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WELSH STATUTORY INSTRUMENTS

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**2023 No. 633 (W. 97)**

**EDUCATION, WALES**

**The Education (Student Finance) (Miscellaneous  
Amendments) (No. 2) (Wales) Regulations 2023**

<i>Made</i>	- - - -	<i>12 June 2023</i>
<i>Laid before Senedd Cymru</i>		<i>14 June 2023</i>
<i>Coming into force</i>	- -	<i>6 July 2023</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon the Secretary of State by sections 1 and 2 of the Education (Fees and Awards) Act 1983<sup>(1)</sup> and sections 22(1)(a), 22(2)(a) and 42(6) of the Teaching and Higher Education Act 1998<sup>(2)</sup>, and now exercisable by them<sup>(3)</sup> and powers conferred on them under sections 5(5)(b) and 55(2) of the Higher Education (Wales) Act 2015<sup>(4)</sup>.

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- (1) 1983 c. 40; section 1 was amended by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91; the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 19; the Education Act 1994 (c. 30), Schedule 2, paragraph 7; the Education Act 1996 (c. 56), Schedule 37, paragraph 57; the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraphs 1 and 11; the Education Act 2002 (c. 32), Schedule 21, paragraph 5 and Schedule 22; the Education Act 2005 (c. 18), Schedule 14, paragraph 9; S.I. 2005/3238 (W. 243), Schedule 1, paragraph 9; S.I. 2010/1080, Schedule 1, paragraph 12; S.I. 2010/1158, Schedule 2, paragraph 1; the Education Act 2011 (c. 21), Schedule 5, paragraph 5 and Schedule 16, paragraph 5; and the Deregulation Act 2015 (c. 20), Schedule 14, paragraph 33. Section 2 was amended by the Teaching and Higher Education Act 1998 (c. 30), section 44 and Schedule 4.
- (2) 1998 c. 30; section 22(1) was amended by the Learning and Skills Act 2000 (c. 21), section 146. See section 43(1) of the Teaching and Higher Education Act 1998 for the definitions of “prescribed” and “regulations”.
- (3) The functions of the Secretary of State in section 1 of the Education (Fees and Awards) Act 1983 were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by the National Assembly for Wales (Transfer of Functions) Order 2006, article 2(a) (S.I. 2006/1458) with effect from 8 June 2006. The functions of the Secretary of State in section 2 of that Act were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, article 2 and Schedule 1 (S.I. 1999/672) with effect from 1 July 1999. The function of the Secretary of State in section 22(1) of the Teaching and Higher Education Act 1998 was transferred to the National Assembly for Wales, so far as it relates to making provision in relation to Wales, by section 44 of the Higher Education Act 2004. Section 44(2)(a) of the Higher Education Act 2004 also provided that the functions in section 22(2)(a) of the Teaching and Higher Education Act 1998 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. The Secretary of State’s function in section 42(6) of the Teaching and Higher Education Act 1998, in so far as being exercisable in relation to Wales, was transferred 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 and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (4) 2015 anaw 1. See section 57(1) for the definitions of “prescribed” and “regulations”.

## PART 1

### Title and coming into force

#### Title and coming into force

1.—(1) The title of these Regulations is the Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023.

(2) These Regulations come into force on 6 July 2023.

## PART 2

### Amendments to the Education (Fees and Awards) (Wales) Regulations 2007

#### CHAPTER 1

##### Introduction

2. The Education (Fees and Awards) (Wales) Regulations 2007<sup>(5)</sup> are amended in accordance with this Part.

#### CHAPTER 2

Amendments to the definitions of “overseas territories” and “specified British overseas territories”

3. In regulation 2(1)—

(a) in the definition of “overseas territories”—

(i) omit “British Virgin Islands;”;

(ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;

(iii) after “Turks and Caicos Islands” insert “; Virgin Islands;”;

(b) in the definition of “specified British overseas territories”—

(i) omit “British Virgin Islands;”;

(ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;

(iii) for “and Turks and Caicos Islands” substitute “Turks and Caicos Islands; and Virgin Islands”.

#### CHAPTER 3

Amendments to the definition of “person granted leave to enter or remain as a protected person”

4. In the Schedule, in paragraph 1, in the definition of “person granted leave to enter or remain as a protected person”—

(a) for paragraph (e) substitute—

“(e) indefinite leave to enter the United Kingdom under paragraph 276BA2 of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph 276BS2 of the immigration rules;”;

(b) after paragraph (e) insert—

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<sup>(5)</sup> S.I. 2007/2310 (W. 181), relevant amendments are S.I. 2013/1792 (W. 179), S.I. 2020/1302 (W. 287), S.I. 2021/481 (W. 148) and S.I. 2022/79 (W. 28). There are other amending instruments but none are relevant.

- “(ea) leave to enter or indefinite leave to enter the United Kingdom under paragraph 276BJ2 or 276BO2 of the immigration rules or paragraph ARAP 16.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules;
- (eb) indefinite leave to enter the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.2 of that Appendix of the immigration rules;”.

