
WELSH STATUTORY INSTRUMENTS

2021 No. 9

**The Education (Student Fees, Awards and Support)
(Ordinary Residence) (Wales) Regulations 2021**

PART 5

**AMENDMENTS TO THE EDUCATION (STUDENT
SUPPORT) (WALES) REGULATIONS 2017**

Amendments to the Education (Student Support) (Wales) Regulations 2017

15. The Education (Student Support) (Wales) Regulations 2017(1) are amended in accordance with regulations 16 to 34.

16. In regulation 2(1), in the definition of “person with leave to enter or remain”, in paragraph (a) (i), omit “humanitarian protection or”.

17. After regulation 4(9A) insert—

“(9B) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a person granted humanitarian protection under paragraph 339C of the immigration rules or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was—
 - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course, or other designated course from which A’s status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or
 - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A’s status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
- (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which the person granted humanitarian protection is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002,

(1) S.I. 2017/47 (W. 21), amended by S.I. 2018/191 (W. 42); S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1094; S.I. 2019/1192 (W. 209); S.I. 2020/142 (W. 25); S.I. 2020/153 (W. 27); S.I. 2020/708 (W. 159); and S.I. 2020/1302 (W. 287) (as from IP completion day, as defined by the European Union (Withdrawal Agreement) Act 2020 (c. 1), section 39(1) to (5)).

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.”

18. In regulation 4(11), after “(9A),” insert “(9B),”.

19. For regulation 15(b) substitute—

“(b) the student or the student's spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee, becomes a person granted stateless leave, becomes a person with leave to enter or remain or becomes a person granted humanitarian protection under paragraph 339C of the immigration rules;”.

20. For regulation 23(12)(b) substitute—

“(b) the student or the student's spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee, becomes a person granted stateless leave, becomes a person with leave to enter or remain or becomes a person granted humanitarian protection under paragraph 339C of the immigration rules;”.

21. For regulation 49(2)(b) substitute—

“(b) the student or the student's spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee, becomes a person granted stateless leave, becomes a person with leave to enter or remain or becomes a person granted humanitarian protection under paragraph 339C of the immigration rules;”.

22. After regulation 64(10A) insert—

“(10B) Where—

(a) the Welsh Ministers determined that, by virtue of being a person granted humanitarian protection under paragraph 339C of the immigration rules or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible distance learning student in connection with an application for support for an earlier year of the present distance learning course or an application for support in connection with a designated course, designated part-time course or other designated distance learning course from which A's status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the present distance learning course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person granted humanitarian protection under paragraph 339C of the immigration rules is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002,

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which A is applying for support.”

23. In regulation 64(12), after “(10A),” insert “(10B),”.

24. For regulation 65(4)(b) substitute—

“(b) the student or the student's spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee, becomes a person granted stateless leave, becomes a person with leave to enter or remain or becomes a person granted humanitarian protection under paragraph 339C of the immigration rules;”.

25. After regulation 81(9A) insert—

“(9B) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person granted humanitarian protection under paragraph 339C of the immigration rules or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which A’s status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person granted humanitarian protection is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002,

A’s status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.”

26. In regulation 81(11), after “(9A),” insert “(9B),”.

27. For regulation 82(4)(b) substitute—

- “(b) the student or the student’s spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee, becomes a person granted stateless leave, becomes a person with leave to enter or remain or becomes a person granted humanitarian protection under paragraph 339C of the immigration rules;”.

28. After regulation 110(11A) insert—

“(11B) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person granted humanitarian protection under paragraph 339C of the immigration rules or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which A’s status as an eligible postgraduate student has been transferred to the present postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which the person granted humanitarian protection under paragraph 339C of the immigration rules is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002,

A’s status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.”

29. In regulation 110(13), after “(11A),” insert “(11B),”.

30. For regulation 111(2)(b) substitute—

- “(b) the student or the student’s spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee, becomes a person granted stateless leave, becomes a person with leave to enter or remain or becomes a person granted humanitarian protection under paragraph 339C of the immigration rules;”.

31. In Schedule 1, after paragraph 4 (refugees and their family members) insert—

“Protected persons and their family members

- 4ZA.**—(1) A person—
- (a) granted leave to enter or remain as a protected person;
 - (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the person was granted such leave; and
 - (c) who is ordinarily resident in Wales 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 granted leave to enter or remain as a protected person;
 - (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; and
 - (c) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (3) A person—
- (a) who—
 - (i) is the child of a person granted leave to enter or remain as a protected person, or the child of the spouse or civil partner of a person granted leave to enter or remain as a protected person; and
 - (ii) on the leave application date, was the child of a person granted leave to enter or remain as a protected person or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person;
 - (b) who was under 18 on the leave application date; and
 - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.
- (4) In this paragraph—
- (a) “leave application date” means the date on which a person made an application for leave to enter or remain in the United Kingdom that results in a person becoming a person granted leave to enter or remain as a protected person;
 - (b) “person being granted leave to enter or remain as a protected person” means a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules.”

32. In Schedule 1, in paragraph 4A (persons granted stateless leave and their family members)—

- (a) for sub-paragraph (1) substitute—

“(1) A person granted stateless leave who is ordinarily resident in Wales on the first day of the first academic year of the course.”;
- (b) at the end of sub-paragraph (2)(a)(ii) insert “and”;
- (c) at the end of sub-paragraph (2)(b) for “; and” substitute a full stop;
- (d) omit sub-paragraph (2)(c);
- (e) at the end of sub-paragraph (3)(b) insert “and”;
- (f) at the end of sub-paragraph (3)(c) for “; and” substitute a full stop;
- (g) omit sub-paragraph (3)(d).

- 33.** In Schedule 1, in paragraph 5A (persons with section 67 leave to remain)—
- (a) at the end of sub-paragraph (1)(a) insert “and”;
 - (b) at the end of sub-paragraph (1)(b) for “; and” substitute a full stop;
 - (c) omit sub-paragraph (1)(c);
 - (d) at the end of sub-paragraph (2)(b) insert “and”;
 - (e) at the end of sub-paragraph (2)(c) for “; and” substitute a full stop;
 - (f) omit sub-paragraph (2)(d).
- 34.** In Schedule 4, for paragraph 6(a) substitute—
- “(a) the student or the student’s spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee, becomes a person granted stateless leave, becomes a person with leave to enter or remain or becomes a person granted humanitarian protection under paragraph 339C of the immigration rules;”.