2\(1\)](#) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), [regs. 1\(2\)](#), [47\(b\)](#)
- F4** Words in [reg. 2\(1\)](#) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), [regs. 1\(2\)](#), [47\(c\)](#)
- F5** Words in [reg. 2\(1\)](#) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), [regs. 1\(2\)](#), [47\(d\)](#)

#### Commencement Information

- I2** Reg. 2 in force at 31.7.2015, see [reg. 1\(1\)](#)

### [<sup>F6</sup>Prescribed description of a qualifying course **E+W**

**3.**—(1) Subject to paragraph (2), a qualifying course in relation to a 2004 Act plan for the purposes of the transitional period is:

- (a) a course of higher education;
- (b) designated for the purposes of section 22 of the 1998 Act on the first day of an academic year which begins on or after 1 September 2012; and
- (c) provided by an institution in Wales.

(2) A course is not a qualifying course if at the time the qualifying person received an offer of a place on that course the institution providing it was not publicly-funded.

**3A.**—(1) Subject to paragraph (2), a qualifying course for the purpose of a fee and access plan which is not a 2004 Act plan is a course of higher education capable of being designated by regulations made under section 22 of the 1998 Act (regardless of whether the institution providing the course is publicly-funded).

(2) Where a course is provided by a person on behalf of an institution, that course is not a qualifying course if that person is not a charity.

**3B.** For the purposes of regulations 3 and 3A, a course is not a qualifying course if:

- (a) the first academic year of the course began before 1 September 2012;
- (b) it is an end-on course and the preceding course was not a qualifying course by reason of paragraph (a); or
- (c) it is a part-time course.]

#### Textual Amendments

- F6** [Regs. 3-3B](#) substituted for [reg. 3](#) (26.3.2016) by [The Higher Education \(Qualifying Courses, Qualifying Persons and Supplementary Provision\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/276\)](#), [regs. 1\(1\)](#), [4](#)

### Prescribed description of a qualifying person **E+W**

**4.**—[<sup>F7</sup>(1) A qualifying person who is prescribed for the purposes of section 5(5) of the 2015 Act is a person who falls within [<sup>F8</sup>a prescribed category] on the first day of an academic year, other than—

- (a) a person who is not eligible for support under the 2015 Regulations by reason of regulation 4(3)(c), (d), (e) or (f) of those Regulations;

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- (b) a person who is not eligible for support under the 2017 Regulations by reason of regulation 4(3)(c), (d), (e) or (f) of those Regulations;
  - (c) a person who is not eligible for support under the 2018 Regulations because they are a person to whom Exception 3, paragraph (a), Exception 4, Exception 5 or Exception 6 listed in regulation 10(1) of those Regulations applies; or
  - (d) a person mentioned in paragraphs (2), (3), [F<sup>9</sup>(3A)] or (8).]
- (2) Subject to the exceptions in paragraphs (4), (5) (6) and (7), a person is not a qualifying person if—
- (a) the person holds a higher education qualification; and
  - (b) the qualifying course leads to a qualification which is an equivalent or lower qualification.
- (3) A person is not a qualifying person if—
- (a) the person ceases a course (“the first course”) which is not a qualifying course;
  - (b) disregarding any intervening vacation, the person immediately attends another course which is a qualifying course; and
  - (c) the first course was not a qualifying course by reason of regulation 3(2).
- [F<sup>10</sup>(3A) A person is not a qualifying person in connection with a course which begins on or after 1 January 2028 if the only prescribed category into which the person falls is [F<sup>11</sup>paragraph 8A, 9B or 9BA].]
- (4) Paragraph (2) does not apply where—
- (a) the qualifying course is a course for the initial training of teachers;
  - (b) the duration of the course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and
  - (c) the qualifying person is not a qualified teacher.
- (5) Paragraph (2) does not apply in respect of any part of a single course where—
- (a) the single course leads to an honours degree being conferred on the qualifying person from an institution in the United Kingdom before the final degree or equivalent qualification; and
  - (b) the only honours degree held by the qualifying person was received as part of that single course.
- (6) Paragraph (2) does not apply where the qualifying course is a foundation degree.
- (7) Paragraph (2) does not apply where the qualifying course leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect.
- (8) Where an event occurs in the course of an academic year and as a result a person falls within [F<sup>12</sup>a prescribed category] in the course of an academic year, that person is not a qualifying person in respect of the academic year in which the relevant event occurred or any previous academic year.
- [F<sup>13</sup>(9) In this regulation, “prescribed category” means one of the categories described—
- (a) in paragraph 2, 2A, 3, 4, 4A, 4B, [F<sup>14</sup>4C,][F<sup>15</sup>4D,] 5, 6A, 7A, 8A, 9A, 9B, [F<sup>16</sup>9BA,] 9C, 9D, 9E, 10A, 11A or 12A of the Schedule; or
  - (b) in paragraph 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (10) applies.
- (10) This paragraph applies where—
- (a) in connection with a qualifying course beginning before 1 August 2021, a person (“A”) was a qualifying person by virtue of falling within one of the categories of person described in paragraph 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021; and

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- (b) A is undertaking an academic year of that qualifying course or of a qualifying course to which A transfers from that course in accordance with regulations made under section 22 of the 1998 Act.]

#### Textual Amendments

- F7** Reg. 4(1) substituted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **48**
- F8** Words in reg. 4(1) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **31(a)(i)** (with reg. 2)
- F9** Word in reg. 4(1)(d) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **31(a)(ii)** (with reg. 2)
- F10** Reg. 4(3A) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **31(b)** (with reg. 2)
- F11** Words in reg. 4(3A) substituted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **12(a)**
- F12** Words in reg. 4(8) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **31(c)** (with reg. 2)
- F13** Reg. 4(9)(10) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **31(d)** (with reg. 2)
- F14** Word in reg. 4(9)(a) inserted (with application in accordance with reg. 3 of the amending S.I.) by The Education (Student Finance) (Ukrainian Nationals and Family Members) (Miscellaneous Amendments) (Wales) Regulations 2022 (S.I. 2022/764), regs. 2, **16**
- F15** Word in reg. 4(9)(a) inserted (with application in accordance with reg. 2 of the amending S.I.) by The Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023 (S.I. 2023/1349), regs. 1(2), **15**
- F16** Word in reg. 4(9)(a) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **12(b)**

#### Commencement Information

- I3** Reg. 4 in force at 31.7.2015, see **reg. 1(1)**

#### Supplementary provision **E+W**

5.—(1) The words “provided in Wales” in section 5(2)(b) of the 2015 Act have effect so as to include the preparation, in Wales, of the materials necessary to deliver a particular qualifying course, regardless of whether students are required to attend the institution providing the course.

