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W E L S H S T A T U T O R Y  
I N S T R U M E N T S

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**2021 No. 481 (W. 148)**

**EXITING THE EUROPEAN  
UNION, WALES**

**EDUCATION, WALES**

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

**EXPLANATORY NOTE**

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

These Regulations amend—

- (a) the Education (Fees and Awards) (Wales) Regulations 2007 (“the Fees and Awards Regulations”) – *see* Part 2,
- (b) the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015 (“the QCP Regulations”) – *see* Part 3,
- (c) the Education (Student Support) (Wales) Regulations 2017 (“the 2017 Regulations”) – *see* Part 4,
- (d) the Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017 (“the 2017 Master’s Regulations”) – *see* Part 5,
- (e) the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”) – *see* Part 6,
- (f) the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 (“the Doctoral Degree Regulations”) – *see* Part 7, and
- (g) the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019 (“the 2019 Master’s Regulations”) – *see* Part 8.

The amendments take effect in relation to an academic year beginning on or after 1 August 2021. The principal amendments made by these Regulations are—

- (a) to make changes in consequence of the United Kingdom's exit from the European Union;
- (b) to make changes relating to persons with Calais leave or certain persons who are the victims of domestic violence or abuse or who are bereaved.

These Regulations make amendments to include the following in the categories of eligible students for the purposes of student support, those having home fee status under the Fees and Awards Regulations and those who are prescribed persons under the QCP Regulations—

—persons granted humanitarian protection, persons granted stateless leave, persons with section 67 leave to remain and persons who satisfy the requirements of paragraphs 352J, 352K, 352L or 352T of the immigration rules, including children granted “leave in line” (persons with Calais leave);

—persons who are granted leave to remain in the United Kingdom under the immigration rules as a result of being a victim of domestic violence or domestic abuse or having been bereaved and their children;

—persons settled in the United Kingdom who have been ordinarily resident in the United Kingdom, the Channel Islands and the Isle of Man and the Republic of Ireland;

—persons falling within the personal scope of the citizens' rights provisions of the EU withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement (“the Agreements”) who have leave to enter or remain in the United Kingdom granted under residence scheme immigration rules (as defined in section 17(1) of the European Union (Withdrawal Agreement) Act 2020);

—persons falling within the personal scope of the citizens' rights provisions of the Agreements who are in the grace period for applications for leave under residence scheme immigration rules, or whose applications for such leave are not yet determined, and Irish citizens who do not require leave to enter or remain in the United Kingdom;

—family members of relevant persons of Northern Ireland who have indefinite leave to enter or remain in the United Kingdom under residence scheme immigration rules;

—frontier workers within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020 (S.I. 2020/1213);

—persons settled in the United Kingdom who exercised a right of residence in the European

Economic Area or Switzerland before implementation period completion day;

—United Kingdom nationals and their family members who, before implementation period completion day, have been ordinarily resident in the European Economic Area or Switzerland, in relation to courses beginning before 1 January 2028;

—family members of United Kingdom nationals who are resident in the United Kingdom, Channel Islands and Isle of Man;

—United Kingdom nationals and their family members resident in Gibraltar and persons with a right to reside in Gibraltar arising under the EU withdrawal agreement;

—children of Swiss nationals who are entitled to support by virtue of Article 18(2) of the Swiss citizens' rights agreement;

—children of Turkish workers resident in the United Kingdom before implementation period completion day.

The amendments also make minor corrections.

Part 6 of these Regulations amends the 2018 Regulations. The 2018 Regulations provide for financial support for eligible students undertaking designated courses beginning on or after 1 August 2018.

Regulations 116 to 118 amend provision relating to eligibility for student support by including reference to the eligibility categories inserted by regulations 130 to 145 into Schedule 2 to the 2018 Regulations. The amendments restrict certain existing eligibility categories to students falling within those categories before 1 August 2021 and undertaking a course beginning before that date. Provision is also made for new eligibility categories which are not limited to students undertaking courses beginning before 1 August 2021.

The amendments made by regulations 119 to 121 take account of the new categories inserted into Schedule 2 to the 2018 Regulations by making provision for where a person ceases to have Calais leave, leave to remain as a protected partner or leave to remain under residence scheme immigration rules.

Regulations 122 to 129 make further related amendments to the 2018 Regulations, including amending the circumstances in which a student may qualify for support during the academic year to take account of the changes made to Schedule 2.

Regulations 146 to 152 make amendments to Schedules 4 and 5 to the 2018 Regulations to take account of the amendments made to Schedule 2.

Regulation 153 amends the index of defined terms in Schedule 7 to reflect the amendments made by these Regulations.

Part 2 makes similar amendments to the Fees and Awards Regulations. The Fees and Awards Regulations authorise the charging of fees which are higher in the case of students not having a specified connection with the United Kingdom than in the case of students having such a connection (those with home fee status). The Fees and Awards Regulations also authorise the adoption of rules of eligibility which confine awards to those with such a connection with the United Kingdom.

Part 3 makes similar amendments to the QCP Regulations. The QCP Regulations prescribe the qualifying courses and persons for the purposes of section 5 of the Higher Education (Wales) Act 2015, which sets out that institutions' fee and access plans must specify or provide for the determination of fee limits in relation to qualifying courses. A fee limit is a maximum amount payable by a qualifying person in relation to a qualifying course and the Schedule to the QCP Regulations lists those persons who may be qualifying persons.

Part 4 of these Regulations makes similar amendments to the 2017 Regulations and makes amendments to revoke Part 11 of the 2017 Regulations, which is now redundant. The 2017 Regulations provide for financial support for eligible students undertaking designated higher education courses which begin before 1 September 2018.

Part 5 makes similar amendments to the 2017 Master's Regulations. The 2017 Master's Regulations provide for financial support for eligible students undertaking designated postgraduate master's degree courses which begin before 1 August 2019.

Part 7 makes similar amendments to the Doctoral Degree Regulations. The Doctoral Degree Regulations provide for financial support for eligible students undertaking designated postgraduate doctoral degree courses which begin on or after 1 August 2018.

Part 8 makes similar amendments to the 2019 Master's Regulations. The 2019 Master's Regulations provide for financial support for eligible students undertaking designated postgraduate master's degree courses which begin on or after 1 August 2019.

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.

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WELSH STATUTORY  
INSTRUMENTS

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**2021 No. 481 (W. 148)**

**EXITING THE EUROPEAN  
UNION, WALES**

**EDUCATION, WALES**

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

*Made* **19 April 2021**

*Laid before Senedd Cymru* **22 April 2021**

*Coming into force* **25 April 2021**

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State under sections 1 and 2 of the Education (Fees and Awards) Act 1983(1), section 22(2)(a) and (d) and section 42(6) of the Teaching and Higher Education Act 1998(2) now

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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. 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 was amended by the Learning and Skills Act 2000, section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147; the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7; the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257; the Education Act 2011, section 76; S.I. 2013/1881 and the Higher Education and Research Act 2017 (c. 29), section 88. See section 43(1) of the Teaching and Higher Education Act 1998 for the definitions of “prescribed” and “regulations”.

exercisable by them(1) and powers conferred on them under sections 5(5)(b) and 55(2) of the Higher Education (Wales) Act 2015(2), make the following Regulations:

## PART 1

### TITLE, COMMENCEMENT AND APPLICATION

#### Title and commencement

1.—(1) The title of these Regulations is the Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021.

(2) These Regulations come into force on 25 April 2021.

#### Application

2. These Regulations apply in relation to the provision of support to a student, and to fees and awards applicable, in relation to an academic year which begins on or after 1 August 2021, whether or not anything done under these Regulations is done before, on, or after that date.

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(1) 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 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 S.I. 1999/672. The Secretary of State's functions in section 22(2)(a) to (i) and (k) of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with subsection (2) (a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State's function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. All of the above functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(2) 2015 anaw 1. See section 57(1) for the definitions of "prescribed" and "regulations".

## PART 2

### AMENDMENTS TO THE EDUCATION (FEES AND AWARDS) (WALES) REGULATIONS 2007

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

**3.** The Education (Fees and Awards) (Wales) Regulations 2007(1) are amended in accordance with this Part.

**4. In regulation 2 (interpretation)—**

(a) in paragraph (1), at the appropriate place insert—

““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;”;

(b) in paragraph (4)—

(i) after “Islands” insert “, in the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after “overseas territories”, in the first place it occurs, insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”;

(c) in paragraph (5), after sub-paragraph (a) insert—

“(aa) in the case of members of the regular armed 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;”;

(d) in paragraph (6)—

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(1) S.I. 2007/2310 (W. 181), amended by S.I. 2008/1259 (W. 126); S.I. 2010/1142 (W. 101); S.I. 2011/1043; S.I. 2011/1978 (W. 218); S.I. 2013/1792 (W. 179); S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1192 (W. 209); S.I. 2020/1302 (W. 287) and S.I. 2021/9 (W. 4).

(i) after “Islands” insert “, in the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after “overseas territories” insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”.

**5. In regulation 4 (fee charging)—**

(a) for paragraph (1) substitute—

“(1) Subject to paragraph (1B), it is lawful for the institutions mentioned in paragraph (3) to charge higher fees in the case of a person who does not fall within any of—

(a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule; or

(b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (1A) applies,

than in the case of a person who does fall within any of those paragraphs.”;

(b) after paragraph (1) insert—

“(1A) This paragraph applies where—

(a) in connection with a course beginning before 1 August 2021, a person (“A”) fell within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year of the course beginning before 1 August 2021; and

(b) A is liable for fees in connection with—

(i) that course, or

(ii) a course provided by an institution mentioned in paragraph (3) to which A transfers from that course in accordance with regulations made under section 22 of the Teaching and Higher Education Act 1998.

(1B) In relation to a course beginning on or after 1 January 2028, paragraph (1) has effect as if paragraphs 8A and 9B are omitted from paragraph (1)(a).”;

(c) in paragraph (2), after “within”, in the first place it occurs, insert “a paragraph of”.

**6. In regulation 5 (awards by local authorities)—**

(a) in paragraph (1), at the beginning insert “Subject to paragraph (4),”;

(b) for paragraph (1)(b) and (c) substitute—

“(b) confine eligibility in the case of fees awards to those persons who fall within any of—

(i) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or

(ii) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (2) applies;

(c) confine eligibility in the case of maintenance awards to those persons who fall within any of—

(i) paragraphs 2, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9B, 10A, 11A or 12A of the Schedule, or

(ii) paragraphs 6, 7, 8, 10, 11 or 12 of the Schedule where paragraph (3) applies.”;

(c) after paragraph (1) insert—

“(2) This paragraph applies—

(a) where, in connection with a course beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year of that course beginning before 1 August 2021, and

(b) where A’s eligibility for an award is being assessed in relation to that course.

(3) This paragraph applies—

(a) where in connection with a course beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 10, 11 or 12 of the Schedule in relation to an academic year of that course beginning before 1 August 2021, and

(b) where A’s eligibility for an award is being assessed in relation to that course.

(4) In relation to a course beginning on or after 1 January 2028 paragraph (1) has effect as if paragraphs 8A and 9B are omitted from paragraphs (1)(b)(i) and 1(c)(i).”

7.—(1) For the heading to regulation 6 substitute—

**“Payments by HEFCW to training providers”.**

(2) For regulation 6 substitute—

“**6.**—(1) Paragraph (2) applies where, under section 86 of the 2005 Act(1), HEFCW(2) makes grants, loans or other payments to a training provider.

(2) Subject to paragraph (5), it is lawful for HEFCW to adopt rules of eligibility for awards given by the training provider which confine eligibility to those persons who fall within any of—

(a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or

(b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(3) Subject to paragraph (5), it is lawful for a training provider who is receiving grants, loans or other payments under section 86 of the 2005 Act to adopt rules of eligibility for awards which confine eligibility to those persons who fall within any of—

(a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or

(b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(4) This paragraph applies—

(a) where, in connection with training beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021, and

(b) where A’s eligibility for an award is being assessed in relation to that training.

(5) In relation to training beginning on or after 1 January 2028, paragraphs (2) and (3) have effect as if paragraphs 8A and 9B are omitted from paragraphs (2)(a) and (3)(a).”

**8.** For regulation 7 (payments by HEFCW) substitute—

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(1) 2005 c. 18.

(2) The Higher Education Funding Council for Wales established under section 62 of the Further and Higher Education Act 1992.

“7.—(1) Paragraph (2) applies where HEFCW makes grants, loans or other payments under section 65 of the Further and Higher Education Act 1992(1) to an institution for the purpose of training students (other than by a course leading to a first degree) to teach persons over compulsory school age.

(2) Subject to paragraph (5), it is lawful for HEFCW to adopt rules of eligibility for awards to be made to the students which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(3) Subject to paragraph (5), it is lawful for an institution to which HEFCW pays grants, loans or other payments for the purpose described in paragraph (1) to adopt rules of eligibility for awards which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule; or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (4) applies.

(4) This paragraph applies—

- (a) where, in connection with training beginning before 1 August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021, and
- (b) where A’s eligibility for an award is being assessed in relation to that training.

(5) In relation to training beginning on or after 1 January 2028, paragraphs (2) and (3) have effect as if paragraphs 8A and 9B are omitted from paragraphs (2)(a) and (3)(a).

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(1) 1992 c. 13, amended by section 27 of the Teaching and Higher Education Act 1998 (c. 30); the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158); section 34(1) of the Special Educational Needs and Disability Act 2001 (c. 10); and Schedule 11 to the Higher Education and Research Act 2017 (c. 29).

