
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Support) Regulations 2011 ([S.I. 2011/1986](#)) (“the Student Support Regulations”), the Education (Fees and Awards) (England) Regulations 2007 ([S.I. 2007/779](#)), the Education (Student Support) (European University Institute) Regulations 2010 ([S.I. 2010/447](#)), the Further Education Loans Regulations 2012 ([S.I. 2012/1818](#)), the Education (Postgraduate Master’s Degree Loans) Regulations 2016 ([S.I. 2016/606](#)), the Higher Education (Fee Limit Condition) (England) Regulations 2017 ([S.I. 2017/1189](#)) and the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 ([S.I. 2018/599](#)).

Regulation 2 revokes the Education (Student Fees, Awards and Support) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/ 139) which were prepared for a “no-deal” EU Exit and do not reflect amendments required to implement the EU withdrawal agreement, EEA EFTA separation agreement and the Swiss citizens’ rights agreement.

The principal amendments which these Regulations make to the Student Support Regulations ensure that references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 4 omits the definition of “right of permanent residence”, from regulation 2 of the Student Support Regulations. The term will instead be defined in Schedule 1 (see regulation 11(2)(a)(ii)).

Regulations 6, 12 and 13 amend references to “Member State” in provisions relating to the calculation of students’ income, to ensure that these references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 11 amends definitions and references relating to the European Economic Area and the European Union which are used in Schedule 1 to the Student Support Regulations, to ensure that these definitions and references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 11(2)(a)(ii) inserts a new definition of “right of permanent residence” to reflect the fact that on and after IP completion day [Directive 2004/38/EC](#) (the “Directive”) will no longer have force in the UK and is replaced by rights under the EU withdrawal agreement, EEA EFTA separation agreement or Swiss citizens’ rights agreement, as implemented by the residence scheme immigration rules (as defined in section 17(1) of the European Union (Withdrawal Agreement) Act 2020).

Regulation 11(3)(a) amends paragraph 3 of Schedule 1. Students who have acquired the right of permanent residence under Article 15 of the EU withdrawal agreement or Article 14 of the EEA EFTA separation agreement or the Swiss citizens’ rights agreement but have not obtained settled status under the residence scheme immigration rules, must be treated as if they have acquired the right of permanent residence if they meet the requirements in Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement. This amendment ensures that those students are eligible for student support on the same basis as if they had right of permanent residence.

Regulation 11(3)(c) amends paragraph 7 of Schedule 1, which confers eligibility on the children of EEA workers. This regulation adds a new sub-paragraph (2) to paragraph 7, which provides that any description of person who would have been eligible under that paragraph immediately before IP completion day is to be eligible on and after IP completion day. Regulation 11(3)(e)(ii) makes similar provision in relation to EU nationals and their family members, who, after IP completion day,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

may no longer fall within paragraph 9 of Part 2 of Schedule 1, and regulation 11(3)(h)(iii) makes similar provision in relation to children of Swiss nationals who, after IP completion day, may no longer fall within paragraph 11 of that Schedule.

Regulation 11(3)(d) amends paragraph 8 of Schedule 1. This paragraph covers students who have previously exercised free movement rights under the Directive, which ceases to have effect on IP completion day.

Regulations 5 and 8 are consequential on regulation 11(3)(b)(ii) and amend regulations 17 and 138 of the Student Support Regulations. Regulations 17 and 138 stipulate that a student who becomes a family member of an EU national during the course of an academic year may qualify for support in respect of that academic year. The amendments made by regulations 5 and 8 extend this position to a student who becomes a family member of a person who is eligible by virtue of the new provision in paragraph 9(4) of Part 2 of Schedule 1. This does not apply if the person in respect of whom the student is a family member is themselves only eligible as a family member. Regulations 5 and 7-10 amend regulations 17, 85, 138, 138A and 160 of the Student Support Regulations, where they currently refer to a person acquiring the right of permanent residence so that they will instead refer to a student becoming a person described in paragraph 3(1)(a) of Schedule 1 to reflect the amendment made in regulation 11(3)(a)(i).

Regulations 14, 15 and 16 make similar amendments to the Education (Fees and Awards) (England) Regulations 2007.

Regulations 17, 18 and 19 make similar amendments to the Education (Student Support) (European University Institute) Regulations 2010.

Regulations 20, 21, 22 and 23 make similar amendments to the Further Education Loans Regulations 2012.

Regulations 24, 25, 26 and 27 make similar amendments to the Education (Postgraduate Master's Degree Loans) Regulations 2016.

Regulations 28, 29, and 30 make similar amendments to the Higher Education (Fee Limit Condition) (England) Regulations 2017.

Regulations 31, 32, 33, and 34 make similar amendments to the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018.

An impact assessment has not been produced for this instrument as it has no impact, or no significant impact, on the costs of business, charities or the voluntary sector.