(2) The words “provided in Wales” in section 17(1) of the 2015 Act have effect so as to include the preparation, in Wales, of the materials necessary to provide education, regardless of whether students are required to attend an institution to receive that education.

6. For the purposes of paragraph 29(3) of the Schedule to the 2015 Act, a 2004 Act plan includes a proposed plan which HEFCW receives as relevant authority<sup>(6)</sup> under section 34 of the 2004 Act before 1 August 2015 but which is not approved by HEFCW until after that date following a review under regulations 11 to 18 of the Student Fees (Approved Plans) (Wales) Regulations 2011<sup>(7)</sup>.

#### Commencement Information

- I4** Reg. 5 in force at 31.7.2015, see **reg. 1(1)**

<sup>(6)</sup> The Higher Education Act 2004 (Relevant Authority) (Designation) (Wales) Regulations 2011 (S.I. 2011/658 (W. 96)) refer.

<sup>(7)</sup> S.I. 2011/884 (W. 128).

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**15** Reg. 6 in force at 31.7.2015, see [reg. 1\(1\)](#)

*Huw Lewis*  
Minister for Education and Skills, one of the  
Welsh Ministers

SCHEDULE **E+W**

Regulation 4

1.—(1) For the purposes of this Schedule—

[<sup>F17</sup>“the 2020 Citizens’ Rights Regulations” (“*Rheoliadau Hawliau Dinasyddion 2020*”) means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;]

“academic year” (“*blwyddyn academaidd*”) means the period of twelve months beginning on 1 January, 1 April, 1 July or 1 September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1 January and before 1 April, on or after 1 April and before 1 July, on or after 1 July and before 1 August or on or after 1 August and on or before 31 December, respectively;

“Directive 2004/38” (“*Cyfarwyddeb 2004/38*”) means Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States<sup>(8)</sup>;

“EEA frontier self-employed person” (“*person hunangyflogedig ffin yr AEE*”) means an EEA national who—

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State <sup>F18</sup>... and returns to the national’s residence in Switzerland or that EEA State daily or at least once a week;

“EEA frontier worker” (“*gweithiwr ffin yr AEE*”) means an EEA national who—

- (a) is a worker in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State <sup>F18</sup>... and returns to the national’s residence in Switzerland or that EEA State daily or at least once a week;

“EEA migrant worker” (“*gweithiwr mudol o’r AEE*”) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (“*gwladolyn o’r AEE*”) means a national of an EEA State <sup>F18</sup>...;

“EEA self-employed person” (“*person hunangyflogedig o’r AEE*”) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

[<sup>F19</sup>“EEA EFTA separation agreement” (“*cytundeb gwahanu EFTA yr AEE*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;]

“employed person” (“*person cyflogedig*”) means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“employment” (“*cyflogaeth*”) means full-time or part-time employment;

“EU national” (“*gwladolyn o’r UE*”) means a national of a Member State of the European Union;

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”) means the area comprised by the EEA States;

“European Union” (“*yr Undeb Ewropeaidd*”) means the territory comprised by the Member States of the European Union as constituted from time to time;

“family member” (“*aelod o deulu*”) means—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person [<sup>F20</sup>, an EEA self-employed person, a relevant person of Northern

(8) OJ L158, 30.04.2004, pp. 77-123.

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Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 6A(3)] —

- (i) that person’s spouse or civil partner;
  - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the person or the person’s spouse or civil partner; or
  - (iii) dependent direct relatives in the ascending line of the person or the person’s spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
- (i) the person’s spouse or civil partner; or
  - (ii) the person’s child or the child of the person’s spouse or civil partner;
- (c) in relation to an EU national who falls within Article 7(1)(c) of Directive 2004/38 [<sup>F21</sup>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] —
- (i) the national’s spouse or civil partner; or
  - (ii) direct descendants of the national or the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or the national’s spouse or civil partner;
- (d) in relation to an EU national who falls within Article 7(1)(b) of Directive 2004/38 [<sup>F22</sup>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] —
- (i) the national’s spouse or civil partner;
  - (ii) direct descendants of the national or the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or the national’s spouse or civil partner; or
  - (iii) dependent direct relatives in the national’s ascending line or of the national’s spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of [<sup>F23</sup>paragraphs 9, 9B, 9E and for the purposes of paragraphs 9C and 9D in relation to persons settled in the United Kingdom] —
- (i) the national’s spouse or civil partner; or
  - (ii) direct descendants of the national or the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or the national’s spouse or civil partner;

[<sup>F24c</sup>immigration rules” (“*rheolau mewnfudo*”) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;]

“the Islands” (“*yr Ynysoedd*”) means the Channel Islands and the Isle of Man;

“overseas territories” (“*tiriogaethau tramor*”) means Anguilla; Aruba; Bermuda; British Antarctic Territory; British Indian Ocean Territory; <sup>F25</sup>... Cayman Islands; Falkland Islands; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; [<sup>F26</sup>Gibraltar;]

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Mayotte; Greenland; Montserrat; Netherlands Antilles (Bonaire, Curacao, Saba, Sint Eustatius and Sint Maarten); Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St-Barthélemy; [<sup>F27</sup>St Helena, Ascension and Tristan da Cunha]; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; Turks and Caicos Islands [<sup>F28</sup>; Virgin Islands;] and Wallis and Futuna;

<sup>F29</sup> ...

[<sup>F17c</sup>person granted leave to enter or remain as a protected person” (“*person y rhoddwyd 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 and in accordance with the immigration rules; [<sup>F30</sup> 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);
- (e) <sup>F31</sup> ...
- (ea) <sup>F31</sup> ...
- (eb) <sup>F31</sup> ...
- (f) <sup>F31</sup> ...
- (g) <sup>F31</sup> ...
- (h) <sup>F31</sup> ...]