(6) In paragraph (1), “compulsory school age” has the meaning given in section 8 of the Education Act 1996(1).”

**9.** For regulation 8 (payments by the Welsh Ministers) substitute—

“**8.**—(1) Subject to paragraph (4), it is lawful for the Welsh Ministers to adopt rules of eligibility for awards by an institution to which they make grants, loans or other payments under section 34 of the Learning and Skills Act 2000(2) which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (3) applies.

(2) Subject to paragraph (4), it is lawful for an institution to which the Welsh Ministers pay grants, loans or other payments under section 34 of the Learning and Skills Act 2000 to adopt rules of eligibility for awards which confine eligibility to those persons who fall within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule, or
- (b) paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (3) applies.

(3) This paragraph applies—

- (a) where a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021, and
- (b) where A’s eligibility for an award is being assessed.

(4) In relation to an award made on or after 1 January 2028, paragraphs (1) and (2) have effect as if paragraph 8A and 9B are omitted from paragraphs (1)(a) and (2)(a).”

**10.** In the Schedule, in paragraph 1—

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

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(1) 1996 c. 56, amended by the Education Act 1997 (c. 44), section 52.

(2) 2000 c. 21, amended by Schedule 1 to the Learning and Skills (Wales) Measure 2009 (anaw 1).

- (i) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person or 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”<sup>(1)</sup> 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<sup>(2)</sup>;”;
  - ““grace period” (“*cyfnod gras*”) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
  - ““person granted leave to remain as a protected partner” (“*person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir*”) means a person who has 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

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(1) OJ No L158, 30.04.2004, p. 77.

(2) S.I. 2020/1209, amended by S.I. 2020/1309.

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 the 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 partner);”;

““person granted leave to enter or remain as a protected person” (“*person y rhoddyd 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(1) 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 with protected rights” (“*person sydd â hawliau gwarchodedig*”) means—

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(1) 2016 c. 19.

(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(1);

(ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971(2) does not require leave to enter or remain in the United Kingdom;

(iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations where the grace period has not ended; or

(iv) 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 or 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

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(1) Defined in section 17(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(2) 1971 c. 77, section 3ZA inserted by the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20).

(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;”;

““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(1);”;

““United Kingdom national” (“*gwladolyn o'r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;”.

**11.** In the Schedule, after 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.

**1B.** 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.”

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(1) OJ L 141, 27.05.2011, p. 1, amended by Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 (OJ L 107, 22.4.2016, p. 1) and Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 (OJ L 186, 11.7.2019, p. 21).

**12.** In the Schedule, in paragraph 2 (persons who are settled in the United Kingdom), for sub-paragraph (1)(a) substitute—

“(a) is settled in the United Kingdom and does not fall within paragraph 3;”.

**13.** In the Schedule, after paragraph 2 insert—

“**2A.**—(1) A person—

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within paragraph 3;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with regulation 2(4).”

**14.** In the Schedule, in paragraph 3—

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph, for paragraph (a) substitute—

“(a) who meets one of the following conditions on the first day of an academic year of the course—

- (i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;
- (ii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and

(cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;

(iii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations; and

(cc) has or is treated as having a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016(1), as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period;

(iv) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations; and

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(1) S.I. 2016/1052, amended by S.I. 2017/1, S.I. 2017/1242, S.I. 2018/801, S.I. 2019/468, S.I. 2019/1155. S.I. 2016/1052 was revoked on implementation period completion day by paragraph 2(2) of Schedule 1 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), subject to the savings in S.I. 2020/1309.

- (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period; or
- (v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;

(c) after that sub-paragraph insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**15.** In the Schedule, for paragraph 4A (persons granted stateless leave and their family members) substitute—

**“Protected persons and their family members**

**4A.—(1) A person—**

- (a) granted leave to enter or remain as a protected person;
- (b) who is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

**(2) A person who—**

- (a) is a protected spouse or civil partner;
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration

rules or as a stateless person under the immigration rules);

- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(3) A person who—

- (a) is a protected child;
- (b) on the leave application date was—
  - (i) under 18 years old; and
  - (ii) the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);

- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person.”

**16.** In the Schedule, after paragraph 4A insert—

**“Persons granted leave to remain as a protected partner and their children”**

**4B.—(1)** A person—

- (a) granted leave to remain as a protected partner;
- (b) who is ordinarily resident in the United Kingdom and the Islands and has not

ceased to be so resident since being granted such leave; and

- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(2) A person who—

- (a) is the child of a person granted leave to remain as a protected partner;
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.”

**17.** In the Schedule, omit paragraph 5A (persons with section 67 leave to remain).

**18.** In the Schedule, after paragraph 6 (workers, employed persons, self-employed persons and their family members) insert—

“**6A.**—(1) A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020(1) who—

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or

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(1) S.I. 2020/1213.

- (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

**19.** In the Schedule, in paragraph 7 (workers, employed persons, self-employed persons and their family members)—

(a) in sub-paragraph (1)—

(i) in paragraph (c), for the words from “Article 12” to the end substitute “Article 10 of the Workers Regulation as it had effect immediately before IP completion day, as extended by the EEA Agreement<sup>(1)</sup>, as it had effect immediately before IP completion day;”;

(ii) after paragraph (c) insert—

“(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;

(b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**20.** In the Schedule, after paragraph 7 insert—

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<sup>(1)</sup> Annex V of the EEA Agreement refers to Regulation (EU) No. 492/2011, with modifications that are not relevant for these purposes. Section 3(1) and (2)(b) of the European Union (Withdrawal) Act 2018 (c. 18) make provision for incorporation of Annexes to the EEA Agreement into domestic law.

**“7A.—(1)** A person with protected rights who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 10 of the Workers Regulation, as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

- (a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and
- (b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.”

**21.** In the Schedule, in paragraph 8(1)(b) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), in the English language text, for “implementation period” substitute “IP”.

**22.** In the Schedule, after paragraph 8 insert—

**“8A.—(1)** A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence before IP completion day after having been settled in the United Kingdom;
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area, Switzerland and the overseas territories; 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, Switzerland and the overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”

**23.** In the Schedule, in paragraph 9 (EU nationals)—

- (a) in the heading, at the end insert “etc.”;
- (b) in sub-paragraph (3), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**24.** In the Schedule, after paragraph 9 insert—

**“9A.**—(1) A person with protected rights—

- (a) who is—
  - (i) an EU national on the first day of the first academic year of the course;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is undertaking the course in the United Kingdom;
- (c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is an EU national or a relevant person of Northern Ireland; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first year of the first academic year of the course.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising

the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

**United Kingdom nationals**

**9B.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national on the first day of an academic year of the course; 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, Switzerland and the EU overseas territories; 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, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories 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 the course in the United Kingdom;
- (d) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) 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, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

(4) 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).

(5) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.

**9C.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national on the first day of the first academic year of the course; or
  - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the specified British overseas territories for at least part of the three-year period preceding the first day of the first academic year of the course;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified

British overseas territories 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, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories in accordance with regulation 2(4).

**9D.—(1) A person—**

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and the Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and the Islands in accordance with regulation 2(4).

**Persons resident in Gibraltar**

**9E.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
  - (ii) a family member of a United Kingdom national, where that

family member has resident status in Gibraltar granted by the Government of Gibraltar;

- (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
- (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;

- (b) who is undertaking the course in the United Kingdom;
- (c) who, subject to paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is an EU national or a relevant person of Northern Ireland; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4)."

**25.** In the Schedule, before paragraph 10 insert the heading—

**“EU nationals – ordinarily resident in the United Kingdom and the Islands”.**

**26.** In the Schedule, after paragraph 10 insert—

**“10A.** A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in sub-paragraph (c).”

**27.** In the Schedule, in paragraph 11(2) (children of Swiss nationals), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**28.** In the Schedule, after paragraph 11 insert—

**“11A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in

the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in subparagraph (c).”

**29.** In the Schedule, after paragraph 12 (children of Turkish workers) insert—

**“12A.** A person who—

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
  - (i) was the child of T; and
  - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.”

## 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**

**30.** The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015(1) are amended in accordance with this Part.

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(1) S.I. 2015/1484 (W. 163), amended by S.I. 2016/276 (W. 100); S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1192 (W. 209); S.I. 2020/1302 (W. 287) and S.I. 2021/9 (W. 4).

**31.** In regulation 4 (prescribed description of a qualifying person)—

(a) in paragraph (1)—

(i) for “the Schedule” substitute “a prescribed category”;

(ii) in sub-paragraph (d), after “(3),” insert “(3A)”;

(b) after paragraph (3) insert—

“(3A) A person is not a qualifying person in connection with a course which begins on or after 1 January 2028 if the only prescribed category into which the person falls is paragraph 8A or 9B.”;

(c) in paragraph (8), for “the Schedule” substitute “a prescribed category”;

(d) after paragraph (8) insert—

“(9) In this regulation, “prescribed category” means one of the categories described—

(a) in paragraph 2, 2A, 3, 4, 4A, 4B, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A or 12A of the Schedule; or

(b) in paragraph 6, 7, 8, 9, 10, 11 or 12 of the Schedule where paragraph (10) applies.

(10) This paragraph applies where—

(a) in connection with a qualifying course beginning before 1 August 2021, a person (“A”) was a qualifying person by virtue of falling within one of the categories of person described in paragraph 6, 7, 8, 9, 10, 11 or 12 of the Schedule in relation to an academic year beginning before 1 August 2021; and

(b) A is undertaking an academic year of that qualifying course or of a qualifying course to which A transfers from that course in accordance with regulations made under section 22 of the 1998 Act.”

**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 rhoddywyd 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 rhoddyd 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 gwarchodedig*”) 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.”

**33.** In the Schedule, in paragraph 2 (persons who are settled in the United Kingdom), for sub-paragraph (1)(a) substitute—

“(a) is settled in the United Kingdom and does not fall within paragraph 3;”.

**34.** In the Schedule, after paragraph 2 insert—

“**2A.**—(1) A person—

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course, and does not fall within paragraph 3;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(3).”

**35.** In the Schedule, in paragraph 3—

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph, for paragraph (a) substitute—

“(a) meets one of the following conditions on the first day of an academic year of the course—

- (i) the person is within the personal scope of the citizens’ rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;

(ii) the person—

- (aa) is within the personal scope of the citizens’ rights provisions;

- (bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and

(cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;

(iii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations; and

(cc) has or is treated as having a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period; or

(iv) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;

(c) after that sub-paragraph insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**36.** In the Schedule, for paragraph 4A (persons granted stateless leave and their family members) substitute—

**“Protected persons and their family members**

**4A.—(1) A person—**

- (a) granted leave to enter or remain as a protected person;
- (b) who is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

**(2) A person who—**

- (a) is a protected spouse or civil partner;
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);
- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

**(3) A person who—**

- (a) is a protected child;
- (b) on the leave application date was—
  - (i) under 18 years old; and
  - (ii) was the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);
- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being

granted leave to enter or remain in the United Kingdom;

(d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person.”

**37.** In the Schedule, after paragraph 4A insert—

**“Persons granted leave to remain as a protected partner and their children”**

**4B.—**(1) A person—

- (a) granted leave to remain as a protected partner;
- (b) who is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(2) A person who—

- (a) is the child of a person granted leave to remain as a protected partner;
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
- (c) is ordinarily resident in the United Kingdom and the Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.”

**38.** In the Schedule, omit paragraph 5A (persons with section 67 leave to remain).

**39.** In the Schedule, after paragraph 6 (workers, employed persons, self-employed persons and their family members) insert—

“**6A.**—(1) A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020 who—

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

**40.** In the Schedule, in paragraph 7—

- (a) in sub-paragraph (1)—
  - (i) in paragraph (c), for the words from “Article 10” to the end substitute “Article 10 of the Workers Regulation, as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day;”;
  - (ii) after paragraph (c) insert—

“(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;

(b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**41.** In the Schedule, after paragraph 7 insert—

“**7A.**—(1) A person with protected rights who—

(a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and

(c) is entitled to support by virtue of Article 10 of the Workers Regulation, as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

(a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and

(b) the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”

**42.** In the Schedule, in paragraph 8(1)(b) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), in the English language text, for “implementation period” substitute “IP”.

**43.** In the Schedule, after paragraph 8 insert—

“**8A.**—(1) A person who—

(a) is settled in the United Kingdom;

(b) left the United Kingdom and exercised a right of residence before IP completion day after having been settled in the United Kingdom;

(c) was ordinarily resident immediately before IP completion day—

(i) in the territory comprising the European Economic Area, Switzerland and the overseas territories; 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, Switzerland and the overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, and the overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

(d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;

(e) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and

(f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement), or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in

the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”

**44.** In the Schedule, in paragraph 9 (EU nationals)—

- (a) in the heading, at the end insert “etc.”;
- (b) in sub-paragraph (4), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**45.** In the Schedule, after paragraph 9 insert—

**“9A.—(1)** A person with protected rights—

- (a) who is—
  - (i) an EU national on the first day of the first academic year of the course;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is undertaking the course in the United Kingdom;
- (c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is an EU national or a relevant person of Northern Ireland; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(3).

### **United Kingdom nationals**

#### **9B.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national on the first day of an academic year of the course; 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, Switzerland and the EU overseas territories; 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, Switzerland and the EU overseas territories, and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories 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 the course in the United Kingdom;
- (d) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland,

and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and

- (e) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) 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, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(3).

