
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 295

EXITING THE EUROPEAN UNION

EDUCATION, NORTHERN IRELAND

The Education (Student Fees and Support) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2020

Made - - - - 1st December 2020

Coming into operation in accordance with regulation 1

The Department for the Economy⁽¹⁾, in exercise of the powers conferred by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998⁽²⁾ and Articles 4(8) and 14(4) of the Higher Education (Northern Ireland) Order 2005⁽³⁾, makes the following Regulations.

Citation and Commencement

1.—(1) These Regulations may be cited as The Education (Student Fees and Support) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2020.

(2) This regulation and regulation 2 come into force immediately before IP completion day.

(3) The remainder of these regulations come into force on IP completion day.

Revocation of the Education (Student Fees and Support) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

2. Regulations 2 to 13 of the Education (Student Fees and Support) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019⁽⁴⁾ are revoked.

(1) Formerly the Department for Employment and Learning; see Article 6(1)(c) of the Departments (Transfer of Functions) Order (Northern Ireland) 2016 ([S.R. 2016 No. 76](#)).

(2) [S.I. 1998/1760 \(N.I. 14\)](#). Article 3 was amended by the Learning and Skills Act 2000 ([c.21](#)), section 147(3)(a) and (b), the Student Loans (Amendment) Act (Northern Ireland) 2001, ([c.2 \(N.I.\)](#)), s.1(1), the Income Tax (Earnings and Pensions) Act 2003 ([c.1](#)), Schedule 6, the Finance Act 2003, ([c.14](#)), s. 147(4), the Higher Education (Northern Ireland) Order 2005, ([S.I. 2005/1116 \(N.I. 5\)](#)), Articles 11 and 12 and the Schedule, and by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, ([S.I. 2013/1881](#)), Schedule 1.

(3) [S.I. 2005/1116](#) see Article (2) for definitions of “the Department”, “prescribed” and “regulations”.

(4) [S.I. 2019/387](#).

Amendment of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009

3. The Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009(5) are amended as follows.

Amendment of regulation 2

4. In regulation 2 (1) (interpretation), omit the definition of “right of permanent residence”.

Amendment of regulation 18

5. In regulation 18(6) (events)—

- (a) in paragraph (d), after “EC national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 2 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”;
- (b) for paragraph (e), substitute—
 - “(e) the student becomes a person described in paragraph 3 (a) of Schedule 2”.

Amendment of regulation 43

6. In regulation 43(1)(ge)(7) (interpretation of chapter 4)—

- (a) in paragraph (ii), for “another Member State”, substitute “a Member State”;
- (b) for paragraph (iii), substitute—

“(iii) where the legislation of—

(aa) the United Kingdom and one or more Member States; or

(bb) more than one Member State

applies to the period, A’s total income from all sources as determined for the purposes of the income tax legislation under which the Department considers that A’s total income in that period is greatest,”.

Amendment of regulation 74

7. In regulation 74(2)(d) (students becoming eligible during the course of an academic year), substitute—

“(d) the student becomes a person described in paragraph 3 (a) of Schedule 2;”.

Amendment of regulation 83

8. In regulation 83(2) (8) (students becoming eligible during the course of an academic year)

- (a) in paragraph (c) , after the first “EC national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 2 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”;
- (b) for sub-paragraph (d) substitute—

(5) [S.R. 2009/373](#), amended by [S.R. 2010/383](#), [S.R. 2012/ 62](#) and [398](#), [S.R. 2013/28](#) and [223](#), [S.R. 2014/97](#) and [309](#), [S.R. 2016/21](#), [S.R. 2017/ 7](#) and [43](#), [S.R. 2018/ 35](#), [S.R. 2019/35](#) and [102](#) and [S.R. 2020/79](#).

(6) Regulation 18 was amended by Order [2011/1043](#) and [S.R. 2019/35](#)

(7) Regulation 43(1)(ge) was amended by [S.R. 2012/398](#) and [S.R. 2014/309](#). 2007 c.3 section 23 was amended by the Finance Act 2009 (c.10), Schedule 1, para 6(o)(i) and the Finance Act 2013 (c.29), Schedule 3, para 2(2). 2003 c.1; section 401 was amended by [S.I. 2005/3229](#), [S.I. 2011/1037](#) and [S.I. 2014/211](#).

(8) Regulation 83(2) was amended by Order [2011/1043](#) and [S.R. 2019/35](#)

“(d) the student becomes a person described in paragraph 3 (a) of Schedule 2;”.