[<sup>F17c</sup>person granted leave to remain as a protected partner” (“*person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir*”) means a person with 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 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
- (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 partners);]

“person with leave to enter or remain” (“*person sydd â chaniatâd i ddod i mewn neu i aros*”) means a person (“P”)—

- (a) [<sup>F32</sup>who has—
  - (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is considered not to qualify for recognition as a

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refugee, it is thought right to allow P to enter or remain in the United Kingdom on the grounds of <sup>F33</sup>... discretionary leave, and who has been granted leave to enter or remain accordingly;

- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;
- (iii) <sup>F34</sup>been granted leave to remain on the grounds of family life under the immigration rules;]
- (iii) been granted leave to remain on the grounds of private life under the immigration rules; or
- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for leave to remain on the grounds of private <sup>F35</sup>or family] life under the immigration rules, P has been granted leave to remain outside the rules on the grounds of Article 8 of the European Convention on Human Rights;]
- (c) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002); and
- (d) who has been ordinarily resident in the <sup>F36</sup>United Kingdom and the Islands] throughout the period since P was granted leave to enter or remain;

<sup>F37</sup>“person with leave to enter or remain as a relevant Afghan citizen” (“*person sydd â chaniatâd i ddod i mewn neu i aros fel dinesydd perthnasol o Affganistan*”) means a person who has—

- (a) indefinite leave to enter the United Kingdom under paragraph 276BA2 of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph 276BS2 of the immigration rules;
- (b) indefinite leave to enter the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy to the immigration rules or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.2 of that Appendix to the immigration rules;
- (c) leave to enter or indefinite leave to enter or remain in the United Kingdom outside the immigration rules on the basis of the Afghan Relocations and Assistance Policy Scheme; or
- (d) indefinite leave to enter or remain in the United Kingdom outside the immigration rules on the basis of the Afghan Citizens Resettlement Scheme;]

<sup>F17</sup>“person with protected rights” (“*person sydd â hawliau gwarchoddedig*”) means—

- (1) <sup>F38</sup>
  - ((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;
    - (ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; <sup>F39</sup>...
    - (iii) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations where the relevant period has not expired; or

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- (iv) [<sup>F40</sup>otherwise has rights deemed to apply by virtue of any citizens' rights deeming provisions; 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;
- (2) [<sup>F41</sup>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.]]

<sup>F42</sup> ...

[<sup>F17</sup>"protected spouse or civil partner" ("*priod 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;]

[<sup>F43</sup>"protected Ukrainian national" ("*gwladolyn Wcreinaidd a ddiogelir*") means a person granted leave to enter or remain in the United Kingdom—

- (a) under paragraph 9.1 (Ukraine Family Scheme), 19.1 (Homes for Ukraine Sponsorship Scheme) or 27.1 (Ukraine Extension Scheme) of Appendix Ukraine Scheme of the immigration rules; or
- (b) outside the immigration rules, where the person—
  - (i) was residing in Ukraine immediately before 1 January 2022; and
  - (ii) left Ukraine in connection with the Russian invasion which took place on 24 February 2022;]

"refugee" ("*ffoadur*") means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28 July 1951(9) as extended by the Protocol thereto which entered into force on 4 October 1967(10);

[<sup>F17</sup>"relevant period" ("*cyfnod perthnasol*") has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;]

[<sup>F17</sup>"relevant person of Northern Ireland" ("*person perthnasol o Ogledd Iwerddon*") has the meaning given by residence scheme immigration rules;]

[<sup>F19</sup>"residence scheme immigration rules" ("*rheolau mewnfudo'r cynllun preswyllo*") has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;]

<sup>F44</sup> ...

"self-employed person" ("*person hunangyflogedig*") means—

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(9) Cmnd. 9171.

(10) Cmnd. 3906, (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Business, Innovation and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

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- (a) in relation to an EEA national, a person who is self-employed within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“settled” (“*wedi setlo*”) has the meaning given by section 33(2A) of the Immigration Act 1971<sup>(11)</sup>;

[<sup>F17</sup>“specified British overseas territories” (“*tiriogaethau tramor Prydeinig penodedig*”) means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; <sup>F45</sup>... Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; [<sup>F46</sup>St Helena, Ascension and Tristan da Cunha]; [<sup>F47</sup>Turks and Caicos Islands; and Virgin Islands];]

“Swiss Agreement” (“*Cytundeb y Swistir*”) means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999<sup>(12)</sup> and which came into force on 1 June 2002;

[<sup>F19</sup>“Swiss citizens’ rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaid*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;]

“Swiss employed person” (“*person cyflogedig Swisaid*”) means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” (“*person cyflogedig ffin y Swistir*”) means a Swiss national who—

- (a) is an employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State <sup>F18</sup>... and returns to the national’s residence in Switzerland or that EEA State daily or at least once a week;

“Swiss frontier self-employed person” (“*person hunangyflogedig ffin y Swistir*”) means a Swiss national who—

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State <sup>F18</sup>... and returns to the national’s residence in Switzerland or that EEA State daily or at least once a week;

“Swiss self-employed person” (“*person hunangyflogedig Swisaid*”) means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“Turkish worker” (“*gweithiwr Twrcaid*”) means a Turkish national who—

- (a) is ordinarily resident in the United Kingdom; and
- (b) is, or has been lawfully employed in the United Kingdom; and

[<sup>F17</sup>“United Kingdom national” (“*gwladolyn o’r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;]

“worker” (“*gweithiwr*”) means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement as the case may be.

[<sup>F17</sup>“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;]

<sup>(11)</sup> Section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

<sup>(12)</sup> Cm. 4904 and OJ No. L114, 30.04.02, p. 6.

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[<sup>F48</sup>(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.]

(2) For the purposes of this Schedule, “parent” (“*rhiant*”) includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” (“*plentyn*”) is to be construed accordingly.

(3) For the purposes of this Schedule, a person (“P” in this definition) is to be treated as ordinarily resident in the United Kingdom, the [<sup>F36</sup>United Kingdom and the Islands][<sup>F49</sup>, in the territory comprising the United Kingdom, the Islands and the Republic of Ireland], in [<sup>F50</sup>the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland], in [<sup>F51</sup>the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories][<sup>F52</sup>, in the territory comprising the United Kingdom, the Islands and the specified British overseas territories], or in [<sup>F53</sup>the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories] if P would have been so resident but for the fact that—

- (a) P;
- (b) P’s spouse or civil partner;
- (c) P’s parent; or
- (d) in the case of 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.

(4) For the purposes of sub-paragraph (3), temporary employment 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;
- [<sup>F54</sup>(aa) in the case of members of the regular naval, military or air 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;]
- (b) 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 [<sup>F55</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland as members of such forces; and
- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside the territory comprising [<sup>F56</sup>the United Kingdom, Gibraltar,] the European Economic Area, Switzerland and Turkey as members of such forces.

(5) For the purposes of this Schedule an area [<sup>F57</sup>other than the United Kingdom or Gibraltar] which—

- (a) was previously not part of the European Union or the European Economic Area; but
- (b) at any time before or after these Regulations come into force has become part of one or the other or both of these areas,

is to be considered to have always been a part of the European Economic Area.