(4) 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).

(5) In this paragraph, "EU overseas territories" means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.

**9C.—(1) A person—**

- (a) who is—

- (i) a United Kingdom national on the first day of the first academic year of the course; or

- (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the specified British overseas territories for at least part of the three-year period preceding the first day of the first academic year of the course;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories in accordance with paragraph 1(3).

**9D.—(1) A person—**

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and the Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being

ordinarily resident in the United Kingdom and the Islands in accordance with paragraph 1(3).

### **Persons resident in Gibraltar**

**9E.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
  - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
  - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
  - (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is undertaking the course in the United Kingdom;
- (c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is an EU national or a relevant person of Northern Ireland; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year

period preceding the first day of the first academic year of the course.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 1(3)."

**46.** In the Schedule, before paragraph 10 insert the heading—

**"EU nationals ordinarily resident in the United Kingdom and the Islands".**

**47.** In the Schedule, after paragraph 10 insert—

**"10A.** A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in sub-paragraph (c)."

**48.** In the Schedule, in paragraph 11(2) (children of Swiss nationals), in the English language text, for "implementation period", in each place it occurs, substitute "IP".

**49.** In the Schedule, after paragraph 11 insert—

**"11A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens' rights agreement;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;

- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c)."

**50.** In the Schedule, after paragraph 12 (children of Turkish workers) insert—

**“12A. A person who—**

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
  - (i) was the child of T; and
  - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.”

## PART 4

### AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2017

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

**51.** The Education (Student Support) (Wales) Regulations 2017(1) are amended in accordance with this Part.

**52.**—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

- (a) omit the definitions of “designated distance learning course”, “eligible distance learning student”, “grant for disabled distance learning students’ living costs” and “present distance learning course”;
- (b) in the definition of “2012 cohort student”, omit “, 75”;
- (c) in the definition of “applicant”, omit paragraph (b);
- (d) in the definition of “end on course”, omit paragraphs (e) and (f);
- (e) in the definition of “Erasmus year”—
  - (i) for “and the student’s course is a course referred to in regulation 5(1)(e)(i)” substitute “or in the scheme established by the Secretary of State for Education known as the Turing scheme, the student’s course is a course referred to in regulation 5(1)(e) or (ea) or regulation 83(1)(d)”;
  - (ii) omit paragraph (a);
  - (iii) in paragraph (b), omit “on or after 1 September 2012 and”;
  - (iv) in paragraph (c), omit “on or after 1 September 2012 and”;
- (f) in the definition of “new eligible part-time student”, omit “, 75”;
- (g) at the appropriate place insert—

““the 2020 Citizens’ Rights Regulations”  
 (“Rheoliadau Hawliau Dinasydion 2020”)  
 means the Citizens’ Rights (Application

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(1) S.I. 2017/47 (W. 21), amended by S.I. 2018/191 (W. 42); 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) and S.I. 2021/73 (W. 19).

Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;

““grace period” (“*cyfnod gras*”) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;

““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 the armed forces);
- (d) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved spouses or civil partners);
- (e) paragraphs D-BPILR.1.1. and D-BPILR.1.2. of Appendix FM (decision on application for indefinite leave to remain as a bereaved partner);
- (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 those rules are met (bereaved unmarried or same sex partners);”;

““person with Calais leave” (“*person sydd â chaniatâd Calais*”) means a person with 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 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;

(iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations where the grace period has not ended; or

(iv) 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;”;

““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;”;

““residence scheme immigration rules” (“*rheolau mewnfudo'r cynllun preswylio*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020(1);”;

““Swiss citizens' rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”.

(3) After paragraph (1) insert—

“(1A) For the purposes of these Regulations, 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 (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or

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(1) 2020 c. 1.

(c) Article 10 (personal scope) of the Swiss citizens' rights agreement.”

**53.** In regulation 4 (eligible students)—

(a) for paragraph (2) substitute—

“(2) Subject to the following provisions of this regulation, a person is an eligible student in connection with a designated course if, in assessing the person’s application for support under regulation 9, the Welsh Ministers determine that the person falls within one of the categories set out—

- (a) in paragraph 2, 2A, 3, 4, 4ZA, 4ZB, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A or 12A of Part 2 of Schedule 1, or
- (b) in paragraph 6, 7, 8, 9, 10, 11 or 12 of Part 2 of Schedule 1 where paragraph (2A) applies.

(2A) This paragraph applies where—

(a) in connection with a designated course, the Welsh Ministers—

- (i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraph 6, 7, 8, 9, 10, 11 or 12 of Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1 August 2021; or
- (ii) would have so determined had A made an application for support in accordance with these Regulations in relation to an academic year of the course beginning before that date; and

(b) A applies for support in connection with—

- (i) that course;
- (ii) an end-on course following on from that course; or
- (iii) a designated course to which A’s status as an eligible student is transferred or a designated part-time course to which A transfers and in relation to which A’s status is converted to that of an eligible part-time student in accordance with these Regulations.”;

- (b) in paragraph (6), omit sub-paragraph (d);
- (c) in paragraph (7), after “(2)” insert “, (2A)”;
- (d) in paragraph (8)(c)—

- (i) in paragraph (i)—
  - (aa) at the end of sub-paragraph (aa) insert “or”;
  - (bb) at the end of sub-paragraph (bb) omit “or”;
  - (cc) omit sub-paragraph (cc);
- (ii) in paragraph (ii), omit “, an eligible distance learning student”;
- (e) in paragraph (9)(a)(i), omit “, a designated distance learning course” and “, an eligible distance learning student”;
- (f) in paragraphs (9A)(a)(i), (9B)(a)(i), (10)(a)(i) and (10A)(a)(i), omit “, designated distance learning course” and “, eligible distance learning student”;
- (g) after paragraph (10A) insert—
  - “(10B) Where—
    - (a) the Welsh Ministers have determined that by virtue of being a person with Calais leave, a person (“A” in this paragraph) was—
      - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course or other designated course from which A’s status as an eligible part-time student or eligible student has been transferred to the present course; or
      - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A’s status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
    - (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which a person granted Calais leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted,

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(10C) Where—

- (a) the Welsh Ministers have determined that by virtue of being a person granted leave to remain as a protected partner or the child of such a person, a person ("A" in this paragraph) was—
  - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course or other designated course from which A's status as an eligible part-time student or eligible student has been transferred to the present course; or
  - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A's status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
- (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which a person granted leave to remain as a protected partner is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002(1)),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.

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(1) 2002 c. 41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), Schedules 2 and 4, the Immigration, Asylum and Nationality Act 2006 (c. 13), section 9, S.I. 2010/21 and the Immigration Act 2014 (c. 22), Schedule 9.

(10D) Where—

- (a) the Welsh Ministers have determined that by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person (“A”) was—
  - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course or other designated course from which A’s status as an eligible part-time student or eligible student has been transferred to the present course; or
  - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A’s status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support;
- (b) as at the day before the academic year in respect of which A is applying for support starts A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules, and no further leave to enter or remain has been granted under those rules,

A’s status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(10E) Where—

- (a) the Welsh Ministers have determined that, by virtue of—
  - (i) falling within paragraph (a)(iii) or (iv) of the definition of “person with protected rights”; or
  - (ii) meeting the conditions in paragraph 3(1)(a)(iii) or (iv) of Part 2 of Schedule 1,

a person (“A”) is an eligible student in connection with an application for

support for an academic year of a designated course or a qualifying student in connection with an academic year of a qualifying course; and

(b) as at the day before the academic year begins, A is not a person with protected rights,

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support."

**54. In regulation 5(1) (designated courses)—**

(a) in sub-paragraph (b)(iii), omit "other than a course to which regulation 66(5) applies";  
(b) omit sub-paragraph (c).

**55. In regulation 6 (period of eligibility)—**

(a) in paragraph (4)(a), omit ", regulation 76";  
(b) in paragraph (6)(c), omit "80,";  
(c) in paragraph (17), omit "designated";  
(d) in paragraph (18)(b), omit "designated".

**56. In regulation 15 (events)—**

(a) in paragraph (ba), after "with section 67 leave to remain" insert "or a person granted leave to remain as a protected partner";  
(b) after paragraph (ba) insert—  
    "(bb) the student becomes a person with Calais leave;";  
(c) omit paragraph (c);  
(d) for paragraph (d) substitute—  
    "(d) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;";  
(e) in paragraph (e), for "3(a)" substitute "3(1)(a)";  
(f) for paragraph (f) substitute—  
    "(f) where regulation 4(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;";  
(g) in paragraph (g)—  
    (i) after "described in" insert "paragraph 6A(1)(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in";  
    (ii) omit the "or" at the end;  
(h) for paragraph (h) substitute—  
    "(h) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1; or";

(i) after paragraph (h) insert—

“(i) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1.”

**57.** In regulation 23 (general qualifying conditions for grants for living costs)—

(a) in paragraph (2), for the words from “in Part 2” to the end substitute “or paragraphs in Part 2 of Schedule 1 into which the eligible student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D.”;

(b) in paragraph (12)—

(i) in sub-paragraph (ba), after “with section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;

(ii) after sub-paragraph (ba) insert—

“(bb) the student becomes a person with Calais leave;”;

(iii) omit sub-paragraph (c);

(iv) in sub-paragraph (d), for “3(a)” substitute “3(1)(a);”

(v) for sub-paragraph (e) substitute—

“(e) where regulation 4(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;”;

(vi) in sub-paragraph (f)—

(aa) after “described in” insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in”;

(bb) omit the “or” at the end;

(vii) for sub-paragraph (g) substitute—

“(g) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1; or”;

(viii) after sub-paragraph (g) insert—

“(h) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1.”

**58.** In regulation 41(3) (qualifying conditions for loans for living costs - exceptions), for the words from “in Part 2” to the end substitute “or paragraphs in Part 2 of Schedule 1 into which the eligible student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D.”

**59.** In regulation 49(2) (students becoming eligible during the course of an academic year)—

- (a) in sub-paragraph (ba), after “with section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;
- (b) after sub-paragraph (ba) insert—
  - “(bb) the student becomes a person with Calais leave;”;
- (c) omit sub-paragraph (c);
- (d) in sub-paragraph (d), for “3(a)” substitute “3(1)(a)”;
- (e) for sub-paragraph (e) substitute—
  - “(e) where regulation 4(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;”;
- (f) in sub-paragraph (f)—
  - (i) after “described in” insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in”;
  - (ii) omit the “or” at the end;
- (g) for sub-paragraph (g) substitute—
  - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1; or”;
- (h) after sub-paragraph (g) insert—
  - “(h) the person becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1.”

**60.** Omit Part 11.

**61.** In regulation 81 (eligible part-time students)—

- (a) for paragraph (2) substitute—
  - “(2) Subject to the following provisions of this regulation, a person is an eligible part-time student in connection with a designated part-time course if, in assessing the person’s application for support under regulation 99, the Welsh Ministers determine that the person falls within one of the categories set out—
    - (a) in paragraph 2, 2A, 3, 4, 4ZA, 4ZB, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A or 12A of Part 2 of Schedule 1, or
    - (b) in paragraph 6, 7, 8, 9, 10, 11 or 12 of Part 2 of Schedule 1, where paragraph (2A) applies.
  - (2A) This paragraph applies where—
    - (a) in connection with a designated part-time course, the Welsh Ministers—
      - (i) in assessing an application for support by a person (“A”) determined that A fell within one

of the categories set out in paragraph 6, 7, 8, 9, 10, 11 or 12 of Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1 August 2021; or

(ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and

(b) A applies for support in connection with—

(i) that course;

(ii) a designated part-time course to which A's status as an eligible part-time student is transferred; or

(iii) a designated course to which A transfers and in relation to which A's status is converted to that of an eligible student in accordance with these Regulations.”;

(b) in paragraph (8)(c)—

(i) in paragraph (i)—

(aa) at the end of sub-paragraph (aa) insert “or”;

(bb) at the end of sub-paragraph (bb) omit “or”;

(cc) omit sub-paragraph (cc);

(ii) in paragraph (ii), omit “, an eligible distance learning student”;

(c) in paragraphs (9)(a), (9A)(a), (9B)(a), (10)(a) and (10A)(a)—

(i) omit “, designated distance learning course”, and

(ii) for “, eligible student or eligible distance learning student” substitute “or eligible student”;

(d) after paragraph (10A) insert—

“(10B) Where—

(a) the Welsh Ministers have determined that, by virtue of being a person with Calais leave (“A” in this paragraph) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course or other designated part-time course from which A's status as an eligible part-

time student or eligible student has been transferred to the present part-time course; and

- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person with Calais leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted,

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(10C) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a person granted leave to remain as a protected partner or the child of such a person, a person ("A" in this paragraph) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course or other designated part-time course from which A's status as an eligible student or eligible part-time student has been transferred to the present part-time course; and

- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person granted leave to remain as a protected partner is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(10D) Where—

- (a) the Welsh Ministers have determined that by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by residence scheme immigration rules, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the

present part-time course or an application for support in connection with a designated course or other designated part-time course from which A's status as an eligible student or eligible part-time student has been transferred to the present part-time course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules and no further leave to enter or remain has been granted under those rules,

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(10E) Where—

(a) the Welsh Ministers have determined that by virtue of—  
(i) falling within paragraph (a)(iii) or (iv) of the definition of “person with protected rights”; or  
(ii) meeting the conditions in paragraph 3(1)(a)(iii) or (iv) of Part 2 of Schedule 1,  
a person (“A”) is an eligible part-time student in connection with an application for support for an academic year of a designated part-time course; and

(b) as at the day before the academic year begins, A is not a person with protected rights,

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.”;

(e) in paragraph (12), for the words from “in Part 2” to the end substitute “or paragraphs in Part 2 of Schedule 1 into which the eligible part-time student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D.”;

(f) in paragraph (21), omit sub-paragraph (c).