Amendment of regulation 106

- 9.** In regulation 106 (4)(9) (students becoming eligible during the course of the academic year)
- (a) in paragraph (d) , after “EU national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 2 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”;
 - (b) for sub-paragraph (f), substitute—
 - “(d) the student becomes a person described in paragraph 3 (a) of Schedule 2;”.

Amendment of regulation 123

- 10.** In regulation 123(3)(10)(students becoming eligible during the course of the academic year),
- (a) in paragraph (d) , after “EU national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 2 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”
 - (b) for sub-paragraph (f), substitute—
 - “(d) the student becomes a person described in paragraph 3 (a) of Schedule 2;”.

Amendment of regulation 151

- 11.** In regulation 151(11)(Events)
- (a) in paragraph (d) , after “EC national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 2 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”
 - (b) for sub-paragraph (e), substitute—
 - “(d) the student becomes a person described in paragraph 3(a) of Schedule 2;”.

Amendment of Schedule 2

- 12.** Schedule 2 (eligible students) is amended as follows.

- (a) In Part 1 (interpretation), paragraph 1(12)—
 - (i) in sub-paragraph (1)—
 - (aa) omit “other than the United Kingdom” each time it occurs;
 - (bb) at the appropriate place, insert the following definitions—
 - ““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;
 - “residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;

(9) Regulation 106(4) was amended by Order 2011/1043 and [S.R. 2019/35](#)

(10) Regulation 123(3) was amended by Order 2011/1043 and [S.R. 2019/35](#)

(11) Regulation 151 was amended by S.R.s [2017/7](#) and [2019/35](#)

(12) Paragraph 1 was amended by [S.R.2010/383](#). Section 33(2A) was inserted by para. 7 of Schedule 4 to the British Nationality Act 1981 ([c.61](#)). Cm.4904. S.Rs. 2012 Nos. [62](#) and [398](#) and Order [2011/1043](#)

“right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;

“Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”.

(cc) in the definition of “Swiss frontier self-employed person”, omit “, other than the United Kingdom,”;

(ii) in sub-paragraphs (4) and (5), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;

(iii) in sub-paragraph (6), after “an area”, insert “other than the United Kingdom or Gibraltar”.

(b) In Part 2 (categories)—

(i) in paragraph 3 (persons who are settled in the United Kingdom)—

(aa) for sub-paragraph (a), substitute—

“(a) meets one of the following conditions—

(i) the person is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or

(ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;

(bb) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(ii) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(iii) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—

(aa) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);

(bb) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(cc) after sub-paragraph (1)(c) as so renumbered, insert—

“(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;

- (iv) in paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (aa) in sub-paragraph (1)(b), after “right of residence”, insert “before IP completion day”;
 - (bb) in sub-paragraph (1)(d) and (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (cc) in sub-paragraph (2)—
 - (i) for “has a right”, substitute “had the right” each time it occurs;
 - (ii) for “goes”, substitute “has gone”;
 - (dd) after sub-paragraph (2), insert—

“(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.”;
- (v) in paragraph 9(13) (EC nationals)—
 - (aa) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (bb) after sub-paragraph (3), insert—

“(4) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (vi) in paragraph 10 (EC nationals)—
 - (aa) in sub-paragraphs (1)(a) and (2)(14), omit “other than a United Kingdom national”;
 - (bb) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (vii) in paragraph 11 (children of Swiss nationals)—
 - (aa) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (bb) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (cc) after sub-paragraph (1)(d) as so renumbered, insert—

“(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (viii) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”.

Amendment of Schedule 5

13. Schedule 5 (financial assessment) is amended as follows.

- (a) In paragraph 1(1)(n)(15) (definitions)—

(13) Paragraph 9 was amended by Order 2011/1043 and [S.R. 2017/7](#)

(14) Paragraph 10 was amended by Order [2011/1043](#)

(15) Paragraph 1(1)(n) was substituted by [S.R. 2014/209](#) and further amended by [S.R. 2020/79](#), [2007 c.3](#); section 23 was amended by the Finance Act [2009 \(c.10\)](#), Schedule 1, para. 6(o)(i) and the Finance Act [2013 \(c.29\)](#), Schedule 3, para. 2(2). [2003 c.1](#); section 401 was amended by S.I.s [2005/3229](#), [2011/1037](#) and [2014/211](#).