(6) For the purposes of this Schedule a person who is ordinarily resident in Wales, England, [<sup>F58</sup>Scotland or] Northern Ireland [<sup>F59</sup>... having moved from one of those areas for the purpose of undertaking—

- (a) the present course; or
- (b) a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the present course,

is to be considered to be ordinarily resident in the place from which the person moved.

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[<sup>F60</sup>(7) 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.]

### Textual Amendments

- F17** Words in Sch. para. 1(1) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(f)** (with reg. 2)
- F18** Words in Sch. para. 1(1) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(a)(i)**
- F19** Words in Sch. para. 1(1) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(a)(ii)**
- F20** Words in Sch. para. 1(1) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(a)(i)** (with reg. 2)
- F21** Words in Sch. para. 1(1) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(a)(ii)** (with reg. 2)
- F22** Words in Sch. para. 1(1) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(a)(iii)** (with reg. 2)
- F23** Words in Sch. para. 1(1) substituted (22.2.2023) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023 (S.I. 2023/87), regs. 1(2), **15(a)** (with reg. 2)
- F24** Words in Sch. para. 1(1) inserted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **49(a)(i)**
- F25** Words in Sch. para. 1(1) omitted (6.7.2023) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023 (S.I. 2023/633), regs. 1(2), **6(a)(i)**
- F26** Word in Sch. para. 1(1) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(a)(iii)**
- F27** Words in Sch. para. 1(1) substituted (6.7.2023) by The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023 (S.I. 2023/633), regs. 1(2), **6(a)(ii)**
- F28** Words in Sch. para. 1(1) inserted (6.7.2023) by The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023 (S.I. 2023/633), regs. 1(2), **6(a)(iii)**
- F29** Words in Sch. para. 1(1) omitted (25.4.2021) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(b)** (with reg. 2)
- F30** Word in Sch. para. 1(1) inserted (with application in accordance with reg. 2 of the amending S.I.) by The Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023 (S.I. 2023/1349), regs. 1(2), **16(a)(i)**
- F31** Words in Sch. para. 1(1) omitted (with application in accordance with reg. 2 of the amending S.I.) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023 (S.I. 2023/1349), regs. 1(2), **16(a)(ii)**
- F32** Words in Sch. para. 1(1) substituted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **49(a)(ii)**
- F33** Words in Sch. para. 1(1) omitted (25.4.2021) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(c)** (with reg. 2)
- F34** Words in Sch. para. 1(1) inserted (9.9.2019) by The Education (Student Finance) (Amendments to Student Eligibility) (Wales) Regulations 2019 (S.I. 2019/1192), regs. 1(2), **4(2)(a)**
- F35** Words in Sch. para. 1(1) inserted (9.9.2019) by The Education (Student Finance) (Amendments to Student Eligibility) (Wales) Regulations 2019 (S.I. 2019/1192), regs. 1(2), **4(2)(b)**

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- F36** Words in Regulations substituted (8.3.2019) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2019 (S.I. 2019/235), regs. 1(2), **12**
- F37** Words in Sch. para. 1(1) inserted (with application in accordance with reg. 2 of the amending S.I.) by The Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023 (S.I. 2023/1349), regs. 1(2), **16(b)**
- F38** Words in Sch. para. 1(1) renumbered (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **11(a)(i)**
- F39** Word in Sch. para. 1(1) omitted (31.12.2021) by virtue of The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **11(a)(ii)**
- F40** Words in Sch. para. 1(1) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **11(a)(ii)**
- F41** Words in Sch. para. 1(1) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **11(a)(iii)**
- F42** Words in Sch. para. 1(1) omitted (25.4.2021) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(d)** (with reg. 2)
- F43** Words in Sch. para. 1(1) inserted (with application in accordance with reg. 3 of the amending S.I.) by The Education (Student Finance) (Ukrainian Nationals and Family Members) (Miscellaneous Amendments) (Wales) Regulations 2022 (S.I. 2022/764), regs. 2, **17(a)**
- F44** Words in Sch. para. 1(1) omitted (25.4.2021) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(2)(e)** (with reg. 2)
- F45** Words in Sch. para. 1(1) omitted (6.7.2023) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023 (S.I. 2023/633), regs. 1(2), **6(b)(i)**
- F46** Words in Sch. para. 1(1) substituted (6.7.2023) by The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023 (S.I. 2023/633), regs. 1(2), **6(b)(ii)**
- F47** Words in Sch. para. 1(1) substituted (6.7.2023) by The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023 (S.I. 2023/633), regs. 1(2), **6(b)(iii)**
- F48** Sch. para. 1(1A) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(3)** (with reg. 2)
- F49** Words in Sch. para. 1(3) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(4)(a)** (with reg. 2)
- F50** Words in Sch. para. 1(3) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(b)(i)**
- F51** Words in Sch. para. 1(3) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(b)(ii)**
- F52** Words in Sch. para. 1(3) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(4)(b)** (with reg. 2)
- F53** Words in Sch. para. 1(3) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(b)(iii)**
- F54** Sch. para. 1(4)(aa) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **32(5)** (with reg. 2)
- F55** Words in Sch. para. 1(4)(b) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(c)**
- F56** Words in Sch. para. 1(4)(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(c)**
- F57** Words in Sch. para. 1(5) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(2)(d)**
- F58** Words in Sch. para. 1(6) substituted (23.2.2022) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2022 (S.I. 2022/79), regs. 1(2), **12(a)** (with reg. 2)
- F59** Words in Sch. para. 1(6) omitted (23.2.2022) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2022 (S.I. 2022/79), regs. 1(2), **12(b)** (with reg. 2)

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**F60** Sch. para. 1(7) inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **32(6)** (with reg. 2)

#### Commencement Information

**I6** Sch. para. 1 in force at 31.7.2015, see [reg. 1\(1\)](#)

### Persons who are settled in the United Kingdom **E+W**

2.—(1) A person who on the first day of the first academic year of the course—

- [<sup>F61</sup>(a)]** is settled in the United Kingdom and does not fall within paragraph 3;
- (b) is ordinarily resident in the United Kingdom;
- (c) has been ordinarily resident in the [<sup>F36</sup>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 residence in the [<sup>F36</sup>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 [<sup>F36</sup>United Kingdom and the Islands] in accordance with paragraph 1(3).

#### Textual Amendments

**F36** Words in Regulations substituted (8.3.2019) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(2), **12**

**F61** Sch. para. 2(1)(a) substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **33** (with reg. 2)

#### Commencement Information

**I7** Sch. para. 2 in force at 31.7.2015, see [reg. 1\(1\)](#)

**[<sup>F62</sup>2A.]**—(1) A person—

- (a) who is settled in the United Kingdom [<sup>F63</sup>on the day on which the first term of the first academic year actually begins], and does not fall within paragraph 3;
- (b) who is ordinarily resident in the United Kingdom [<sup>F63</sup>on the day on which the first term of the first academic year actually begins];
- (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 paragraph 1(3).]