**62.** In regulation 82 (students becoming eligible during the course of the academic year)—

(a) in paragraphs (2) and (3), for “(a), (b), (ba), (e), (f), (g), (h) or (i)” substitute “(a), (b), (ba), (bb), (f), (g), (h), (i) or (j)”;

- (b) in paragraph (4)—
  - (i) in sub-paragraph (ba), after “with section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;
  - (ii) after sub-paragraph (ba) insert—
    - “(bb) the student becomes a person with Calais leave;”;
  - (iii) omit sub-paragraph (c);
  - (iv) for sub-paragraph (d) substitute—
    - “(d) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;”;
  - (v) omit sub-paragraph (e);
  - (vi) in sub-paragraph (f), for “3(a)” substitute “3(1)(a)”;
  - (vii) for sub-paragraph (g) substitute—
    - “(g) where regulation 81(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;”;
  - (viii) in sub-paragraph (h)—
    - (aa) after “described in” insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 81(2A)(a) applies, in”;
    - (bb) omit the “or” at the end;
  - (ix) for sub-paragraph (i) substitute—
    - “(i) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 81(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1; or”;
  - (x) after sub-paragraph (i) insert—
    - “(j) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1.”

**63.** In regulation 83(1) (designated part-time courses)—

- (a) at the end of sub-paragraph (f) insert “and”;
- (b) at the end of sub-paragraph (g) omit “; and”;
- (c) omit sub-paragraph (h).

**64.** In regulation 94 (part-time grants for dependants – initial calculations), in paragraph (11)(d), for “82(4)(a), (b), (e), (f), (g), (h) or (i)” substitute “82(4)(a), (b), (ba), (bb), (f), (g), (h), (i) or (j)”.

**65.** In regulation 103 (conversion of status), omit paragraphs (5) to (12) and paragraphs (15) to (19).

**66.** In regulation 110 (eligible postgraduate students)—

(a) for paragraph (3)(a) substitute—

“(a) the Welsh Ministers, in assessing a person’s application for support under regulation 115, have determined in connection with the designated postgraduate course that the person falls within one of the categories set out—

(i) in paragraph 2, 3, 4, 4ZA, 4ZB, 6A, 7A, 8A, 9B, 10A, 11A or 12A of Part 2 of Schedule 1; or

(ii) in paragraph 6, 7, 8, 10, 11 or 12 of Part 2 of Schedule 1 where paragraph (3A) applies; and”;

(b) after paragraph (3) insert—

“(3A) This paragraph applies where—

(a) in connection with a designated postgraduate course, the Welsh Ministers—

(i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraph 6, 7, 8, 10, 11 or 12 of Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1 August 2021; or

(ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and

(b) A applies for support in connection with—

(i) that course; or

(ii) a designated postgraduate course to which A’s status as an eligible postgraduate student is transferred from that course in accordance with these Regulations.”;

(c) omit paragraph (7);

(d) after paragraph (12A) insert—

“(12B) Where—

(a) the Welsh Ministers have determined that, by virtue of being a person with Calais leave (“A” in this paragraph) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an

application for support in connection with another designated postgraduate course, from which A's status as an eligible postgraduate student has been transferred to the present postgraduate course; and

- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person with Calais leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted,

A's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(12C) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a person granted leave to remain as a protected partner or the child of such a person, a person ("A" in this paragraph) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application for support in connection with another designated postgraduate course from which A's status as an eligible postgraduate student has been transferred to the present postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person granted leave to remain as a protected partner is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(12D) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person ("A") was

an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application for support in connection with another designated postgraduate course from which A's status as an eligible postgraduate student has been transferred to the present postgraduate course; and

- (b) as at the day before the academic year in respect of which A is applying for support begins A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules and no further leave to enter or remain has been granted under those rules,

A's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(12E) Where—

- (a) the Welsh Ministers have determined that, by virtue of—

- (i) falling within paragraph (a)(iii) or (iv) of the definition of “person with protected rights”; or
  - (ii) meeting the conditions in paragraph 3(1)(a)(iii) or (iv) of Part 2 of Schedule 1,

a person (“A”) is an eligible postgraduate student in connection with an application for support for an academic year of a designated postgraduate course; and

- (b) as at the day before the academic year begins, A is not a person with protected rights,

A's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.”;

- (e) in paragraph (14), omit sub-paragraph (b).

**67.** In regulation 111(2) (students becoming eligible during the course of the academic year)—

- (a) in sub-paragraph (ba), after “with section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;

- (b) after sub-paragraph (ba) insert—

“(bb) the student becomes a person with Calais leave;”;

- (c) omit sub-paragraph (c);
- (d) in sub-paragraph (d), for “3(a)” substitute “3(1)(a)”;
- (e) for sub-paragraph (e) substitute—
  - “(e) where regulation 110(3A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 1;”;
- (f) in sub-paragraph (f)—
  - (i) after “described in” insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 110(3A)(a) applies, in”;
  - (ii) omit the “or” at the end;
- (g) for sub-paragraph (g) substitute—
  - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 110(3A)(a) applies, in paragraph 11(1)(a) of Schedule 1; or”;
- (h) after sub-paragraph (g) insert—
  - “(h) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1.”

**68. In Schedule 1, in paragraph 1 (interpretation)—**

- (a) in sub-paragraph (1)—
  - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreements”;
  - (ii) in the definition of “family member”—
    - (aa) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person or 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)”;
    - (bb) 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”;
    - (cc) 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”;

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

(iii) at the appropriate place insert—  
““United Kingdom national” (“*gwladolyn o'r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;”;

(b) 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.”;

(c) in sub-paragraph (3)(a), omit “the present distance learning course;”;

(d) in sub-paragraph (4), after “Islands”, in each place it occurs, insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

(e) in sub-paragraph (5)—  
(i) after “Islands” insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

(ii) after paragraph (a)—  
(aa) omit “and”;  
(bb) insert—  
“(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces;”.

**69.** In Schedule 1, in paragraph 2(1) (persons who are settled in the United Kingdom), for paragraph (a) substitute—

“(a) is settled in the United Kingdom and does not fall within paragraph 3;”.

**70.** In Schedule 1, after paragraph 2 insert—

“**2A.**—(1) A person—

(a) who is settled in the United Kingdom on the first day of the first academic year of the course, other than a person falling within paragraph 3;

(b) who is—

(i) attending or undertaking a designated course in Wales; or

- (ii) undertaking a designated part-time course or a designated postgraduate course in Wales;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland in accordance with paragraph 1(4)."

**71. In Schedule 1, in paragraph 3—**

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph, for paragraph (a) substitute—
  - “(a) meets one of the following conditions—
    - (i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;
    - (ii) the person—
      - (aa) is within the personal scope of the citizens' rights provisions;
      - (bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and
      - (cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that

person were to make an application for such leave;

(iii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations; and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period;

(iv) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations; and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period; or

(v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;";

(c) after that sub-paragraph insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**72.** In Schedule 1, for paragraph 4ZA (protected persons and their family members) substitute—

**“Protected persons and their family members**

**4ZA.—(1) A person—**

- (a) granted leave to enter or remain as a protected person;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

**(2) A person who—**

- (a) is a protected spouse or civil partner;
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

**(3) A person who—**

- (a) is a protected child;
- (b) on the leave application date was—
  - (i) under 18 years old; and
  - (ii) was the child of a person granted leave to enter or remain as a protected person, or as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on

that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);

- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(4) In this paragraph—

- (a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person;
- (b) “leave to enter or remain as a protected person” means—
  - (i) a person granted leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
  - (ii) a person granted stateless leave;
  - (iii) a person with section 67 leave to remain; or
  - (iv) a person with Calais leave;
- (c) “protected child” means—
  - (i) a child of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
    - (ab) a person granted stateless leave; or
    - (ac) a person with section 67 leave to remain;
  - (ii) a child of the spouse or civil partner of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph

- 339C of the immigration rules; or
- (ab) a person granted stateless leave;
- (d) “protected spouse or civil partner” means a spouse or civil partner of—
  - (i) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
  - (ii) a person granted stateless leave.”

**73.** In Schedule 1, after paragraph 4ZA insert—

**“Persons granted leave to remain as a protected partner and their children”**

**4ZB.**—(1) A person—

- (a) granted leave to remain as a protected partner;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is the child of a person granted leave to remain as a protected partner;
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.”

**74.** In Schedule 1, omit paragraphs 4A (persons granted stateless leave and their family members) and 5A (persons with section 67 leave to remain).

**75.** In Schedule 1, after paragraph 6 (workers, employed persons, self-employed persons and their family members) insert—

“**6A.**—(1) A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020 who—

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) 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 first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

**76.** In Schedule 1, in paragraph 7—

- (a) in sub-paragraph (1)—

- (i) in paragraph (c), for the words from “, as extended” to the end substitute “(“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it

had effect immediately before IP completion day;”;

(ii) after paragraph (c) insert—

“(d) for the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;

(b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**77.** In Schedule 1, after paragraph 7 insert—

“**7A.**—(1) A person with protected rights who—

(a) is ordinarily resident in Wales on the first day of the first academic year of the course;

(b) 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 first day of the first academic year of the course; and

(c) is entitled to support by virtue of Article 10 of 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 (“the Workers Regulation”), as it had effect immediately before IP completion day as extended by the EEA Agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

(a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and

(b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.”

**78.** In Schedule 1, in paragraph 8(1)(b) (persons who are settled in the United Kingdom and have exercised right of residence elsewhere), in the English language text, for “implementation period” substitute “IP”.

**79.** In Schedule 1, after paragraph 8 insert—

“8A.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day;
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising Gibraltar, 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 Gibraltar, 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 first day of the first academic year of the course;

- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) 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 first day of the first academic year of the course; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or

corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”

**80.** In Schedule 1, in paragraph 9 (EU nationals)—

- (a) in the heading, at the end insert “etc.”;
- (b) in sub-paragraph (1)(b)(ii), omit “a designated distance learning course.”;
- (c) in sub-paragraph (5), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**81.** In Schedule 1, after paragraph 9 insert—

**“9A.**—(1) A person with protected rights—

- (a) who is—
  - (i) an EU national on the first day of the first academic year of the course;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is—
  - (i) attending or undertaking a designated course in Wales; or
  - (ii) undertaking a designated part-time course or a designated postgraduate course in Wales;
- (c) 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 first day of the first academic year of the course; and

(d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(4).

### **United Kingdom nationals**

#### **9B.—(1) A person—**

(a) who is—

(i) a United Kingdom national on the first day of the first academic year of the course; 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 first day of the first academic year of the course;

(c) who is—

(i) attending or undertaking a designated course in Wales; or

(ii) undertaking a designated part-time course or a designated postgraduate course in Wales;

(d) 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 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 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(4).

(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).

**9C.—(1) A person—**

(a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;

(b) who is—

(i) attending or undertaking a designated course in Wales; or

(ii) undertaking a designated part-time course or a designated postgraduate course in Wales;

(c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

**Persons resident in Gibraltar**

**9D.—(1)** A person—

(a) who is—

- (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
- (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
- (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
- (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;

(b) who is—

- (i) attending or undertaking a designated course in Wales; or
- (ii) undertaking a designated part-time course or a designated postgraduate course in Wales;

(c) 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 first day of the first academic year of the course; and

(d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(4)."

**82.** In Schedule 1, before paragraph 10 insert the heading—

**“EU nationals ordinarily resident in the United Kingdom and Islands”.**

**83.** In Schedule 1, after paragraph 10 insert—

**“10A.** A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).”

**84.** In Schedule 1, in paragraph 11(2) (children of Swiss nationals), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**85.** In Schedule 1, after paragraph 11 insert—

**“11A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreements;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) 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 first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United

Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in subparagraph (c).”

**86.** In Schedule 1, after paragraph 12 (children of Turkish workers) insert—

“**12A.** A person who—

- (a) is the child of a Turkish worker (“T”) where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
  - (i) was the child of T; and
  - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.”

**87.** In Schedule 3, in paragraph 1, omit “, eligible distance learning student”.

**88.** In Schedule 3, in paragraph 2, omit “, eligible distance learning student”.

**89.** In Schedule 4, in paragraph 3, for “paragraph 9” substitute “paragraph 9, 9A, 9B, 9C or 9D”.

**90.** In Schedule 4, in paragraph 6—

- (a) in sub-paragraph (aa), after “a person with section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;
- (b) after sub-paragraph (aa) insert—
  - “(ab) the student becomes a person with Calais leave;”;
- (c) omit sub-paragraph (b);
- (d) for sub-paragraph (c) substitute—
  - “(c) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;”;
- (e) in sub-paragraph (d), for “3(a)” substitute “3(1)(a)”;
- (f) for sub-paragraph (e) substitute—

- “(e) where regulation 4(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;”;
- (g) in sub-paragraph (f), after “described in” insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in”;
- (h) for sub-paragraph (g) substitute—
  - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1; or”;
- (i) after sub-paragraph (g) insert—
  - “(h) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1.”

