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WELSH STATUTORY INSTRUMENTS

2022 No. 49 (W. 18)

EDUCATION, WALES

**The Education (Eligibility for Student Support)
(Amendment) (Wales) Regulations 2022**

<i>Made</i>	- - - -	<i>17 January 2022</i>
<i>Laid before Senedd Cymru</i>		<i>19 January 2022</i>
<i>Coming into force</i>	- -	<i>11 February 2022</i>

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State under sections 22(1)(a), 22(2)(a) and 42(6) of the Teaching and Higher Education Act 1998(1), and now exercisable by them(2), make the following Regulations:

Title, commencement and application

1. The title of these Regulations is the Education (Eligibility for Student Support) (Amendment) (Wales) Regulations 2022.
2. These Regulations come into force on 11 February 2022.
3. Regulations 4 to 6 apply in relation to the provision of support to a student in relation to an academic year which begins on or after 1 September 2022, whether or not anything done under these Regulations is done before, on or after that date.

(1) 1998 c. 30; section 22(1) and section 22(2)(a) were amended by the Higher Education and Research Act 2017 (c. 29), section 86(3)(a). See section 43(1) of the Teaching and Higher Education Act 1998 for the definitions of “prescribed” and “regulations”.

(2) The functions of the Secretary of State in section 22(1)(a) and section 42(6) of the Teaching and Higher Education Act 1998 were transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, article 2 and Schedule 1 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). Section 44 of the Higher Education Act 2004 provided that the functions in section 22(2)(a) of the Teaching and Higher Education Act 2004 were to be exercised by the National Assembly for Wales concurrently with the Secretary of State, so far as they relate to making provision in relation to Wales.

Amendments to the Education (European University Institute) (Wales) Regulations 2014

4. The Education (European University Institute) (Wales) Regulations 2014(3) are amended in accordance with regulations 5 and 6.

5. In regulation 3, in the definition of “person granted leave to remain as a protected partner” in paragraph (a) of that definition for “paragraph 289B” substitute “paragraphs 289B and 289D”.

6. In Schedule 1, for paragraph 9B substitute—

“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).”

Amendment to the Education (Student Support) (Wales) Regulations 2018

7. The Education (Student Support) (Wales) Regulations 2018(4) are amended in accordance with regulation 8.

8. In exception 2 in each of regulations 44(1), 54, 62(2) and 69(2), after “6A(1),” insert “6BA,”.

(3) S.I. 2014/3037 (W. 303), amended by S.I. 2016/211 (W. 84), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54), S.I. 2019/1192 (W. 209), S.I. 2020/1302 (W. 287), S.I. 2021/9 (W. 4) and S.I. 2021/1294 (W. 328).

(4) S.I. 2018/191 (W. 42), amended by S.I. 2018/813 (W. 164); S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1094; S.I. 2019/1192 (W. 209); S.I. 2020/142 (W. 25); S.I. 2020/153 (W. 27); S.I. 2020/708 (W. 159); S.I. 2020/1302 (W. 287); S.I. 2021/9 (W. 4); S.I. 2021/73 (W. 19); S.I. 2021/481 (W. 148); S.I. 2021/813 (W. 192) and S.I. 2021/1365 (W. 360).

17 January 2022

Jeremy Miles
Minister for Education and Welsh Language, one
of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (European University Institute) (Wales) Regulations 2014 (“the 2014 Regulations”) and the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”).

The amendments made by these Regulations correct errors in the 2014 Regulations and make further provision in the 2018 Regulations about the eligibility of certain Irish citizens to receive student support.

The Welsh Ministers’ Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.