## PART 3

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

#### CHAPTER 1

##### Introduction

5. The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015<sup>(6)</sup> are amended in accordance with this Part.

#### CHAPTER 2

Amendments to the definitions of “overseas territories” and “specified British overseas territories”

6. In the Schedule, in paragraph 1(1)—
- (a) in the definition of “overseas territories”—
    - (i) omit “British Virgin Islands;”;
    - (ii) for “St Helena and Dependencies (Ascension Island and Tristan de Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;
    - (iii) after “Turks and Caicos Islands” insert “; Virgin Islands;”;
  - (b) in the definition of “specified British overseas territories”—
    - (i) omit “British Virgin Islands;”;
    - (ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;
    - (iii) for “and Turks and Caicos Islands” substitute “Turks and Caicos Islands; and Virgin Islands”.

#### CHAPTER 3

Amendments to the definition of “person granted leave to enter or remain as a protected person”

7. In the Schedule, in paragraph 1(1), in the definition of “person granted leave to enter or remain as a protected person”—
- (a) for paragraph (e) substitute—
    - “(e) indefinite leave to enter the United Kingdom under paragraph 276BA2 of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph 276BS2 of the immigration rules;”;
  - (b) after paragraph (e) insert—

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<sup>(6)</sup> S.I. 2015/1484 (W. 163), relevant amendments are S.I. 2020/1302 (W. 287), S.I. 2021/481 (W. 148) and S.I. 2022/79 (W. 28). There are other amending instruments but none are relevant.

- “(ea) leave to enter or indefinite leave to enter the United Kingdom under paragraph 276BJ2 or 276BO2 of the immigration rules or paragraph ARAP 16.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules;
- (eb) indefinite leave to enter the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.2 of that Appendix of the immigration rules;”.

## PART 4

### Amendments to the Education (Student Support) (Wales) Regulations 2017

#### CHAPTER 1

##### Introduction

**8.** The Education (Student Support) (Wales) Regulations 2017(7) are amended in accordance with this Part.

#### CHAPTER 2

##### Amendments to early termination of eligibility provisions

**9.** In regulation 4, after paragraph (11) insert—

“(11A) Paragraphs (9), (9A), (9B), (10), (10A), (10B), (10C), (10D), (10E) or (10F) do not apply where, as at the day before the academic year in respect of which A is applying for support starts—

- (a) A; or
- (b) the person who, as a result of their immigration status, caused A to be an eligible student or a qualifying student,

is a British or Irish citizen.”.

**10.** In regulation 81, after paragraph (10F) insert—

“(10G) Paragraphs (9), (9A), (9B), (10), (10A), (10B), (10C), (10D), (10E) or (10F) do not apply where, as at the day before the academic year in respect of which A is applying for support begins—

- (a) A; or
- (b) the person who, as a result of their immigration status, caused A to be an eligible part-time student,

is a British or Irish citizen.”.

**11.** In regulation 110, after paragraph (12F) insert—

“(12G) Paragraphs (11), (11A), (11B), (12), (12A), (12B), (12C), (12D), (12E) or (12F) do not apply where, as at the day before the academic year in respect of which A is applying for support begins—

- (a) A; or
- (b) the person who, as a result of their immigration status, caused A to be an eligible postgraduate student,

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(7) S.I. 2017/47 (W. 21), relevant amendments are S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54), S.I. 2021/9 (W. 4), S.I. 2021/481 (W. 148), S.I. 2021/1365 (W. 360), S.I. 2022/79 (W. 28) and S.I. 2022/764 (W. 166). There are other amending instruments but none is relevant.

is a British or Irish citizen.”.

## PART 5

### Amendments to the Education (Student Support) (Wales) Regulations 2018

#### CHAPTER 1

##### Introduction

**12.** The Education (Student Support) (Wales) Regulations 2018<sup>(8)</sup> are amended in accordance with this Part.

#### CHAPTER 2

Amendments to the definitions of “overseas territories” and “specified British overseas territories”

**13.** In Schedule 2, in paragraph 11(1)—

(a) in the definition of “overseas territories”—

(i) omit “British Virgin Islands,”;

(ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;

(iii) after “Turks and Caicos Islands,” insert “Virgin Islands,”;

(b) in the definition of “specified British overseas territories”—

(i) omit “British Virgin Islands,”;

(ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;

(iii) for “and Turks and Caicos Islands” substitute “Turks and Caicos Islands, and Virgin Islands”.

#### CHAPTER 3

Amendments to the definition of “person with leave to enter or remain as a relevant Afghan citizen”

**14.** In Schedule 2, in paragraph 2ZA(4), in paragraph (ea)—

(a) for sub-paragraph (i) substitute—

“(i) indefinite leave to enter the United Kingdom under paragraph 276BA2 of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph 276BS2 of the immigration rules,”;

(b) after sub-paragraph (i) insert—

“(ia) leave to enter or indefinite leave to enter the United Kingdom under paragraph 276BJ2 or 276BO2 of the immigration rules or paragraph ARAP 16.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules,

(ib) indefinite leave to enter the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.2 of that Appendix of the immigration rules,”.