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### Textual Amendments

- F62** Sch. para. 2A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **34** (with reg. 2)
- F63** Words in Sch. para. 2A(1)(a)(b) substituted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **11(b)**

3.—<sup>[F64]</sup>(1) A person who—

<sup>[F65]</sup>(a) 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 an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations <sup>[F66]</sup>or otherwise has rights deemed to apply by virtue of any of the citizens' rights provisions specified in sub-paragraph (3)]; 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 <sup>[F67]</sup>or otherwise has a deemed right of permanent residence by virtue of any of the citizens' rights provisions specified in sub-paragraph (3)]; or

(iv) 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;]

(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 <sup>[F36]</sup>United Kingdom and the Islands] throughout the three-year period preceding the first day of the first academic year of the course; and

(d) in a case where the 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 <sup>[F68]</sup>the United Kingdom,] the European Economic Area, Switzerland and the overseas territories immediately before the period of residence referred to in sub-paragraph (c).

<sup>[F69]</sup>(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 scheme immigration

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

[<sup>F70</sup>(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.]

### Textual Amendments

- F36** Words in Regulations substituted (8.3.2019) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(2), **12**
- F64** Sch. para. 3 renumbered as Sch. para. 3(1) (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **35(a)** (with reg. 2)
- F65** Sch. para. 3(1)(a) substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **35(b)** (with reg. 2)
- F66** Words in Sch. para. 3(1)(iii)(bb) inserted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **11(c)(i)**
- F67** Words in Sch. para. 3(1)(iii)(cc) inserted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **11(c)(ii)**
- F68** Words in Sch. para. 3(d) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(3)(b)**
- F69** Sch. para. 3(2) inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **35(c)** (with reg. 2)
- F70** Sch. para. 3(3) inserted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **11(c)(iii)**

### Commencement Information

- I8** Sch. para. 3 in force at 31.7.2015, see [reg. 1\(1\)](#)

### Textual Amendments

- F36** Words in Regulations substituted (8.3.2019) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(2), **12**
- F61** Sch. para. 2(1)(a) substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **33** (with reg. 2)
- F62** Sch. para. 2A inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **34** (with reg. 2)
- F63** Words in Sch. para. 2A(1)(a)(b) substituted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **11(b)**
- F64** Sch. para. 3 renumbered as Sch. para. 3(1) (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **35(a)** (with reg. 2)
- F65** Sch. para. 3(1)(a) substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **35(b)** (with reg. 2)
- F66** Words in Sch. para. 3(1)(iii)(bb) inserted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **11(c)(i)**

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- F67** Words in Sch. para. 3(1)(iii)(cc) inserted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **11(c)(ii)**
- F68** Words in Sch. para. 3(d) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(3)(b)**
- F69** Sch. para. 3(2) inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **35(c)** (with reg. 2)
- F70** Sch. para. 3(3) inserted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **11(c)(iii)**

#### Commencement Information

- I7** Sch. para. 2 in force at 31.7.2015, see [reg. 1\(1\)](#)
- I8** Sch. para. 3 in force at 31.7.2015, see [reg. 1\(1\)](#)

## Refugees and their family members **E+W**

- 4.—(1) A person who—
- (a) is a refugee;
  - (b) is ordinarily resident in the [<sup>F36</sup>United Kingdom and the Islands] and has not ceased to be so resident since the person was recognised as a refugee; and
  - (c) 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 spouse or civil partner of a refugee;
  - (b) was the spouse or civil partner of the refugee on the date on which the refugee made an application for asylum;
  - (c) is ordinarily resident in the [<sup>F36</sup>United Kingdom and the Islands] and has not ceased to be so resident since the refugee was given leave to remain in the United Kingdom; and
  - (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 the child of a refugee or the child of the spouse or civil partner of a refugee;
  - (b) on the date on which the refugee applied for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
  - (c) was under 18 on the date on which the refugee applied for asylum;
  - (d) is ordinarily resident in the [<sup>F36</sup>United Kingdom and the Islands] and has not ceased to be so resident since the refugee was given leave to remain in the United Kingdom; and
  - (e) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

#### Textual Amendments

- F36** Words in Regulations substituted (8.3.2019) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(2), **12**

#### Commencement Information

- I9** Sch. para. 4 in force at 31.7.2015, see [reg. 1\(1\)](#)

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## [<sup>F71</sup>Protected persons and their family members **E+W**

### 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) was 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 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.

(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.]

### Textual Amendments

**F71** Sch. para. 4A substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **36** (with reg. 2)

## [<sup>F72</sup>Persons granted leave to remain as a protected partner and their children **E+W**

### 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

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- (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 enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.]

#### Textual Amendments

**F72** Sch. para. 4B inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **37** (with reg. 2)

#### [<sup>F73</sup>Protected Ukrainian nationals **E+W**

- 4C.**—[
- <sup>F74</sup>(1)] A person who—
- (a) is a protected Ukrainian national;
  - (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since becoming a protected Ukrainian national; and
  - (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.
- [
- <sup>F75</sup>(2) A person who—
- (a) is the spouse or civil partner of a protected Ukrainian national;
  - (b) on the leave application date, was the spouse or civil partner of that person;
  - (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; and
  - (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—
    - (i) the child of a protected Ukrainian national; or
    - (ii) the child of a spouse or civil partner of a protected Ukrainian national;
  - (b) on the leave application date was—
    - (i) under 18 years old; and
    - (ii) the child of the protected Ukrainian national or, as the case may be, the child of a person who was the spouse or civil partner of a protected Ukrainian national;

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- (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; and
- (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 Ukrainian national.]]

