
WELSH STATUTORY INSTRUMENTS

2021 No. 1365

The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021

PART 8

**AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT)
(POSTGRADUATE MASTER'S DEGREES) (WALES) REGULATIONS 2019**

CHAPTER 1

Introduction

49. The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019(1) are amended in accordance with this Part.

CHAPTER 2

Citizens' rights and residency criteria

Amendment to regulation 12

50. In regulation 12A(a)(i), for "paragraph (a)(iii) or (iv)" substitute "paragraph (1)(a)(iii), (iv) or (v)".

Amendments to Schedule 1

51. In Schedule 1, paragraph 3(1), in the definition of "person with protected rights"—

- (a) the existing text after "means—" is numbered as paragraph (1) of that definition;
- (b) in that paragraph as so numbered, omit the terminal "or" at the end of paragraph (a)(iii), and after paragraph (a)(iv), insert—

“(v) otherwise has rights deemed to apply by virtue of any citizens' rights deeming provisions, or”;

- (c) after that paragraph as so numbered, insert—

“(2) In sub-paragraph (1)(a)(v) “citizens' rights deeming provisions” means—

- (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement,
- (b) Article 17(2) and (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

(1) S.I. 2019/895 (W. 161), amended by S.I. 2019/1039 (W. 182); S.I. 2019/1192 (W. 209); S.I. 2020/142 (W. 25); S.I. 2020/153 (W. 27); S.I. 2020/918 (W. 206); S.I. 2020/1302 (W. 287); S.I. 2021/9 (W. 4); S.I. 2021/73 (W. 19); S.I. 2021/481 (W. 148) and S.I. 2021/813 (W. 192).

- (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement.”

Amendments to Schedule 2

52. In Schedule 2—

- (a) in paragraph 1—
- (i) in sub-paragraph (2)(a)(iv)—
- (aa) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (5)”;
- (bb) in paragraph (cc) after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in sub-paragraph (5)”;
- (ii) in sub-paragraph (3)—
- (aa) in paragraph (a), for “on the first day of the first academic year of the course” substitute “on the day on which the first term of the first academic year actually begins”;
- (bb) in paragraph (c), after “course” insert “and who has been ordinarily resident in the Republic of Ireland for at least part of that period”, and move the terminal “and” to the end of sub-paragraph (1)(d);
- (cc) after paragraph (d) insert—
- “(e) who did not move to Wales from the Islands for the purpose of undertaking the designated course, or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.”
- (iii) after sub-paragraph (4) insert—
- “(5) For the purposes of sub-paragraph (2)(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.”

53. In paragraph 8C, move the terminal “and” at the end of sub-paragraph (c) to the end of sub-paragraph (d), and after that sub-paragraph insert—

- “(e) who did not move to Wales from the Islands for the purpose of undertaking the designated course, or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.”

CHAPTER 3

Eligibility of Irish citizens in the EEA and Switzerland

Amendments to regulations 9 and 10

54. In regulation 9(1)(a)(i), after “8B,” insert “8BA,”.
55. In regulation 10(1), in exception 12 after “8B” insert “, 8BA”.

Amendments to Schedule 2

56. In Schedule 2, after paragraph 8B insert—

“Irish citizens in the EEA and Switzerland

8BA.—(1) A person—

- (a) who is an Irish citizen on the first day of the first academic year of the course,
- (b) who was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the EEA 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 EEA and Switzerland,and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course,
- (c) who is undertaking a designated course in Wales,
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA 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 EEA and Switzerland in accordance with paragraph 1(5).”