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<sup>(8)</sup> S.I. 2018/191 (W. 42), relevant amendments are S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54), S.I. 2021/9 (W. 4), S.I. 2021/481 (W. 148), S.I. 2021/1365 (W. 360), S.I. 2022/79 (W. 28), S.I. 2022/473 (W. 117), S.I. 2022/764 (W. 166) and S.I. 2023/87 (W. 17). There are other amending instruments but none are relevant.

## CHAPTER 4

### Amendments to early termination of eligibility provisions

**15.** After regulation 23G insert—

“**23H.** Regulations 22, 22A, 23, 23A, 23B, 23C, 23D, 23E, 23F or 23G do not apply where as at the end of the day before the first day of the academic year in respect of which P is applying for support—

- (a) P, or
- (b) the person who, as a result of their immigration status, caused P to be an eligible student,

is a British or Irish citizen.”.

**16.** In Schedule 4, after paragraph 13G insert—

“**13H.** Paragraphs 12, 12A, 13, 13A, 13B, 13C, 13D, 13E, 13F or 13G do not apply where, as at the end of the day before the first day of the academic year in respect of which P is applying for support—

- (a) P, or
- (b) the person who, as a result of their immigration status, caused P to be an eligible postgraduate student,

is a British or Irish citizen.”.

## PART 6

### Amendments to the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018

#### CHAPTER 1

##### Introduction

**17.** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018<sup>(9)</sup> are amended in accordance with this Part.

#### CHAPTER 2

Amendments to the definitions of “overseas territories” and “specified British overseas territories”

**18.** In Schedule 1, in paragraph 1(1)—

- (a) in the definition of “overseas territories”—
  - (i) omit “British Virgin Islands;”;
  - (ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha;”;
  - (iii) after “Turks and Caicos Islands;” insert “Virgin Islands;”;
- (b) in the definition of “specified British overseas territories”—
  - (i) omit “British Virgin Islands;”;

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<sup>(9)</sup> S.I. 2018/656 (W. 124), relevant amendments are S.I. 2022/403 (W. 100) and S.I. 2023/87 (W. 17). There are other amending instruments but none are relevant.

- (ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;
- (iii) for “and Turks and Caicos Islands” substitute “Turks and Caicos Islands; and Virgin Islands”.

### CHAPTER 3

#### Amendments to the definition of “person with leave to enter or remain as a relevant Afghan citizen”

**19.** In regulation 2(1), in the definition of “person with leave to enter or remain as a relevant Afghan citizen”—

- (a) for paragraph (a) substitute—
  - “(a) indefinite leave to enter the United Kingdom under paragraph 276BA2 of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph 276BS2 of the immigration rules;”;
- (b) after paragraph (a) insert—
  - “(aa) leave to enter or indefinite leave to enter the United Kingdom under paragraph 276BJ2 or 276BO2 of the immigration rules or paragraph ARAP 16.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules;
  - (ab) indefinite leave to enter the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.2 of that Appendix of the immigration rules;”.

## PART 7

### Amendments to the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019

#### CHAPTER 1

##### Introduction

**20.** The Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019(10) are amended in accordance with this Part.

#### CHAPTER 2

Amendments to the definitions of “overseas territories” and “specified British overseas territories”

- 21.** In Schedule 2, in paragraph 13(1)—
- (a) in the definition of “overseas territories”—
    - (i) omit “British Virgin Islands;”;
    - (ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;
    - (iii) after “Turks and Caicos Islands,” insert “Virgin Islands;”;
  - (b) in the definition of “specified British overseas territories”—

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(10) S.I. 2019/895 (W. 161), relevant amendments are S.I. 2022/403 (W. 100) and S.I. 2023/87 (W. 17). There are other amending instruments but none are relevant.

- (i) omit “British Virgin Islands.”;
- (ii) for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;
- (iii) for “and Turks and Caicos Islands” substitute “Turks and Caicos Islands, and Virgin Islands”.

### CHAPTER 3

#### Amendments to the definition of “person with leave to enter or remain as a relevant Afghan citizen”

- 22.** In Schedule 2, in paragraph 2A(4)(da)—
- (a) for sub-paragraph (i) substitute—
    - “(i) indefinite leave to enter the United Kingdom under paragraph 276BA2 of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph 276BS2 of the immigration rules.”;
  - (b) after sub-paragraph (i) insert—
    - “(ia) leave to enter or indefinite leave to enter the United Kingdom under paragraph 276BJ2 or 276BO2 of the immigration rules or paragraph ARAP 16.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules,
    - (ib) indefinite leave to enter the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.2 of that Appendix of the immigration rules.”.

12 June 2023

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



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend various Regulations which make provision about, and in connection with, student finance.

Amendments are made—

- (a) to the name that certain British overseas territories are now known by to be consistent with the British Nationality Act 1981, and
- (b) that relate to the immigration status of certain Afghan citizens as a result of changes made to the immigration rules.

Amendments are also made to the Education (Student Support) (Wales) Regulations 2017 and the Education (Student Support) (Wales) Regulations 2018 to disapply early termination of eligibility for certain categories of eligible students in circumstances where a person has become a British or Irish citizen.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.