

EXPLANATORY MEMORANDUM TO

THE FURTHER EDUCATION (STUDENT SUPPORT) (AMENDMENT ETC) (EU EXIT) REGULATIONS (NORTHERN IRELAND) 2020

2020 No. 296

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for the Economy (“the Department”) to accompany The Further Education (Student Support) (Amendment etc) (EU Exit) Regulations (Northern Ireland) 2020 which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 3 (1) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998.

2. Purpose

- 2.1 This Statutory Rule contains amendments to the principle further education student support Regulations - The Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012. It continues the status quo for students taking designated further education courses after the conclusion of the implementation period (IP).

3. Background

- 3.1 The Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012 contain eligibility criteria, pursuant to which certain groups are eligible for student finance support. These groups include EU nationals, UK nationals who have exercised free movement rights to reside elsewhere in the European Economic Area (“EEA”) or Switzerland, and EEA and Swiss migrant workers and their family members. Subject to meeting the relevant residency requirements, these groups are eligible for student finance support and ‘home fee status’ – which means they must be charged the same tuition fees as domestic students.
- 3.2 From IP completion day, the UK will no longer be treated as an EU Member State nor part of the EEA for the purposes of these regulations, and UK nationals will no longer be EU nationals.
- 3.3 Technical amendments are therefore required to be made to student finance support regulations for students in further education. First, to ensure that the current eligibility rules continue to apply on and after IP

completion day, until the end of the 2020/21 academic year when substantive changes to the eligibility of EU nationals and others are introduced. Second, to reflect the fact that from IP completion day the UK will no longer be treated as a member of the EU.

3.4 These Regulations:

- I. update references to the EEA to include the UK and Gibraltar, as appropriate, to reflect the UK's status after IP completion day, and so that these references continue to operate as they do now on and after IP completion day;
- II. amend the eligibility category relating to EU nationals and their family members to ensure that students, such as UK Nationals resident in Gibraltar, who may have relied on this category before the end of the Implementation Period, can continue to access home fee status and student support on the same basis on and after IP completion day;
- III. update references to "Member State" and "EEA State" to reflect the status of the UK on and after IP completion day, so that these references continue to operate appropriately after 31 December 2020; and
- IV. amend the eligibility category relating to students who are settled in the UK and have previously exercised a 'right of residence' in the EEA or Switzerland to reflect the fact that the Directive will no longer apply to the UK. This category will continue to apply to those who exercised this right before IP completion day.

4. Consultation

- 4.1 There is no statutory requirement to consult on these Regulations as they do not give effect to policy changes but facilitate policy implementation.

5. Equality Impact Assessment

- 5.1 A Section 75 Equality of Opportunity Screening exercise has been carried out and it is our view that the proposals will not have an adverse impact on any of the Section 75 categories.

6. Regulatory Impact Assessment

- 6.1 A Regulatory Impact Assessment has not been prepared for this rule as it has no adverse impact on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 Not applicable.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Departmental Solicitor's Office has confirmed that the making of this rule complies with Section 24 of the NI Act.

9. EU Implications

9.1 These technical changes ensure the students eligible before the end of the Implementation Period remain eligible after that date.

10. Parity or Replicatory Measures

10.1 Similar technical amendments have been made in England. The corresponding English Statutory Instrument, The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020, was laid before Parliament on 29 October 2020.

11. Contact

11.1 Shauna Mullan at the Department for the Economy, Tel: 028 90 257437 or email: shauna.mullan@economy-ni.gov.uk can answer any queries regarding this Rule.