#### Textual Amendments

- F73** Sch. para. 4C inserted (with application in accordance with reg. 3 of the amending S.I.) by [The Education \(Student Finance\) \(Ukrainian Nationals and Family Members\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2022 \(S.I. 2022/764\)](#), regs. 2, **17(b)**
- F74** Sch. para. 4C renumbered as Sch. para. 4C(1) (with application in accordance with reg. 2 of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(No. 3\) \(Wales\) Regulations 2023 \(S.I. 2023/1349\)](#), regs. 1(2), **17(a)**
- F75** Sch. para. 4C(2)-(4) inserted (with application in accordance with reg. 2 of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(No. 3\) \(Wales\) Regulations 2023 \(S.I. 2023/1349\)](#), regs. 1(2), **17(b)**

#### [<sup>F76</sup>Person with leave to enter or remain as a relevant Afghan citizen **E+W**

**4D.**—(1) A person who—

- (a) is a person with leave to enter or remain as a relevant Afghan citizen;
- (b) 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) 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 spouse or civil partner of a person with leave to enter or remain as a relevant Afghan citizen;
- (b) on the leave application date was the spouse or civil partner of a person with leave to enter or remain as a relevant Afghan citizen;
- (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; and
- (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—
  - (i) the child of a person with leave to enter or remain as a relevant Afghan citizen; or
  - (ii) the child of the spouse or civil partner of a person with leave to enter or remain as a relevant Afghan citizen;
- (b) on the leave application date was—
  - (i) under 18 years old; and

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- (ii) the child of the person with leave to enter or remain as a relevant Afghan citizen or, as the case may be, the child of a person who was the spouse or civil partner of a person with leave to enter or remain as a relevant Afghan citizen;
  - (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; and
  - (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 with leave to enter or remain as a relevant Afghan citizen.]

#### Textual Amendments

**F76** Sch. para. 4D inserted (with application in accordance with reg. 2 of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(No. 3\) \(Wales\) Regulations 2023 \(S.I. 2023/1349\)](#), regs. 1(2), **16(c)**

### Persons with leave to enter or remain and their family members **E+W**

- 5.—(1) A person—
- (a) with leave to enter or remain; and
  - (b) 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 spouse or civil partner of a person with leave to enter or remain;
  - <sup>[F77]</sup>(b) was the spouse or civil partner of the person with leave to enter or remain on the leave application date; and]
  - (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.
- (3) A person—
- (a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;
  - <sup>[F78]</sup>(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;]
  - <sup>[F79]</sup>(c) who was under 18 on the leave application date; and]
  - (d) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.
- <sup>[F80]</sup>(4) In this paragraph “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.]

#### Textual Amendments

**F77** Sch. para. 5(2)(b) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **49(c)(i)**

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- F78** Sch. para. 5(3)(b) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **49(c)(ii)**
- F79** Sch. para. 5(3)(c) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **49(c)(iii)**
- F80** Sch. para. 5(4) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **49(c)(iv)**

**Commencement Information**

- I10** Sch. para. 5 in force at 31.7.2015, see [reg. 1\(1\)](#)

**Persons with section 67 leave to remain** E+W

<sup>F81</sup>**5A.** . . . . .

**Textual Amendments**

- F81** Sch. para. 5A omitted (25.4.2021) by virtue of [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **38** (with reg. 2)

**Workers, employed persons, self-employed persons and their family members** E+W

- 6.**—(1) A person 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 [<sup>F82</sup>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 falls within paragraph (a) (iv), (v) or (vi) of that sub-paragraph.

**Textual Amendments**

- F82** Words in Sch. para. 6(1)(c) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(4)**

**Commencement Information**

- I11** Sch. para. 6 in force at 31.7.2015, see [reg. 1\(1\)](#)

[<sup>F83</sup>**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 who—

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- (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.]

#### Textual Amendments

**F83** Sch. para. 6A inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **39** (with reg. 2)

7.—<sup>[F84]</sup>(1) A person 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 <sup>[F85]</sup>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 <sup>[F86]</sup>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;]
- <sup>[F87]</sup>(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.]

<sup>[F88]</sup>(2) Any description of person who would have fallen within this paragraph immediately before <sup>[F89]</sup>IP completion day is to be treated as falling within this paragraph on and after <sup>[F89]</sup>IP completion day.]

#### Textual Amendments

**F84** Sch. para. 7 renumbered as Sch. para. 7(1) (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(5)(a)**

**F85** Words in Sch. para. 7(1)(b) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(5)(b)**

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- F86** Words in Sch. para. 7(1)(c) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **40(a)(i)** (with reg. 2)
- F87** Sch. para. 7(1)(d) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **40(a)(ii)** (with reg. 2)
- F88** Sch. para. 7(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(5)(c)**
- F89** Words in Sch. para. 7(2) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **40(b)** (with reg. 2)

#### Commencement Information

- I12** Sch. para. 7 in force at 31.7.2015, see **reg. 1(1)**

[<sup>F90</sup>**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.]

#### Textual Amendments

- F90** Sch. para. 7A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **41** (with reg. 2)

#### Textual Amendments

- F82** Words in Sch. para. 6(1)(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(4)**
- F83** Sch. para. 6A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **39** (with reg. 2)
- F84** Sch. para. 7 renumbered as Sch. para. 7(1) (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(5)(a)**
- F85** Words in Sch. para. 7(1)(b) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(5)(b)**
- F86** Words in Sch. para. 7(1)(c) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **40(a)(i)** (with reg. 2)
- F87** Sch. para. 7(1)(d) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **40(a)(ii)** (with reg. 2)
- F88** Sch. para. 7(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(5)(c)**

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- F89** Words in Sch. para. 7(2) substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **40(b)** (with reg. 2)
- F90** Sch. para. 7A inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **41** (with reg. 2)

#### Commencement Information

- I11** Sch. para. 6 in force at 31.7.2015, see [reg. 1\(1\)](#)
- I12** Sch. para. 7 in force at 31.7.2015, see [reg. 1\(1\)](#)

### Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere **E+W**

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence [<sup>F91</sup>before [<sup>F92</sup>IP] completion day] after having been settled in the United Kingdom;
- (c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year begins;
- (d) has been ordinarily resident in the territory comprising [<sup>F93</sup>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) in a case where the ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F94</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person (“A” in this sub-paragraph) has exercised a right of residence—

- (a) where A 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 [<sup>F95</sup>had the right] of permanent residence, A 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
- (b) where A is settled in the United Kingdom and [<sup>F96</sup>had the right] of permanent residence, A [<sup>F97</sup>has gone] to the state within the territory comprising the European Economic Area and Switzerland of which A is a national or of which the person in relation to whom A is a family member is a national.

[<sup>F98</sup>(3) For the purposes of this paragraph, 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.]

#### Textual Amendments

- F91** Words in Sch. para. 8(1)(b) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(6)(a)**
- F92** Word in Sch. para. 8(1)(b) substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **42** (with reg. 2)

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- F93** Words in Sch. para. 8(1)(d) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(6)(b)**
- F94** Words in Sch. para. 8(1)(e) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(6)(c)**
- F95** Words in Sch. para. 8(2)(a) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(6)(d)(i)**
- F96** Words in Sch. para. 8(2)(b) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(6)(d)(ii)(aa)**
- F97** Words in Sch. para. 8(2)(b) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(6)(d)(ii)(bb)**
- F98** Sch. para. 8(3) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **9(6)(e)**

### Commencement Information

- I13** Sch. para. 8 in force at 31.7.2015, see [reg. 1\(1\)](#)

[<sup>F99</sup>**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
  - (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.

