
STATUTORY RULES OF NORTHERN IRELAND

2021 No. 202

**The Further Education (Student Support)
(Eligibility) (Amendment etc.) (EU Exit)
Regulations (Northern Ireland) 2021**

Amendment of the Schedule

4.—(1) The Schedule is amended as follows—

(2) In paragraph 1 (interpretation) —

(a) in sub-paragraph (1)—

(i) omit the definitions of “EEA EFTA separation agreement” and “right of permanent residence”;

(ii) before the definition of “Directive 2004/38”, insert—

““the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;

(iii) in the definition of “family member”—

(aa) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person, or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 5A(3)”;

(bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 6A, 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”;

(cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 6A, 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”;

(dd) in paragraph (e), for “paragraph 7” substitute “, paragraphs 6, 6B, 6C and 6D”;

(iv) after the definition of “family member”, insert—

““grace period” has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;

(v) after the definition of “Islands” insert—

““person granted Calais leave” means a person who—

(a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the

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immigration rules, as defined in section 33(1) of the Immigration Act 1971; and

- (b) has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave;

“person granted humanitarian protection” means a person—

- (a) who, on the grounds of humanitarian protection, has been granted leave to remain under the immigration rules as defined in section 33(1) of the Immigration Act 1971;
- (b) whose leave to remain is extant, or in respect of whose leave to remain an appeal is pending (within section 104 of the Nationality, Immigration and Asylum Act 2002)(1);
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave to remain;

“person granted indefinite leave to remain as a bereaved partner” means a person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
- (i) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved partners),
- (ii) paragraph 295N, as a person in relation to whom the requirements in paragraph 295M of those rules are met (bereaved partners),
- (iii) paragraph D-BPILR.1.1 of Appendix FM (bereaved partners), or
- (iv) paragraph 36 of Appendix Armed Forces (bereaved partner of a member of HM Forces), and
- (b) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave;

“person granted indefinite leave to remain as a victim of domestic violence or domestic abuse” means a person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
- (i) paragraph 289B (victims of domestic violence);
- (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse); or
- (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces); and
- (b) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave;

“person granted section 67 leave” means a person who—

- (a) has extant leave to remain as a person granted leave under paragraph 352ZG of the immigration rules(2), having been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under

(1) Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19), section 26 and Schedule 2 and the Immigration, Asylum and Nationality Act 2006 (c.13), section 9.

(2) The immigration rules are made under section 3(2) of the Immigration Act 1971 (c.77).

section 67 of the Immigration Act 2016 or a dependent child of such a person who has been granted “leave in line” under paragraph 352ZO of those rules; and

- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;

“person granted stateless leave” means a person who—

- (a) has extant leave to remain as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971); and

- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;

- (vi) for the definition of “person with leave to enter or remain” substitute—

““person with leave to enter or remain on the grounds of discretionary leave” means a person (“P”)—

- (a) 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 refugee it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, or

- (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,

- (b) who has been granted leave to enter or to remain accordingly,

- (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 United Kingdom and Islands throughout the period since P was granted leave to enter or remain;”;

- (vii) after the newly amended definition of “person with leave to enter or remain on the grounds of discretionary leave” insert—

““person with protected rights” means—

- (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;

- (iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended; or

- (iv) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations where the relevant period has not expired; 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;";
- (viii) after the definition of "refugee", insert—
 - ““relevant period” has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;
 - “relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;”;
- (ix) after the definition of "Turkish worker", insert—
 - ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”.
- (3) After sub-paragraph (1), insert—
 - “(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.
 - (1B) 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 (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020) ; or
 - (c) Article 10 (personal scope) of the Swiss citizens' rights agreement.”.
- (3) After sub-paragraph (2) insert—
 - “(2A) For the purposes of this Schedule, a person is not to be treated as ordinarily resident in a place unless that person lawfully resides in that place.”.
- (4) In sub-paragraph (4) after “the territory comprising” where it occurs for the second time insert “the United Kingdom, Gibraltar,”.