## PART 5

### AMENDMENTS TO THE EDUCATION (POSTGRADUATE MASTER'S DEGREE LOANS) (WALES) REGULATIONS 2017

#### **Amendments to the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017**

**91.** The Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017(1) are amended in accordance with this Part.

**92.** In regulation 2 (interpretation)—

- (a) in paragraph (1), 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;”;
  - ““grace period” (“*cyfnod gras*”) has the meaning given by regulation 3 of the 2020 Citizens' Rights Regulations;”;
  - ““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

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(1) S.I. 2017/523 (W. 109), amended by S.I. 2017/712 (W. 169); S.I. 2018/277 (W. 53); S.I. 2018/814 (W. 165); S.I. 2019/895 (W. 161); S.I. 2019/1094; S.I. 2020/1302 (W. 287) and S.I. 2021/9 (W. 4).

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 the armed forces);
- (d) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those 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 those rules are met (bereaved unmarried or same sex partners);”;

““person with Calais leave” (“*person sydd â chaniatâd Calais*”) means a person with 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 with protected rights” (“*person sydd â hawliau gwarchodedig*”) 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;
  - (iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended; or
  - (iv) 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;”;

““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;”;

““residence scheme immigration rules” (“*rheolau mewnfudo'r cynllun preswylio*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““Swiss citizens’ rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

(b) after paragraph (2) insert—

“(3) For the purposes of these Regulations, 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 (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”

**93. In regulation 3 (eligible students)—**

(a) for paragraph (2) substitute—

“(2) Subject to the following provisions of this regulation, a person is an eligible student in connection with a designated course if, in assessing that person’s application for a postgraduate master’s degree loan under regulation 9, the Welsh Ministers determine that the person falls within one of the categories set out—

(a) in paragraph 2, 2A, 3, 4, 4ZA, 4ZB, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A or 12A of Part 2 of Schedule 1; or

(b) in paragraph 6, 7, 8, 9, 10, 11 or 12 of Part 2 of Schedule 1 where paragraph (2A) applies.

(2A) This paragraph applies where—

(a) in connection with a designated course, the Welsh Ministers—

(i) in assessing an application for a postgraduate master's degree loan by a person ("A") determined that A fell within one of the categories set out in paragraph 6, 7, 8, 9, 10, 11 or 12 of Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1 August 2021; or

(ii) would have so determined had A made an application for a postgraduate master's degree loan in accordance with these Regulations in relation to an academic year of the course beginning before that date; and

(b) A applies for a postgraduate master's degree loan in connection with—

(i) that course; or

(ii) a designated course to which A's status as an eligible student is transferred from that course in accordance with these Regulations.;

(b) after paragraph (9) insert—

“(10) Where—

(a) the Welsh Ministers have determined that by virtue of—

(i) falling within paragraph (a)(iii) or (iv) of the definition of "person with protected rights"; or

(ii) meeting the conditions in paragraph 3(1)(a)(iii) or (iv) of Part 2 of Schedule 1,

a person ("A") is an eligible student in connection with an application for a postgraduate master's degree loan for a designated course; and

(b) as at the day before the first day of the first academic year of that designated course, A is not a person with protected rights,

A's status as an eligible student terminates immediately before the first day of the first academic year of that designated course."

**94.** In regulation 8 (events)—

- (a) in paragraph (ba), after "a person with section 67 leave to remain" insert "or a person granted leave to remain as a protected partner";
- (b) after paragraph (ba) insert—
  - "(bb) the student becomes a person with Calais leave;";
- (c) omit paragraph (c);
- (d) for paragraph (d) substitute—
  - "(d) the student becomes a family member described in paragraph 9A(1)(a), 9B(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;";
- (e) in paragraph (e), for "3(a)" substitute "3(1)(a)";
- (f) omit paragraph (f);
- (g) in paragraph (g), for "6(1)(a)" substitute "6A(1)(a)";
- (h) for paragraph (h) substitute—
  - "(h) the student becomes a person described in paragraph 11A(a) of Schedule 1; or".

**95.**—(1) In Schedule 1, paragraph 1 (interpretation) is amended as follows.

(2) In sub-paragraph (1)—

- (a) omit the definitions of "EEA EFTA separation agreement", "residence scheme immigration rules", "right of permanent residence" and "Swiss citizens' rights agreement";
- (b) in the definition of "family member"—
  - (i) in paragraph (a), for "or an EEA self-employed person" substitute "an EEA self-employed person or 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 and 9D”;

(c) at the appropriate place insert—

““United Kingdom national” (“*gwladolyn o'r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;”.

(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 (4), after “Islands”, in each place it occurs, insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”.

(5) In sub-paragraph (5)—

(a) after “Islands” insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

(b) after paragraph (a)—

(i) omit “and”;

(ii) insert—

“(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces;”.

**96.** In Schedule 1, in paragraph 2 (persons who are settled in the United Kingdom), for sub-paragraph (1)(a) substitute—

“(a) is settled in the United Kingdom and does not fall within paragraph 3;”.

**97.** In Schedule 1, after paragraph 2 insert—

**“2A.—(1)** A person—

(a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within paragraph 3;

(b) who is attending or undertaking a designated course in Wales;

(c) who has been ordinarily resident in the territory comprising the United

Kingdom, Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland in accordance with paragraph 1(4)."

**98.** In Schedule 1, in paragraph 3—

(a) the existing text becomes sub-paragraph (1);  
(b) in that sub-paragraph, for paragraph (a) substitute—

“(a) meets one of the following conditions—

(i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;

(ii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and

(cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;

(iii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations; and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period;

(iv) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations; and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations, in relation to that person during the relevant period; or

(v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;

(c) after that sub-paragraph insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme

immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**99.** In Schedule 1 for paragraph 4ZA (protected persons and their family members) substitute—

**“Protected persons and their family members**

**4ZA.—(1) A person—**

- (a) granted leave to enter or remain as a protected person;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave; and
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course.

**(2) A person who—**

- (a) is a protected spouse or civil partner;
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

**(3) A person who—**

- (a) is a protected child;
- (b) on the leave application date was—
  - (i) under 18 years old; and
  - (ii) was the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave

under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);

- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(4) In this paragraph—

- (a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person;
- (b) “leave to enter or remain as a protected person” means—
  - (i) a person granted leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
  - (ii) a person granted stateless leave;
  - (iii) a person with section 67 leave to remain; or
  - (iv) a person with Calais leave;
- (c) “protected child” means—
  - (i) a child of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
    - (ab) a person granted stateless leave; or
    - (ac) a person with section 67 leave to remain;
  - (ii) a child of the spouse or civil partner of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
    - (ab) a person granted stateless leave;

- (d) “protected spouse or civil partner” means a spouse or civil partner of—
  - (i) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
  - (ii) a person granted stateless leave.”

**100.** In Schedule 1, after paragraph 4ZA insert—

**“Persons granted leave to remain as a protected partner and their children**

**4ZB.**—(1) A person—

- (a) granted leave to remain as a protected partner;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is the child of a person granted leave to remain as a protected partner;
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.”

**101.** In Schedule 1, omit paragraphs 4A (persons granted stateless leave and their family members) and 5A (persons with section 67 leave to remain).

**102.** In Schedule 1, after paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—

“**6A.**—(1) A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020, who—

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) 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 first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

**103.** In Schedule 1, in paragraph 7—

- (a) in sub-paragraph (1)—
  - (i) in paragraph (c), for the words from “Article 12” to the end substitute “Article 10 of 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 (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement,

as it had effect immediately before IP completion day;”;

(ii) after paragraph (c) insert—

“(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;

(b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**104.** In Schedule 1, after paragraph 7 insert—

“**7A.**—(1) A person with protected rights who—

(a) is ordinarily resident in Wales on the first day of the first academic year of the course;

(b) 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 first day of the first academic year of the course; and

(c) is entitled to support by virtue of Article 10 of 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 (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

(a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and

(b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.”

**105.** In Schedule 1, in paragraph 8(1)(b) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), in the English language text, for “implementation period” substitute “IP”.

**106.** In Schedule 1, after paragraph 8 insert—

“8A.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day;
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising Gibraltar, 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 Gibraltar, 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 first day of the first academic year of the course;

- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) 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 first day of the first academic year of the course; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or

corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”

**107.** In Schedule 1, in paragraph 9 (EU nationals)—

- (a) in the heading, at the end insert “etc.”;
- (b) in sub-paragraph (5), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**108.** In Schedule 1, after paragraph 9 insert—

**“9A.—(1)** A person with protected rights—

- (a) who is—
  - (i) an EU national on the first day of the first academic year of the course;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is attending or undertaking a designated course in Wales;
- (c) 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 first day of the first academic year of the course; and
- (d) 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 (c) been wholly or mainly

for the purpose of receiving full-time education.

(2) Paragraph (d) 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(4).

### **United Kingdom nationals**

#### **9B.—(1) A person—**

(a) who is—

(i) a United Kingdom national on the first day of the first academic year of the course; 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 from IP completion day and ending immediately before the first day of the first academic year of the course;

(c) who is attending or undertaking a designated course in Wales;

(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 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 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(4).

(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).

**9C.—(1) A person—**

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is attending or undertaking a designated course in Wales;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

**Persons resident in Gibraltar**

**9D.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
  - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
  - (iii) an EU national who has a right of residence in Gibraltar arising

under the EU withdrawal agreement; or

- (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is attending or undertaking a designated course in Wales;
- (c) 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 first day of the first academic year of the course; and
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(4)."

**109.** In Schedule 1, before paragraph 10 insert the heading—

**"EU nationals ordinarily resident in the United Kingdom and Islands".**

**110.** In Schedule 1, after paragraph 10 insert—

**"10A.** A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time

education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in subparagraph (c).”

**111.** In Schedule 1, in paragraph 11(2) (children of Swiss nationals), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**112.** In Schedule 1, after paragraph 11 insert—

“**11A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) 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 first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in subparagraph (c).”

**113.** In Schedule 1, after paragraph 12 (children of Turkish workers) insert—

“**12A.** A person who—

- (a) is the child of a Turkish worker (“T”) where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
  - (i) was the child of T; and
  - (ii) was ordinarily resident in the United Kingdom;

- (c) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.”

## PART 6

### AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2018

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

**114.** The Education (Student Support) (Wales) Regulations 2018(1) are amended in accordance with this Part.

**115.** In regulation 9 (eligible students), for paragraph (1) substitute—

“(1) A person is an eligible student in connection with a designated course that the person is undertaking if—

(a) the person falls within one of the categories set out—

(i) in paragraph 1, 2, 2ZA, 2ZB, 3, 4A, 5A, 6A, 6B, 6C, 6D, 7A or 8A of Schedule 2, or

(ii) in paragraph 4, 5, 6, 7 or 8 of Schedule 2 where paragraph (1A) applies,

and none of the exceptions in regulation 10 apply to the person, or

(b) the person’s circumstances fall within one of the cases set out in regulation 11.

(1A) This paragraph applies where—

(a) in connection with a designated course beginning before 1 August 2021 the Welsh Ministers—

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(1) 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) and S.I. 2021/73 (W. 19).

- (i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraph 4, 5, 6, 7 or 8 of Schedule 2 in relation to an academic year of the course beginning before 1 August 2021, or
- (ii) would have so determined had A made an application for support in accordance with these Regulations in relation to an academic year of the course beginning before that date, and

(b) A applies for support in connection with—

- (i) that course,
- (ii) an end-on course following on from that course, or
- (iii) a designated course to which A’s status as an eligible student is transferred in accordance with these Regulations.”

**116.** In regulation 10(1) (eligible students – exceptions), at the end insert—

*“Exception 8*

The designated course begins on or after 1 January 2028 and the only paragraph or paragraphs in Schedule 2 into which P falls is one or more of paragraphs 5A, 6B, or 6D.”

**117.** In regulation 12(1) (period of eligibility – general rule), for “19, 20, 22 or 23” substitute “19, 20, 22, 22A, 23, 23A, 23B, 23C, 23D or 23E”.

**118.** In regulation 22A(1) (persons who cease to have stateless leave)—

- (a) in sub-paragraph (a), for “a Category 2A eligible student” substitute “an eligible student as a result of being a person granted stateless leave”;
- (b) in sub-paragraph (b)(ii), for “a Category 2A eligible student” substitute “an eligible student”.

**119.** In regulation 23A(1) (persons who cease to have section 67 leave to remain)—

- (a) in sub-paragraph (a), for “a Category 3A eligible student” substitute “an eligible student as a result of being a person with section 67 leave to remain”;

(b) in sub-paragraph (b)(ii), for “a Category 3A eligible student” substitute “an eligible student”.

**120.** After regulation 23A insert—

**“Persons who cease to have Calais leave**

**23B.**—(1) This regulation applies where—

(a) a person (“P”) was an eligible student as a result of being a person with Calais leave (see Schedule 2, paragraph 2ZA) in connection with an application for support—

- (i) for an earlier year of the present course,
- (ii) for a full-time course in relation to which the present course is a full-time end-on course, or
- (iii) for a course from which P’s status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and

(b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which P is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted.

(2) Where this regulation applies, P’s status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

**Persons who cease to have leave to remain as a protected partner**

**23C.**—(1) This regulation applies where—

(a) a person (“P”) was an eligible student as a result of being a person granted leave to remain as a protected partner—

- (i) for an earlier year of the present course,
- (ii) for a full-time course in relation to which the present course is a full-time end-on course, or
- (iii) for a course from which P’s status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and

- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which—
  - (i) P, or
  - (ii) the person who, as a result of being a person granted leave to remain as a protected partner, caused P to be an eligible student,

is allowed to stay in the United Kingdom has expired and no further leave to remain as been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002).

