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WELSH STATUTORY INSTRUMENTS

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**2021 No. 481**

**The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021**

**PART 3**

**AMENDMENTS TO THE HIGHER EDUCATION  
(QUALIFYING COURSES, QUALIFYING PERSONS AND  
SUPPLEMENTARY PROVISION) (WALES) REGULATIONS 2015**

**Amendments to the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015**

32.—(1) In the Schedule, paragraph 1 is amended as follows.

(2) In sub-paragraph (1)—

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

(i) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person, 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)”;

(ii) in paragraph (c), 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)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;

(iii) 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”;

(iv) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9B, 9C, 9D and 9E”;

(b) omit the definition of “person granted stateless leave”;

(c) in the definition of “person with leave to enter or remain”, in paragraph (a)(i), omit “humanitarian protection or”;

(d) omit the definition of “person with section 67 leave to remain”;

(e) omit the definition of “right of permanent residence”;

(f) at the appropriate place insert—

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

““person granted leave to enter or remain as a protected person” (*person y rhoddwyd caniatâd iddo ddod i mewn neu aros fel person a ddiogelir*)” means a person who has—

- (a) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
- (b) extant leave to remain as a stateless person under the immigration rules;
- (c) extant leave to remain in the United Kingdom under section 67 of the Immigration Act 2016 and in accordance with the immigration rules; or
- (d) extant leave to remain under paragraphs 352J, 352K, 352L or 352T of the immigration rules (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave);”;

““person granted leave to remain as a protected partner” (*“person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir”*) means a person with extant leave to remain in the United Kingdom as either a victim of domestic violence or domestic abuse or as a bereaved partner under any of the following provisions of the immigration rules—

- (a) paragraphs 289B and 289D (victims of domestic violence);
- (b) paragraphs D-DVILR.1.1. and D-DVILR.1.2. of Appendix FM (victims of domestic abuse);
- (c) paragraphs 40 and 41 of Appendix Armed Forces (victims of domestic violence who are partners of members of armed forces);
- (d) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of the immigration rules are met (bereaved spouses or civil partners);
- (e) paragraphs D-BPILR.1.1. and D-BPILR.1.2. of Appendix FM (bereaved partners);
- (f) paragraphs 36 and 37 of Appendix Armed Forces (bereaved partners); or
- (g) paragraph 295N, as a person in relation to whom the requirements in paragraph 295M of the immigration rules are met (bereaved unmarried or same sex partners);”;

““person with protected rights” (*“person sydd â hawliau gwarchoddedig”*) 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; or
  - (iii) 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;”;

““protected child” (*“plentyn a ddiogelir”*) means—

- (a) a child of a person who has—
  - (i) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
  - (ii) extant leave to remain as a stateless person under the immigration rules; or

- (iii) extant leave to remain in the United Kingdom under section 67 of the Immigration Act 2016 and in accordance with the immigration rules;
- (b) a child of the spouse of a civil partner of a person who has—
  - (i) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
  - (ii) extant leave to remain as a stateless person under the immigration rules;”;
- ““protected spouse or civil partner” (“*priod neu bartner sifil a ddiogelir*”) means a spouse or civil partner of a person who has—
  - (a) extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
  - (b) extant leave to remain as a stateless person under the immigration rules;”;
- ““relevant period” (“*cyfnod perthnasol*”) has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;”;
- ““relevant person of Northern Ireland” (“*person perthnasol o Ogledd Iwerddon*”) has the meaning given by residence scheme immigration rules;”;
- ““specified British overseas territories” (“*tiriogaethau tramor Prydeinig penodedig*”) means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan da Cunha); and Turks and Caicos Islands;”;
- ““United Kingdom national” (“*gwladolyn o’r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- ““the Workers Regulation” (“*y Rheoliad Gweithwyr*”) means [Regulation \(EU\) No. 492/2011](#) of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union;”.
- (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.”
- (4) In sub-paragraph (3)—
  - (a) after “Islands” insert “, in the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
  - (b) after “overseas territories”, in the first place it occurs, insert “, in the territory comprising the United Kingdom, the Islands and the specified British overseas territories”.
- (5) In sub-paragraph (4), after paragraph (a) insert—

“(aa) in the case of members of the regular naval, military or air 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;”.
- (6) After sub-paragraph (6) insert—

“(7) 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; or
  - (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”