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(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.]

#### Textual Amendments

**F99** Sch. para. 8A inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **43** (with reg. 2)

#### EU nationals [<sup>F100</sup>etc.] **E+W**

9.—(1) A person who—

- (a) is either—
  - (i) an EU national on the first day of an academic year of the course; or
  - (ii) a family member of a such a person;
- (b) is undertaking the course in the United Kingdom;
- (c) subject to sub-paragraph (2), has been ordinarily resident in the territory comprising [<sup>F101</sup>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 relevant territory 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.

[<sup>F102</sup>(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is—
  - (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or
  - (ii) an EU national; 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 relevant territory in accordance with paragraph 1(3).

[<sup>F103</sup>(4) Any description of person who would have fallen within this paragraph immediately before [<sup>F104</sup>IP] completion day is to be treated as falling within this paragraph on and after [<sup>F104</sup>IP] completion day.]

#### Textual Amendments

**F100** Word in Sch. para. 9 heading inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **44(a)** (with reg. 2)

**F101** Words in Sch. para. 9(1)(c) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(7)(a)**

**F102** Sch. para. 9(2) substituted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(7)(b)**

**F103** Sch. para. 9(4) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(7)(c)**

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**F104** Word in Sch. para. 9(4) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **44(b)** (with reg. 2)

#### Commencement Information

**I14** Sch. para. 9 in force at 31.7.2015, see **reg. 1(1)**

**[<sup>F105</sup>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 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 paragraph 1(3).

#### Textual Amendments

**F105** Sch. paras. 9A-9E inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **45** (with reg. 2)

#### United Kingdom nationals **E+W**

**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,

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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 paragraph 1(3).

(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 Dependences; and Wallis and Futuna.

#### Textual Amendments

**F105** Sch. paras. 9A-9E inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **45** (with reg. 2)

#### [<sup>F106</sup>Irish citizens in the EEA and Switzerland **E+W**

**9BA.**—(1) A person—

- (a) who is an Irish citizen on the first day of [<sup>F107</sup>an 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

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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.]

#### Textual Amendments

- F105** Sch. paras. 9A-9E inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **45** (with reg. 2)
- F106** Sch. para. 9BA inserted (31.12.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(Wales\) Regulations 2021 \(S.I. 2021/1365\)](#), regs. 1(2), **13**
- F107** Words in Sch. para. 9BA(1)(a) substituted (25.5.2022) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(No. 2\) \(Wales\) Regulations 2022 \(S.I. 2022/473\)](#), regs. 1(2), **2(2)**

**9C.—(1)** A person—

- (a) who is—
  - (i) [<sup>F108</sup>a person who is settled in the United Kingdom] 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) [<sup>F109</sup>, or who would be such a person if they were ordinarily resident in the United Kingdom];
- (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 paragraph 1(3).

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#### Textual Amendments

- F105** Sch. paras. 9A-9E inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **45** (with reg. 2)
- F108** Words in Sch. para. 9C(1)(a)(i) substituted (22.2.2023) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023 (S.I. 2023/87), regs. 1(2), **15(b)(i)** (with reg. 2)
- F109** Words in Sch. para. 9C(1)(a)(ii) inserted (22.2.2023) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023 (S.I. 2023/87), regs. 1(2), **15(b)(ii)** (with reg. 2)

#### 9D.—(1) A person—

- (a) who is a family member of a person who is [<sup>F110</sup>settled in the United Kingdom] 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 paragraph 1(3).

#### Textual Amendments

- F105** Sch. paras. 9A-9E inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **45** (with reg. 2)
- F110** Words in Sch. para. 9D(1)(a) substituted (22.2.2023) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023 (S.I. 2023/87), regs. 1(2), **16** (with reg. 2)

#### Textual Amendments

- F105** Sch. paras. 9A-9E inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **45** (with reg. 2)
- F106** Sch. para. 9BA inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **13**
- F107** Words in Sch. para. 9BA(1)(a) substituted (25.5.2022) by The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2022 (S.I. 2022/473), regs. 1(2), **2(2)**
- F108** Words in Sch. para. 9C(1)(a)(i) substituted (22.2.2023) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023 (S.I. 2023/87), regs. 1(2), **15(b)(i)** (with reg. 2)
- F109** Words in Sch. para. 9C(1)(a)(ii) inserted (22.2.2023) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023 (S.I. 2023/87), regs. 1(2), **15(b)(ii)** (with reg. 2)
- F110** Words in Sch. para. 9D(1)(a) substituted (22.2.2023) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2023 (S.I. 2023/87), regs. 1(2), **16** (with reg. 2)

#### Persons resident in Gibraltar **E+W**

#### 9E.—(1) A person—

- (a) who is—

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- (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 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 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 paragraph 1(3).]

#### Textual Amendments

**F105** Sch. paras. 9A-9E inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), 45 (with reg. 2)

#### [<sup>F111</sup>EU nationals ordinarily resident in the United Kingdom and the Islands] **E+W**

- 10.**—(1) A person who—
- (a) is an EU national <sup>F112</sup>... 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 [<sup>F36</sup>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 ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F113</sup>the United Kingdom,] the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in paragraph (c).

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(2) Where a state accedes to the European Union after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EU national <sup>F114</sup>... on the first day of the first academic year of the course is treated as being satisfied.

#### Textual Amendments

- F36** Words in Regulations substituted (8.3.2019) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(2), **12**
- F111** Sch. para. 10 heading inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **46** (with reg. 2)
- F112** Words in Sch. para. 10(1)(a) omitted (31.12.2020) by virtue of [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(8)(a)**
- F113** Words in Sch. para. 10(1)(d) inserted (31.12.2020) [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(8)(b)**
- F114** Words in Sch. para. 10(1)(d) omitted (31.12.2020) by virtue of [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(8)(c)**

#### Commencement Information

- I15** Sch. para. 10 in force at 31.7.2015, see [reg. 1\(1\)](#)

[<sup>F115</sup>**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).]

#### Textual Amendments

- F115** Sch. para. 10A inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **47** (with reg. 2)

[<sup>F116</sup>**Children of Swiss nationals** **E+W**

**11.—(1)** A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss 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

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- (d) in a case where the ordinary residence referred to in 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 before the period of ordinary resident referred to in paragraph (c).
- (2) Any description of person who would have fallen within this paragraph immediately before [F117IP] completion day is to be treated as falling within this paragraph on and after [F117IP] completion day.]