(2) Where this regulation applies, P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

**Persons who cease to have leave to remain under residence scheme immigration rules**

**23D.**—(1) This regulation applies where—

- (a) by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person ("P") was an eligible student in connection with an application for support for—
  - (i) an earlier year of the current course,
  - (ii) a full-time course in relation to which the present course is a full-time end on course, or
  - (iii) a course from which P's status has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, P no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules, and no further leave to enter or remain has been granted under those rules.

(2) Where this regulation applies, P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

**23E.** Where—

(a) the Welsh Ministers have determined that, by virtue of—

(i) falling within paragraph (a)(iii) or (iv) of the definition of “person with protected rights”, or

(ii) meeting the conditions in paragraph 1(2)(a)(iii) or (iv) of Schedule 2,

a person (‘P’) is an eligible student in connection with an application for support for an academic year of a designated course, and

(b) as at the day before the first day of the academic year, P is not a person with protected rights,

P’s status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.”

**121.** In regulation 44(1) (qualifying conditions for base grant and maintenance grant - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.  
“

**122.** In regulation 54 (qualifying conditions for a maintenance loan - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.  
“

**123.** In regulation 62(2) (qualifying conditions for disabled student’s grant - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.  
“

**124.** In regulation 69(2) (qualifying conditions for grants for dependants - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or

more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.  
”

**125.** In regulation 80 (qualifying for a tuition fee loan during the academic year)—

- (a) in paragraph (2)(b)—
  - (i) in paragraph (ia), after “section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;
  - (ii) after paragraph (ia) insert—
    - “(ib) the student becomes a person with Calais leave;”;
  - (iii) omit paragraph (ii);
  - (iv) for paragraph (iii) substitute—
    - “(iii) the student becomes a family member described in paragraph 6A(1)(a), 6C(1)(a) or 6D(a) of Schedule 2;”;
  - (v) for paragraph (v) substitute—
    - “(v) where regulation 9(1A)(a) applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;
  - (vi) in paragraph (vi), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in”;
  - (vii) for paragraph (vii) substitute—
    - “(vii) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in paragraph 7(1)(a) of Schedule 2; or”;
  - (viii) after paragraph (vii) insert—
    - “(viii) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”;
- (b) in paragraph (3)—
  - (i) omit ““child” (“*plentyn*”)”;
  - (ii) in the entry for “family member”, omit “(within the meaning given by paragraph 6(5) of Schedule 2)”;
  - (iii) omit ““right of permanent residence” (“*hawl i breswylia'n barhaol*”)”;
  - (iv) omit ““Turkish worker” (“*gweithiwr Twrcaidd*”)”;
  - (v) at the appropriate place insert—
    - ““person granted leave to remain as a protected partner” (“*person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir*”);”;

““person with Calais leave” (“*person sydd â chaniatâd Calais*”);”.

**126.** In regulation 81(3)(b) (qualifying for grants or maintenance loan during the academic year)—

- (a) in paragraph (ia), after “section 67 leave to remain” insert “or a person with leave to remain as a protected partner”;
- (b) after paragraph (ia) insert—
  - “(ib) the student becomes a person with Calais leave;”;
- (c) omit paragraph (ii);
- (d) for paragraph (iv) substitute—
  - “(iv) where regulation 9(1A)(a) applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;
- (e) in paragraph (v), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in”;
- (f) for paragraph (vi) substitute—
  - “(vi) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in paragraph 7(1)(a) of Schedule 2;”;
- (g) after paragraph (vi) insert—
  - “(vii) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”

**127.** In Schedule 1, in paragraph 4 (meaning of Erasmus year), for sub-paragraph (3) substitute—

“(3) In sub-paragraph (1), “ERASMUS scheme” means—

- (a) the European Union’s action scheme for the mobility of university students, or
- (b) the scheme established by the Secretary of State for Education known as the Turing Scheme.”

**128.** In Schedule 1, in paragraph 6 (interpretation of other key terms)—

- (a) in sub-paragraph (1), 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;”;

““grace period” (“*cyfnod gras*”) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;

““person with protected rights” (“*person sydd â hawliau gwarchodedig*”) 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,

(iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended, or

(iv) 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;”;

““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;”;

““residence scheme immigration rules” (“*rheolau mewnfudo’r cynllun preswylio*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

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

(b) after sub-paragraph (2) insert—

“(3) For the purposes of these Regulations, 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 (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020), or
- (c) Article 10 (personal scope) of the Swiss citizens' rights agreement.”

**129.** In Schedule 2, in paragraph 1 (category 1 – persons settled in the United Kingdom)—

- (a) for sub-paragraph (1)(a)(i) substitute—
  - “(i) is settled in the United Kingdom and does not fall within subparagraph (2), and”;
- (b) for sub-paragraph (2)(a) substitute—
  - “(a) meets one of the following conditions—
    - (i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules,
    - (ii) the person—
      - (aa) is within the personal scope of the citizens' rights provisions,
      - (bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom, and
    - (cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave,
  - (iii) the person—
    - (aa) is within the personal scope of the citizens' rights provisions,

(bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations, and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period,

(iv) the person—

(aa) is within the personal scope of the citizens' rights provisions,

(bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations, and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period, or

(v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;

(c) after sub-paragraph (2) insert—

“(3) A person—

(a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within sub-paragraph (2),

(b) who is undertaking a designated course in Wales,

- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) whose ordinary residence in the territory comprising the United Kingdom, Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).

(4) For the purposes of sub-paragraph (2)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigrations rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**130.** In Schedule 2, for paragraph 2ZA substitute—

**“Category 2ZA - Protected persons and their family members**

**2ZA.—(1) A person—**

- (a) granted leave to enter or remain as a protected person,
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave, and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

**(2) A person who—**

- (a) is a protected spouse or civil partner,
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules),
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom, and

(d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) A person who—

(a) is a protected child,

(b) on the leave application date was—

(i) under 18 years old, and

(ii) was the child of a person granted leave to enter or remain as a protected person, or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be),

(c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so since being granted leave to enter or remain in the United Kingdom, and

(d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(4) In this paragraph—

(a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person,

(b) “leave to enter or remain as a protected person” means—

(i) a person granted humanitarian protection,

(ii) a person granted stateless leave,

(iii) a person with section 67 leave to remain, or

(iv) a person with Calais leave,

(c) “person granted humanitarian protection” means a person with extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules,

- (d) “person granted stateless leave” means a person with extant leave to remain on the grounds of stateless leave under the immigration rules,
- (e) “person with Calais leave” means a person with 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),
- (f) “person with section 67 leave to remain” means a person with extant leave to remain under section 67 of the Immigration Act 2016 and in accordance with the immigration rules,
- (g) “protected child” means—
  - (i) a child of—
    - (aa) a person granted humanitarian protection,
    - (ab) a person granted stateless leave, or
    - (ac) a person with section 67 leave to remain, or
  - (ii) a child of the spouse or civil partner of—
    - (aa) a person granted humanitarian protection, or
    - (ab) a person granted stateless leave,
- (h) “protected spouse or civil partner” means a spouse or civil partner of—
  - (i) a person granted humanitarian protection, or
  - (ii) a person granted stateless leave.”

**131.** In Schedule 2, after paragraph 2ZA insert—

**“Category 2ZB - Persons granted leave to remain as a protected partner and their children”**

**2ZB.—(1) A person—**

- (a) granted leave to remain as a protected partner,
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave, and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is the child of a person granted leave to remain as a protected partner,
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner,
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom, and
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) In this paragraph—

- (a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner,
- (b) “person granted leave to remain as a protected partner” means a person granted 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—
  - (i) paragraphs 289B and 289D (victims of domestic violence),
  - (ii) paragraphs D-DVILR.1.1. and D-DVILR.1.2. of Appendix FM (victims of domestic abuse),
  - (iii) paragraphs 40 and 41 of Appendix Armed Forces (victims of domestic violence who are partners of members of the armed forces),
  - (iv) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved spouses or civil partners),
  - (v) paragraphs D-BPILR.1.1. and D-BPILR.1.2. of Appendix FM (bereaved partners),
  - (vi) paragraphs 36 and 37 of Appendix Armed Forces (bereaved partners), or
  - (vii) paragraph 295N, as a person in relation to whom the requirements

in paragraph 295M of those rules are met (bereaved unmarried or same sex partners).”

**132.** In Schedule 2, omit paragraphs 2A (category 2A - persons granted stateless leave and their family members) and 3A (persons with section 67 leave to remain).

**133.** In Schedule 2, in paragraph 4 (category 4 – workers, employed persons, self-employed persons and their family members) –

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (2) –
  - (i) in paragraph (c), for the words from “, as extended” to the end substitute “(“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.”;
  - (ii) after paragraph (c) insert—
    - “(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;
- (c) in sub-paragraph (2A), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”;
- (d) in sub-paragraph (3) –
  - (i) in the opening words, after “In sub-paragraph (1)” insert “and sub-paragraph (1) of paragraph 4A”;
  - (ii) in the definition of “family member”, in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 4A(4)”.

**134.** In Schedule 2, after paragraph 4 insert—

**“Category 4A - Workers, employed persons, self-employed persons and their family members with protected rights”**

**4A.—(1)** A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020, who—

- (a) is one of the following—
  - (i) an EEA migrant worker or an EEA self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course,
  - (ii) a Swiss employed person or a Swiss self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course,
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii), who is ordinarily resident in Wales on the first day of the first academic year of the course,
  - (iv) an EEA frontier worker or an EEA frontier self-employed person,
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person, or
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v), and
- (b) 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.

(2) A person with protected rights who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (b) 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
- (c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and the Council of 5 April 2011 on freedom of movement for workers within the Union (“the Workers Regulation”), as it had effect immediately before IP completion day as extended by the EEA Agreement as it had effect immediately before IP completion day.

(3) For the purposes of sub-paragraph (2)(c), in Article 10 of the Workers Regulation—

(a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland, and

(b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.

(4) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

**135.** In Schedule 2, in paragraph 5 (category 5 – persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (1)(b), in the English language text, for “implementation period” substitute “IP”;
- (c) omit sub-paragraph (5).

**136.** In Schedule 2, after paragraph 5 insert—

**“Category 5A - Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere”**

**5A.—(1)** A person who—

- (a) is settled in United Kingdom,
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day,
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising Gibraltar, 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 Gibraltar, 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,

- (d) is ordinarily resident in the United Kingdom on the day on which the course begins,
- (e) 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
- (f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if subparagraph (3) or (4) applies to the person.

(3) This sub-paragraph applies to a person who is—

- (a) a United Kingdom national,
- (b) a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement), or
- (c) a person who had the right of permanent residence, who has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.

(4) This sub-paragraph applies to a person ("P") who—

- (a) is settled in the United Kingdom and had the right of permanent residence, and
- (b) has gone to the state within the territory comprising the EEA and Switzerland of which P is a national or of which the person in relation to whom P is a family member is a national.

(5) For the purposes of this paragraph, 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.”

**137.** In Schedule 2, in paragraph 6 (category 6 – EU nationals)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (1A), for “implementation period”, in each place it occurs, substitute “IP”;
- (c) omit sub-paragraph (5).

**138.** In Schedule 2, after paragraph 6 insert—

**“Category 6A - EU nationals etc. with protected rights”**

**6A.—(1)** A person with protected rights—

- (a) who is—
  - (i) an EU national on the first day of the first academic year of the course,
  - (ii) a family member of a person mentioned in sub-paragraph (i), or
  - (iii) a family member of a relevant person of Northern Ireland,
- (b) who is undertaking a designated course in Wales,
- (c) 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
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).

**(2)** A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course,
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period

immediately preceding the first day of the first academic year of the course, and

- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

#### **Category 6B - United Kingdom nationals**

##### **6B.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national on the first day of the first academic year of the course, 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 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) 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 (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).

(2) Where a person (“P”) falls within subparagraph (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).

#### **Category 6C – Family members of United Kingdom nationals**

##### **6C. A person—**

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course,
- (b) who is undertaking a designated course in Wales,
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in sub-paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).

#### **Category 6D - Persons resident in Gibraltar**

##### **6D. A person—**

- (a) who is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar,
  - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar,
  - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement, or

- (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement,
- (b) who is undertaking a designated course in Wales,
- (c) 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
- (d) 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 sub-paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2))."

**139.** In Schedule 2, in paragraph 7 (category 7 – children of Swiss nationals)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**140.** In Schedule 2, after paragraph 7 insert—

**“Category 7A - Children of Swiss nationals within scope of the Swiss citizens’ rights agreement”**

**7A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement,
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (c) 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
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph

(c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).”

**141.** In Schedule 2, in paragraph 8 (category 8 – children of Turkish workers), in the heading, at the end insert “— courses beginning before 1 August 2021”.

**142.** In Schedule 2, after paragraph 8 insert—

**“Category 8A - Children of Turkish workers**

**8A.—**(1) A person who—

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day,
- (b) immediately before IP completion day—
  - (i) was the child of T, and
  - (ii) was ordinarily resident in the United Kingdom,
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course, and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

(2) In this paragraph, “Turkish worker” means a Turkish national who—

- (a) is ordinarily resident in the United Kingdom and Islands, and
- (b) is, or has been, lawfully employed in the United Kingdom.”

