
STATUTORY INSTRUMENTS

2020 No. 1181

**The Education (Student Fees, Awards and Support)
(Amendment etc.) (EU Exit) Regulations 2020**

Amendment of the Schedule

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

(2) In Part 1 (interpretation)—

(a) in paragraph 1 (interpretation: general)—

(i) in sub-paragraph (1)(1)—

(aa) at the appropriate place, insert the following definitions—

““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;

“residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;

“Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

(bb) omit “other than the United Kingdom” each time it occurs;

(cc) in the definition of “overseas territories”, after “French Southern and Antarctic Territories;”, insert “Gibraltar;”;

(dd) for the definition of “right of permanent residence”, substitute—

““right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;”;

(ii) in sub-paragraph (2), after “an area”, insert “other than the United Kingdom or Gibraltar”;

(b) in paragraph 2 (interpretation: ordinarily resident)—

(i) in sub-paragraph (2)—

(aa) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;

- (bb) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
 - (cc) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;
 - (ii) in sub-paragraph (5)(2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs.
- (3) In Part 2 (qualifying persons)—
- (a) in paragraph 4 (persons who are settled in the United Kingdom)—
 - (i) for sub-paragraph (a), substitute—
 - “(a) meets one of the following conditions—
 - (i) the person is settled in the United Kingdom by reason of having acquired the right of permanent residence on the first day of an academic year of the course; or
 - (ii) the person falls within 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, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;
 - (ii) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom,”;
 - (b) in paragraph 7(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising”, insert “the United Kingdom,”;
 - (c) in paragraph 8 (workers, employed persons, self-employed persons and their family members)—
 - (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
 - (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
 - (iii) after sub-paragraph (1)(c) as so renumbered, insert—
 - “(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”;
 - (d) in paragraph 9 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (i) in sub-paragraph (1)—
 - (aa) in paragraph (b), after “right of residence”, insert “before IP completion day”;

- (bb) in paragraph (d), after “the territory comprising”, insert “the United Kingdom,”;
- (cc) in paragraph (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (ii) in sub-paragraph (2)—
 - (aa) for “has a right”, substitute “had the right” each time it occurs;
 - (bb) for “goes”, substitute “has gone”;
- (iii) after sub-paragraph (2), insert—

“(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.”;
- (e) in paragraph 10(3) (EU nationals)—
 - (i) in sub-paragraph (1)(c), after “the territory comprising”, insert “the United Kingdom,”;
 - (ii) for sub-paragraph (2), substitute—

“(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.”;
 - (iii) after sub-paragraph (3), insert—

“(4) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”;
- (f) in paragraph 11 (EU nationals)—
 - (i) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;
 - (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”;
- (g) in paragraph 12 (children of Swiss nationals)—
 - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (ii) in sub-paragraph (1)(c) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
 - (iii) in sub-paragraph (1)(d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iv) after sub-paragraph (1)(d) as so renumbered, insert—

(3) Paragraph 10(3) was amended by [S.I. 2018/903](#).

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“(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”;

- (h) in paragraph 13(1)(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom,”.