#### Textual Amendments

- F116** Sch. para. 11 substituted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(9)**
- F117** Word in Sch. para. 11(2) substituted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **48** (with reg. 2)

#### Commencement Information

- I16** Sch. para. 11 in force at 31.7.2015, see [reg. 1\(1\)](#)

[F118**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).]

#### Textual Amendments

- F118** Sch. para. 11A inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **49** (with reg. 2)

### Children of Turkish workers **E+W**

**12.** A person who—

- (a) is the child of a Turkish worker;
- (b) 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 [F119the 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.

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#### Textual Amendments

**F119** Words in [Sch. para. 12\(c\)](#) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(10)**

#### Commencement Information

**I17** Sch. para. 12 in force at 31.7.2015, see [reg. 1\(1\)](#)

[<sup>F120</sup>**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.]

#### Textual Amendments

**F120** [Sch. para. 12A](#) inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **50** (with reg. 2)

#### Textual Amendments

**F119** Words in [Sch. para. 12\(c\)](#) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **9(10)**

**F120** [Sch. para. 12A](#) inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **50** (with reg. 2)

#### Commencement Information

**I17** Sch. para. 12 in force at 31.7.2015, see [reg. 1\(1\)](#)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe the qualifying courses and qualifying persons for the purposes of section 5 of the Higher Education (Wales) Act 2015 (“the 2015 Act”) which sets out that fee and

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access plans must specify (or provide for the determination of) fee limits in relation to qualifying courses each academic year.

Fee limits are the maximum amount which a qualifying person will have to pay an institution for undertaking a qualifying course.

Section 5(2)(b) of the 2015 Act enables the Welsh Ministers to prescribe a description of qualifying courses, and section 5(5)(b) enables them to prescribe classes of persons as qualifying persons.

The qualifying courses prescribed by regulation 3 are those courses which are capable of being designated by regulations made under section 22 of the Teaching and Higher Education Act 1998 where the first academic year of the course begins on or after 1 September 2012. Designation under those regulations means that students can apply for student support in respect of undertaking a course. There is an exception for “end-on courses” where the original course began before 1 September 2012.

The qualifying persons prescribed by regulation 4 are those persons who, on the first day of the relevant academic year, fall within the Schedule, save for those persons who are not eligible for support under the Education (Student Support) (Wales) Regulations 2015 by reason of certain paragraphs of regulation 4 of those Regulations, or who already have an honours degree from a UK institution.

There is an exception for those students who transfer to a qualifying course from a course which began before 1 September 2012. There are exceptions in respect of a previous honours degrees for persons undertaking courses of initial teacher training, who have obtained the honours degree only as part of a single course they are currently undertaking or where the course leads to a qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect.

Regulations 5 and 6 make supplementary provision.

Regulation 5 makes clear that the words ‘provided in Wales’ in respect of sections 5 and 17 of the 2015 Act include the preparation in Wales of the materials necessary to deliver a particular course or to provide education, even if students are not required to attend the institution delivering the course or providing the education, for example a distance learning course. Regulation 6 provides that the term “2004 Act plan” in paragraph 29(3) of the Schedule to the 2015 Act includes a proposed plan which HEFCW receives under section 34 of the Higher Education Act 2004 before the 1 August 2015 (the date on which that paragraph comes into force) but which is approved by HEFCW after that date following a review under the regulations 11 to 18 of the Student Fees (Approved Plans) (Wales) Regulations 2011.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Cathays Park, Cardiff, CF10 3NQ.

### Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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### Changes and effects yet to be applied to :

- Sch. para. 9(4) inserted by [S.I. 2019/424 reg. 8\(5\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 9(2) substituted by [S.I. 2019/424 reg. 8\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 11 substituted by [S.I. 2019/424 reg. 8\(7\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(1) word inserted by [S.I. 2019/424 reg. 8\(2\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(4)(b) words inserted by [S.I. 2019/424 reg. 8\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(4)(c) words inserted by [S.I. 2019/424 reg. 8\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(5) words inserted by [S.I. 2019/424 reg. 8\(2\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 3(d) words inserted by [S.I. 2019/424 reg. 8\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 6(1)(c) words inserted by [S.I. 2019/424 reg. 8\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 7(b) words inserted by [S.I. 2019/424 reg. 8\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 8(1)(d) words inserted by [S.I. 2019/424 reg. 8\(4\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 8(1)(e) words inserted by [S.I. 2019/424 reg. 8\(4\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 9(1)(c) words inserted by [S.I. 2019/424 reg. 8\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 10(1)(d) words inserted by [S.I. 2019/424 reg. 8\(6\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 12(c) words inserted by [S.I. 2019/424 reg. 8\(8\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(1) words inserted by [S.I. 2024/810 reg. 9\(a\)\(iii\)](#)
- Sch. para. 1(1) words inserted by [S.I. 2024/810 reg. 9\(a\)\(iv\)](#)

- Sch. para. 1(1) words omitted by [S.I. 2019/424 reg. 8\(2\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 10(1)(a) words omitted by [S.I. 2019/424 reg. 8\(6\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 10(2) words omitted by [S.I. 2019/424 reg. 8\(6\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(3) words substituted by [S.I. 2019/424 reg. 8\(2\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(3) words substituted by [S.I. 2019/424 reg. 8\(2\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(3) words substituted by [S.I. 2019/424 reg. 8\(2\)\(b\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1302, regs. 1(2), 2)
- Sch. para. 1(1) words substituted by [S.I. 2024/810 reg. 9\(a\)\(i\)](#)
- Sch. para. 1(1) words substituted by [S.I. 2024/810 reg. 9\(a\)\(ii\)](#)
- Sch. para. 4B heading words substituted by [S.I. 2024/810 reg. 9\(b\)\(i\)](#)
- Sch. para. 4B(1)(a) words substituted by [S.I. 2024/810 reg. 9\(b\)\(ii\)](#)
- Sch. para. 4B(2)(a) words substituted by [S.I. 2024/810 reg. 9\(b\)\(iii\)](#)
- Sch. para. 4B(2)(b) words substituted by [S.I. 2024/810 reg. 9\(b\)\(iv\)](#)
- Sch. para. 4B(2)(c) words substituted by [S.I. 2024/810 reg. 9\(b\)\(v\)](#)
- Sch. para. 4B(3) words substituted by [S.I. 2024/810 reg. 9\(b\)\(vi\)](#)
- reg. 6 omitted by [S.I. 2024/803 reg. 9\(2\)](#)