

---

WELSH STATUTORY INSTRUMENTS

---

**2021 No. 1294**

**The Education (European University Institute)  
(Wales) (Amendment) (EU Exit) Regulations 2021**

**Amendment of the Education (European University Institute) (Wales) Regulations 2014**

**11.**—(1) Schedule 1 (eligible students) is amended as follows:

(2) In paragraph 1 (interpretation)—

(a) in sub-paragraph (1)—

(i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;

(ii) 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 6A(3)”;

(bb) in paragraph (c), after “Directive 2004/38”(1) insert “or, for the purposes of paragraph 9A, 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 9A, 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 9” substitute “paragraphs 9, 9B, 9C and 9D”;

(iii) for the definition of “United Kingdom national” substitute—

““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”

(b) after sub-paragraph (5) insert—

“(5A) 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.”;

(c) in sub-paragraph (7) after “Islands” insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(d) in sub-paragraph (8)—

(i) after “United Kingdom” the first time it appears, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after paragraph (a) insert—

“(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, the Islands and the Republic of Ireland as members of such forces;”.

(3) In paragraph 2(1) (persons settled in the United Kingdom), for paragraph (a) substitute—  
“(a) is settled in the United Kingdom on the relevant date and does not fall within paragraph 3;”.

(4) After paragraph 2 insert—

“2A.—(1) A person—

- (a) who is settled in the United Kingdom on the relevant date and does not fall within paragraph 3;
- (b) who is ordinarily resident in Wales on the relevant date;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland and throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(7).”

(5) In paragraph 3—

(a) number the existing text as sub-paragraph (1);

(b) for sub-paragraph (1)(a) as so numbered substitute—

“(a) meets one of the following conditions on the relevant date—

(i) the person is within the personal scope of the citizens’ rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;

(ii) the person—

(aa) is within the personal scope of the citizens’ rights provisions;

(bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and

(cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;

(iii) the person—

(aa) is within the personal scope of the citizens’ rights provisions;

(bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations; and

(iv) the person—

(aa) is within the personal scope of the citizens’ rights provisions;

- (bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations or otherwise has rights deemed to apply by virtue of any of the citizens' rights provisions specified in paragraph (3); and
  - (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period or otherwise has a deemed right of permanent residence by virtue of any of the citizens' rights provisions specified in paragraph (3); or
  - (v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;";
- (c) after sub-paragraph (1) insert—
- “(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for in definite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).
- (3) For the purposes of sub-paragraph (1)(a)(iv), the citizens' rights provisions referred to are—
- (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
  - (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
  - (c) Article 16(3) (issuance of residence documents) of the Swiss citizens' rights agreement.”
- (6) for paragraph 4ZA (protected persons and their family members), substitute—

**“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 being 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 a protected spouse or civil partner;
- (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 (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);

- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
  - (d) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (3) A person who—
- (a) is a protected child;
  - (b) on the leave application date was—
    - (i) under 18 years old; and
    - (ii) the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016<sup>(2)</sup> and the immigration rules, as the case may be);
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
  - (d) 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 (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person;
  - (b) “person granted leave to enter or remain as a protected person” means—
    - (i) a person granted leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
    - (ii) a person granted stateless leave;
    - (iii) a person with section 67 leave to remain; or
    - (iv) a person with Calais leave;
  - (c) “protected child” means—
    - (i) a child of—
      - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
      - (ab) a person granted stateless leave; or
      - (ac) a person with section 67 leave to remain;
    - (ii) a child of the spouse or civil partner of—
      - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
      - (ab) a person granted stateless leave;
  - (d) “protected spouse or civil partner” means a spouse or civil partner of—
    - (i) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
    - (ii) a person granted stateless leave.”

(7) After paragraph 4ZA (protected persons and their family members) insert—

**“Persons granted leave to remain as a protected partner and their children**

**4ZB.**—(1) A person—

- (a) granted leave to remain as a protected partner;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being 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 child of a person granted leave to remain as a protected partner;
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.”

(8) In Schedule 1, omit—

- (a) paragraph 4A (persons granted stateless leave and their family members); and
- (b) paragraph 5A (persons with section 67 leave to remain).

(9) After paragraph 6 (workers, employed persons, self-employed persons and their family members) insert—

**“6A.**—(1) A person with protected rights, or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020(3), who—

- (a) on the relevant date, is
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person;or
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the relevant date; and
- (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

(10) After paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere) insert—

“**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day;
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising Gibraltar, the European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, the European Economic Area and Switzerland and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the relevant date;
- (d) is ordinarily resident in Wales on the relevant date;
- (e) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”

(11) In the heading of paragraph 9 (EU nationals), at the end insert “etc.”.

(12) After paragraph 9 insert—

**9A.**—(1) A person with protected rights—

- (a) who on the relevant date is—
  - (i) an EU national;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is ordinarily resident in Wales on the relevant date;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(7).

#### **United Kingdom nationals**

**9B.**—(1) A person—

- (a) who on the relevant date is—
  - (i) a United Kingdom national; or
  - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland, and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the relevant date;
- (c) who is ordinarily resident in Wales on the relevant date;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(7).

(3) Where a person (“P”) falls within sub-paragraph (1)(a)(ii), the person in relation to whom P is a family member must also meet the requirements of sub-paragraph (1)(b) and (d).

**9BA.**—(1) A person—

- (a) who on the relevant date is an Irish citizen;
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area and Switzerland, or
  - (ii) in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland,

and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the relevant date;

- (c) who is ordinarily resident in Wales on the relevant date;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(7).

**9C.—**(1) A person—

- (a) who on the relevant date is a family member of a person who is a United Kingdom national;
- (b) who is ordinarily resident in Wales on the relevant date;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(7).

### **Persons resident in Gibraltar**

**9D.—**(1) A person—

- (a) who on the relevant date is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
  - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
  - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
  - (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is ordinarily resident in Wales on the relevant date;



- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(7).”

- (13) Before paragraph 10 insert the heading—

*“EU nationals ordinarily resident in the United Kingdom and Islands”.*

- (14) After paragraph 10 insert—

- “10A.** A person with protected rights who—
- (a) on the relevant date is an EU national;
  - (b) is ordinarily resident in Wales on the relevant date;
  - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the relevant date; and
  - (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”

- (15) After paragraph 11 (children of Swiss nationals) insert—

- “11A.** A person with protected rights who—
- (a) on the relevant date is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement;
  - (b) is ordinarily resident in Wales on the relevant date;
  - (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
  - (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”

- (16) After paragraph 12 (children of Turkish workers) insert—

- “12A.** A person who—
- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
  - (b) immediately before IP completion day—
    - (i) was the child of T; and
    - (ii) was ordinarily resident in the United Kingdom;

---

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

---

- (c) is ordinarily resident in Wales on the relevant date; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.”