**143.** In Schedule 2, in paragraph 9 (ordinary residence – additional provision)—

- (a) in sub-paragraph (2), after “Islands”, in each place it occurs, insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;
- (b) in sub-paragraph (3)—
  - (i) after “Islands” insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

(ii) after paragraph (a) insert—

“(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces;”.

**144.** In Schedule 2, in paragraph 11 (interpretation)—

(a) the existing text becomes sub-paragraph (1);

(b) in that sub-paragraph—

(i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;

(ii) at the appropriate place insert—

““family member” (“*aelod o deulu*”) means (unless otherwise indicated) in relation to a person (“P”—

(a) P’s spouse or civil partner,

(b) direct descendants of P or of P’s spouse or civil partner who are—

(i) under the age of 21, or

(ii) dependants of P or P’s spouse or civil partner, or

(c) in a case where P is—

(i) an EU national who falls within Article 7(1)(b) of Directive 2004/38, or

(ii) for the purposes of paragraph 6A, 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,

dependent direct relatives in P’s ascending line or the ascending line of P’s spouse or civil partner;”;

““United Kingdom national” (“*gwladolyn o’r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement.”;

(c) after that sub-paragraph insert—

“(2) 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.”

**145.** In Schedule 4, in paragraph 4 (eligible postgraduate students), for sub-paragraph (1) substitute—

“(1) A person is an eligible postgraduate student in connection with a designated postgraduate course that the person is undertaking if the person has a disability and—

(a) in connection with a designated postgraduate course the person falls within one of the categories set out—

(i) in paragraph 1(1), 1(2), 2, 2ZA, 2ZB, 3, 4A, 5A, 6A(2), 6B, 7A or 8A of Schedule 2, or

(ii) in paragraph 4, 5, 6(2), 7 or 8 of Schedule 2 where sub-paragraph (1A) applies,

and none of the exceptions in paragraph 5 of this Schedule apply to the person, or

(b) the person’s circumstances fall within one of the cases set out in paragraph 6.

(1A) This sub-paragraph applies where—

(a) in connection with a designated postgraduate course beginning before 1 August 2021, the Welsh Ministers—

(i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraph 4, 5, 6(2), 7 or 8 of Schedule 2 in relation to an academic year of the course beginning before 1 August 2021, or

(ii) would have so determined had A made an application for support in accordance with this Schedule in relation to an academic year of the course beginning before that date, and

(b) A applies for support in connection with—

(i) that course, or

(ii) a designated postgraduate course to which A’s status as an eligible postgraduate student is transferred in accordance with this Schedule.”

**146.** In Schedule 4, in paragraph 5(1), for Exception 7 substitute—

“Exception 7

The designated course begins on or after 1 January 2028 and the only paragraph or

paragraphs in Schedule 2 into which P falls is one or more of paragraphs 5A or 6B.”

**147.** In Schedule 4, in paragraph 12A (persons who cease to have stateless leave)—

- (a) in sub-paragraph (1)(a), for “a category 2A eligible postgraduate student” substitute “an eligible postgraduate student by reason of being a person with stateless leave”;
- (b) in sub-paragraph (1)(b)(ii), for “a category 2A eligible postgraduate student” substitute “an eligible postgraduate student”.

**148.** In Schedule 4, in paragraph 13A (persons who cease to have section 67 leave to remain)—

- (a) in sub-paragraph (1)(a), for “a category 3A eligible postgraduate student” substitute “an eligible postgraduate student by reason of being a person with section 67 leave to remain”;
- (b) in sub-paragraph (1)(b)(ii), for “a category 3A eligible postgraduate student” substitute “an eligible postgraduate student”.

**149.** In Schedule 4, after paragraph 13A insert—

**“Person who ceases to have Calais leave**

**13B.**—(1) This paragraph applies where—

- (a) a person (“P”) was an eligible postgraduate student by reason of them being a person with Calais leave (see Schedule 2, paragraph 2ZA) in connection with an application for a disabled postgraduate student's grant—
  - (i) for an earlier year of the present postgraduate course, or
  - (ii) in connection with a course from which P's status as an eligible postgraduate student has been transferred to the present postgraduate course under paragraph 15, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant, the period for which P is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted.

(2) Where this paragraph applies, P's status as an eligible postgraduate student terminates immediately before the first day of the academic

year in respect of which P is applying for a disabled postgraduate student's grant.

**Persons who cease to have leave to remain as a protected partner**

**13C.**—(1) This paragraph applies where—

- (a) a person ("P") was an eligible postgraduate student by reason of them being a person granted leave to remain as protected partner (*see* Schedule 2, paragraph 2ZB) in connection with an application for a disabled postgraduate student's grant—
  - (i) for an earlier year of the present postgraduate course, or
  - (ii) in connection with a course from which P's status as an eligible postgraduate student has been transferred to the present postgraduate course under paragraph 15, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant, the period for which—
  - (i) P, or
  - (ii) the person who, as a result of being a person granted leave to remain as a protected partner, caused P to be an eligible student, is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002).

(2) Where this paragraph applies, P's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant.

**Persons who cease to have leave to remain under residence scheme immigration rules**

**13D.**—(1) This paragraph applies where—

- (a) by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person ("P") was

an eligible student in connection with an application for a disabled postgraduate student's grant—

- (i) for an earlier year of the present postgraduate course, or
- (ii) in connection with a course from which P's status has been transferred to the present postgraduate course under paragraph 15, and

(b) as at the end of the day before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant P no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules, and no further leave to remain has been granted under those rules.

(2) Where this paragraph applies, P's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant.

**13E. Where—**

- (a) the Welsh Ministers have determined that, by virtue of—
  - (i) falling within paragraph (a)(iii) or (iv) of the definition of "person with protected rights", or
  - (ii) meeting the conditions in paragraph 1(2)(a)(iii) or (iv) of Schedule 2,

a person ("P") is an eligible postgraduate student in connection with an application for a disabled postgraduate student's grant for an academic year of a designated postgraduate course, and
- (b) as at the day before the first day of the academic year, P is not a person with protected rights,

P's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for support."

**150. In Schedule 4, in paragraph 14 (becoming eligible during an academic year)—**

- (a) in sub-paragraph (3)(b)—
  - (i) in sub-paragraph (ia), after "section 67 leave to remain" insert "or a person with leave to remain as a protected partner";

- (ii) after sub-paragraph (ia) insert—
  - “(ib) the student becomes a person with Calais leave;”;
- (iii) omit sub-paragraph (ii);
- (iv) for sub-paragraph (iii) substitute—
  - “(iii) the student becomes a person described in paragraph 1(2)(a) of Schedule 2;”;
- (v) for sub-paragraph (iv) substitute—
  - “(iv) where paragraph 4(1A)(a) of this Schedule applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;
- (vi) in sub-paragraph (v), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where paragraph 4(1A)(a) of this Schedule applies, in”;
- (vii) for sub-paragraph (vi) substitute—
  - “(vi) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where paragraph 4(1A)(a) of this Schedule applies, in paragraph 7(1)(a) of Schedule 2;”;
- (viii) after sub-paragraph (vi) insert—
  - “(vii) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”;

(b) in sub-paragraph (4)—

- (i) omit ““child” (“*plentyn*””);
- (ii) omit ““right of permanent residence” (“*hawl i breswylio'n barhaol*””);
- (iii) omit ““Turkish worker” (“*gweithiwr Twrcaidd*””);
- (iv) at the appropriate place insert—
  - ““person granted leave to remain as a protected partner” (“*person y rhoddywyd caniatâd iddo aros fel partner a ddiogelir*””);”;
  - ““person with Calais leave” (“*person sydd â chaniatâd Calais*””);”.

**151.** In Schedule 5, in paragraph 4 (students becoming eligible during the course of an academic year)—

- (a) in sub-paragraph (2)—
  - (i) in paragraph (aa), after “section 67 leave to remain” insert “or a person with leave to remain as a protected partner”;
  - (ii) after paragraph (aa) insert—

- “(ab) the student becomes a person with Calais leave;”;
- (iii) omit paragraph (b);
- (iv) for paragraph (c) substitute—
  - “(c) the student becomes a family member described in paragraph 6A(1)(a), 6C(1)(a) or 6D(1)(a) of Schedule 2;”;
  - (v) for paragraph (e) substitute—
    - “(e) where regulation 9(1A)(a) applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;
    - (vi) in paragraph (f), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in”;
    - (vii) for paragraph (g) substitute—
      - “(g) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in paragraph 7(1)(a) of Schedule 2;”;
      - (viii) after paragraph (g) insert—
        - “(h) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”;
    - (b) in sub-paragraph (3)—
      - (i) omit ““child” (“*plentyn*”);
      - (ii) in the entry for “family member”, omit “(within the meaning given by paragraph 6(5) of Schedule 2);”;
      - (iii) omit ““right of permanent residence” (“*hawl i breswylio'n barhaol*”);
      - (iv) omit ““Turkish worker” (“*gweithiwr Twrcaidd*”);
      - (v) at the appropriate place insert—
        - ““person granted leave to remain as a protected partner” (“*person y rhoddwyd caniatâd iddo aros fel partner a ddio gelir*”);”;
        - ““person with Calais leave” (“*person sydd â chaniatâd Calais*”);”.

**152.** In Schedule 7 (index of defined terms), in Table 16—

- (a) omit the entries for “family member” (for the purposes of determining the category of a person under Schedule 2) and “right of permanent residence”;
- (b) for the entry in the second column corresponding to—
  - (i) “person granted stateless leave” substitute “Schedule 2, paragraph 2ZA”;

(ii) “person with section 67 leave to remain”  
 substitute “Schedule 2, paragraph 2ZA”;  
 (c) at the appropriate place insert—

“2020 Citizens’ Rights Schedule 1, paragraph 6 Regulations”	
“grace period”	Schedule 1, paragraph 6
“family member”	Schedule 2, paragraph 11
“leave to remain as a protected partner”	Schedule 2, paragraph 2ZB
“person granted leave to enter or remain as a protected person”	Schedule 2, paragraph 2ZA
“person with Calais leave”	Schedule 2, paragraph 2ZA
“person with protected rights”	Schedule 1, paragraph 6
“protected child”	Schedule 2, paragraph 2ZA
“protected spouse or civil partner”	Schedule 2, paragraph 2ZA
“relevant period”	Schedule 1, paragraph 6
“relevant person of Northern Ireland”	Schedule 1, paragraph 6
“residence scheme immigration rules”	Schedule 1, paragraph 6
“Swiss citizens’ rights agreement”	Schedule 1, paragraph 6
“United Kingdom national”	Schedule 2, paragraph 11

## PART 7

### AMENDMENTS TO THE EDUCATION (POSTGRADUATE DOCTORAL DEGREE LOANS) (WALES) REGULATIONS 2018

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

**153.** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018<sup>(1)</sup> are amended in accordance with this Part.

**154.** In regulation 2 (interpretation)—

(a) in paragraph (1), 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;”;

““grace period” (“*cyfnod gras*”) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;

““person granted leave to remain as a protected partner” (“*person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir*”) means a person granted 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 the armed forces);

(d) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved spouses or civil partners);

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(1) S.I. 2018/656 (W. 124), amended by S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1192 (W. 209); S.I. 2019/1094; S.I. 2020/153 (W. 27); S.I. 2020/1302 (W. 287); S.I. 2021/9 (W. 4) and S.I. 2021/73 (W. 19).

(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 those rules are met (bereaved unmarried or same sex partners);”;

““person with Calais leave” (“*person sydd â chaniatâd Calais*”) means a person with 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 with protected rights” (“*person sydd â hawliau gwarchodedig*”) 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;

(iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended; or

(iv) 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;”;

““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;”;

““residence scheme immigration rules” (“*rheolau mewnfudo’r cynllun preswylio*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““Swiss citizens’ rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

(b) after paragraph (2) insert—

“(2A) For the purposes of these Regulations, 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 (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”

**155. In regulation 3 (eligible students)—**

(a) for paragraph (2) substitute—

“(2) Subject to the following provisions of this regulation, a person is an eligible student in connection with a designated course if in assessing that person’s application for a postgraduate doctoral degree loan under regulation 9 the Welsh Ministers determine that the person falls within one of the categories set out—

- (a) in paragraph 2, 2A, 3, 4, 4A, 4B, 6, 7A, 8A, 9A, 10A, 10B, 10C, 10D, 11A, 12A or 13A of Part 2 of Schedule 1, or
- (b) in paragraph 7, 8, 9, 10, 11, 12 or 13 of Part 2 of Schedule 1 where paragraph (2A) applies.

(2A) This paragraph applies where—

- (a) in connection with a designated course beginning before 1 August 2021, the Welsh Ministers—
  - (i) in assessing an application for a postgraduate doctoral degree loan by a person (“A”) determined that A fell within one of the categories set out in paragraph 7, 8, 9, 10, 11, 12 or 13 of Part 2 of Schedule 1 in relation to an academic year of the

course beginning before 1 August 2021; or

(ii) would have so determined had A made an application for a postgraduate doctoral degree loan in accordance with these Regulations in relation to an academic year of the course beginning before that date; and

(b) A applies for a postgraduate doctoral degree loan in connection with—

(i) that course; or

(ii) a designated course to which A's status as an eligible student is transferred in accordance with regulation 6.

(2B) A person is not an eligible student for the purposes of paragraph (2) in connection with a designated course beginning on or after 1 January 2028 if the only paragraph or paragraphs of Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 9A, 10B or 10D.”;

(b) after paragraph (10) insert—

“(11) Where—

(a) the Welsh Ministers have determined that, by virtue of—

(i) falling within paragraph (a)(iii) or (iv) of the definition of “person with protected rights”; or

(ii) meeting the conditions in paragraph 3(1)(a)(iii) or (iv) of Part 2 of Schedule 1,

a person (“A”) is an eligible student in connection with an application for a postgraduate doctoral degree loan for a designated course; and

(b) as at the day before the first day of the first academic year of that designated course, A is not a person with protected rights,

A’s status as an eligible student terminates immediately before the first day of the first academic year of that designated course.”

**156.** In regulation 8 (events)—

(a) in paragraph (ba), after “with section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;

(b) after paragraph (ba) insert—

“(bb) the student becomes a person with Calais leave;”;

- (c) omit paragraph (c);
- (d) for paragraph (d) substitute—
  - “(d) the student becomes a family member described in paragraph 10A(1)(a), 10B(1)(a), 10C(1)(a) or 10D(1)(a) of Schedule 1;”;
  - (e) in paragraph (e), for “3(a)” substitute “3(1)(a)”;
  - (f) omit paragraph (f);
  - (g) in paragraph (g), for “7(1)(a)” substitute “7A(1)(a)”;
  - (h) for paragraph (h) substitute—
    - “(h) the student becomes a person described in paragraph 12A(a) of Schedule 1;”.

**157.** In Schedule 1, in paragraph 1 (interpretation)—

- (a) in sub-paragraph (1)—
  - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;
  - (ii) in the definition of “family member”—
    - (aa) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 7A(3)”;
    - (bb) in paragraph (c), after “Directive 2004/38” insert “or, for the purposes of paragraph 10A, 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”;
    - (cc) in paragraph (d), after “Directive 2004/38” insert “or, for the purposes of paragraph 10A, 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”;
    - (dd) in paragraph (e), for “paragraph 10” substitute “paragraphs 10, 10B, 10C and 10D”;
  - (iii) at the appropriate place insert—

““United Kingdom national” (“*gwladolyn o'r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;”;

(b) 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.”;

(c) in sub-paragraph (4), after “Islands”, in each place it occurs, insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

(d) in sub-paragraph (5)—

(i) after “Islands” insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

(ii) after paragraph (a)—

(aa) omit “and”;

(bb) insert—

“(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces.”.

**158.** In Schedule 1, in paragraph 2 (persons who are settled in the United Kingdom), for sub-paragraph (1)(a), substitute—

“(a) is settled in the United Kingdom and does not fall within paragraph 3;”.

**159.** In Schedule 1, after paragraph 2 insert—

“**2A.**—(1) A person—

(a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within paragraph 3;

(b) who is attending or undertaking a designated course in Wales;

(c) who has been ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Islands and the Republic of Ireland has not during any part of the period

referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland in accordance with paragraph 1(4)."

**160. In Schedule 1, in paragraph 3—**

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph, for paragraph (a) substitute—

“(a) meets one of the following conditions—

(i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;

(ii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and

(cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;

(iii) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations; and

(cc) has, or is treated as having, a right of permanent residence for the purposes

of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period;

(iv) the person—

(aa) is within the personal scope of the citizens' rights provisions;

(bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations; and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period; or

(v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;

(c) after that sub-paragraph insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**161.** In Schedule 1, for paragraph 4A substitute—

**“Protected persons and their family members**

**4A.—(1) A person—**

- (a) granted leave to enter or remain as a protected person;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is a protected spouse or civil partner;
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) A person who—

- (a) is a protected child;
- (b) on the leave application date was—
  - (i) under 18 years old; and
  - (ii) was the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;

(d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(4) In this paragraph—

(a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person;

(b) “leave to enter or remain as a protected person” means—

(i) a person granted leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;

(ii) a person granted stateless leave;

(iii) a person with section 67 leave to remain; or

(iv) a person with Calais leave;

(c) “protected child” means—

(i) a child of—

(aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;

(ab) a person granted stateless leave; or

(ac) a person with section 67 leave to remain;

(ii) a child of the spouse or civil partner of—

(aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or

(ab) a person granted stateless leave;

(d) “protected spouse or civil partner” means a spouse or civil partner of—

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

(ii) a person granted stateless leave.”

**162.** In Schedule 1, after paragraph 4A insert—

**“Persons granted leave to remain as a protected partner and their children**

**4B.—(1)** A person—

- (a) granted leave to remain as a protected partner;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave; and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

**(2)** A person who—

- (a) is the child of a person granted leave to remain as a protected partner;
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

**(3)** In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.”

**163.** In Schedule 1, omit paragraphs 5 (persons granted stateless leave and their family members) and 6A (persons with section 67 leave to remain).

**164.** In Schedule 1, after paragraph 7 (workers, employed persons, self-employed persons and their family members) insert—

**“7A.—(1)** A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020, who—

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;

- (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
- (iv) an EEA frontier worker or an EEA frontier self-employed person;
- (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
- (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);

- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) 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 first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

**165.** In Schedule 1, in paragraph 8—

(a) in sub-paragraph (1)—

(i) in paragraph (c), for the words from “Article 12” to the end substitute “Article 10 of 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 (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day;”;

(ii) after paragraph (c) insert—

“(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;

(b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**166.** In Schedule 1, after paragraph 8 insert—

“**8A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (b) 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 first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement of workers within the Union (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

- (a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and
- (b) the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”

**167.** In Schedule 1, in paragraph 9(1)(b) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), in the English language text, for “implementation period” substitute “IP”.

**168.** In Schedule 1, after paragraph 9 insert—

“**9A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day;

(c) was ordinarily resident immediately before IP completion day—

(i) in the territory comprising Gibraltar, 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 Gibraltar, 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 first day of the first academic year of the course;

(d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;

(e) 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 first day of the first academic year of the course; and

(f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement), or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United

Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”

**169.** In Schedule 1, in paragraph 10 (EU nationals)—

- (a) in the heading, at the end insert “etc.”;
- (b) in sub-paragraph (5), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**170.** In Schedule 1, after paragraph 10 insert—

**“10A.—(1)** A person with protected rights—

- (a) who is
  - (i) an EU national on the first day of the first academic year of the course;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is attending or undertaking a designated course in Wales;
- (c) 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 first day of the first academic year of the course; and
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(4).

**United Kingdom nationals**

**10B.—(1) A person—**

(a) who is—

(i) a United Kingdom national on the first day of the first academic year of the course; 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 first day of the first academic year of the course;

(c) who is attending or undertaking a designated course in Wales;

(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 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 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(4).

(3) Where a person (“P”) falls within subparagraph (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).

**10C.—(1) A person—**

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is attending or undertaking a designated course in Wales;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

**Persons resident in Gibraltar**

**10D.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
  - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
  - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
  - (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is attending or undertaking a designated course in Wales;

- (c) 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 first day of the first academic year of the course; and
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(4)."

**171.** In Schedule 1, before paragraph 11 insert the heading—

**"EU nationals ordinarily resident in the United Kingdom and Islands".**

**172.** In Schedule 1, after paragraph 11 insert—

**"11A.** A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c)."

**173.** In Schedule 1, in paragraph 12(2) (children of Swiss nationals), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**174.** In Schedule 1, after paragraph 12 insert—

“**12A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) 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 first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).”

**175.** In Schedule 1, after paragraph 13 (children of Turkish workers) insert—

“**13A.** A person who—

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
  - (i) was the child of T; and
  - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year

period preceding the first day of the first academic year of the course.”

## PART 8

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

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

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

**177.** In regulation 9 (eligible students), for paragraph (1) substitute—

“(1) A person is an eligible student in connection with a designated course that the person is undertaking if—

- (a) the person falls within one of the categories set out—
  - (i) in paragraph 1, 2, 2A, 2B, 4, 6A, 7A, 8A, 8B, 8C, 8D, 9A or 10A of Schedule 2, or
  - (ii) in paragraph 6, 7, 8, 9 or 10 of Schedule 2 where paragraph (1A) applies, and
- (b) none of the exceptions in regulation 10 apply to the person.

(1A) This paragraph applies where—

- (a) in connection with a designated course beginning before 1 August 2021 the Welsh Ministers—
  - (i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraph 6, 7, 8, 9 or 10 of Schedule 2 in relation to an academic year of the course beginning before 1 August 2021, or
  - (ii) would have so determined had A made an application for support in

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(1) S.I. 2019/895 (W. 161), amended by S.I. 2019/1094; S.I. 2019/1192 (W. 209); S.I. 2020/142 (W. 25); S.I. 2020/153 (W. 27); S.I. 2020/918 (W. 206); S.I. 2020/1302 (W. 287); S.I. 2021/9 (W. 4) and S.I. 2021/73 (W. 19).

accordance with these Regulations in relation to an academic year of the course beginning before that date, and

- (b) A applies for support in connection with—
  - (i) that course, or
  - (ii) a designated course to which A's status as an eligible student is transferred in accordance with these Regulations.”

**178.** In regulation 10 (eligible students – exceptions) at the end insert—

*“Exception 12*

The designated course begins on or after 1 January 2028 and the only paragraph or paragraphs of Schedule 2 into which P falls is one or more of paragraphs 7A, 8B or 8D.”

**179.** In regulation 11(1) (period of eligibility – general rule), after “regulation 12” insert “, 12A”.

**180.** After regulation 12 (early termination of eligibility) insert—

**“12A. Where—**

- (a) the Welsh Ministers have determined that, by virtue of—

- (i) falling within paragraph (a)(iii) or (iv) of the definition of “person with protected rights”, or
- (ii) meeting the conditions in paragraph 1(2)(a)(iii) or (iv) of Schedule 2,

a person (“A”) is an eligible student in connection with an application for support for a designated course, and

- (b) as at the day before the first day of the first academic year of that designated course, A is not a person with protected rights,

A's status as an eligible student terminates immediately before the first day of the first academic year of that designated course.”

**181.** In regulation 16 (students becoming eligible during a course)—

- (a) in paragraph (1)(b)—

- (i) omit paragraph (ii);

- (ii) for paragraph (iii) substitute—

- “(iii) the student becomes a family member described in paragraph

8A(1)(a), 8B(1)(a), 8C(a) or 8D(a) of Schedule 2;”;

- (iii) omit paragraph (v);
- (iv) in paragraph (vi), for “6(1)(a)” substitute “6A(1)(a);”;
- (v) for paragraph (vii) substitute—
  - “(vii) the student becomes a person described in paragraph 9A(a) of Schedule 2;”;
- (vi) in paragraph (viii), after “a person with section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;
- (vii) after paragraph (viii) insert—
  - “(ix) the student becomes a person with Calais leave.”;

(b) in paragraph (2)—

- (i) at the appropriate place insert—
  - ““person granted leave to remain as a protected partner” (*“person y rhoddyd caniatâd iddo aros fel partner a ddio gelir”*);”;
  - ““person with Calais leave (*“person sydd â chaniatâd Calais”*);”;
- (ii) omit ““child” (*“plentyn”*)”;
- (iii) in the entry for “family member”, omit “(within the meaning given by paragraph 8(5) of Schedule 2);”;
- (iv) omit ““right of permanent residence” (*“hawl i breswylion barhaol”*)”;
- (v) omit ““Turkish worker” (*“gweithiwr Twrcaidd”*)”.

**182.** In Schedule 1, in paragraph 3 (interpretation of other key terms)—

- (a) in sub-paragraph (1), at the appropriate place insert—
  - ““the 2020 Citizens’ Rights Regulations” (*“Rheoliadau Hawliau Dinas ydion 2020”*) means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;
  - ““grace period” (*“cyfnod gras”*) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
  - ““person with protected rights” (*“person sydd â hawliau gwarchodedig”*) 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,

(iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations where the grace period has not ended, or

(iv) 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;”;

““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;”;

““residence scheme immigration rules” (“*rheolau mewnfudo'r cynllun preswylio*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““Swiss citizens' rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020.”;

(b) after sub-paragraph (2) insert—

“(3) For the purposes of these Regulations, 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 (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020), or

(c) Article 10 (personal scope) of the Swiss citizens' rights agreement."

**183.** In Schedule 2, in paragraph 1 (persons settled in the United Kingdom)—

(a) for sub-paragraph (1)(a)(i) substitute—

“(i) is settled in the United Kingdom and does not fall within sub-paragraph (2), and”;

(b) for sub-paragraph (2)(a) substitute—

“(a) meets one of the following conditions—

(i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules,

(ii) the person—

(aa) is within the personal scope of the citizens' rights provisions,

(bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom, and

(cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave,

(iii) the person—

(aa) is within the personal scope of the citizens' rights provisions,

(bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations, and

(cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those

Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period,

(iv) the person—

- (aa) is within the personal scope of the citizens' rights provisions,
- (bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations, and
- (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period, or

(v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;

(c) after sub-paragraph (2) insert—

“(3) A person—

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within sub-paragraph (2),
- (b) who is undertaking a designated course in Wales,
- (c) who has been ordinarily resident in the United Kingdom, Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) whose ordinary residence in the territory comprising the United Kingdom, Islands and the Republic of Ireland has not during any part of the

period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 11(2)).

(4) For the purposes of sub-paragraph (2)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**184.** In Schedule 2, for paragraph 2A substitute—

**“Category 2A - Protected persons and their family members**

**2A.—(1) A person—**

- (a) granted leave to enter or remain as a protected person,
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave, and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

**(2) A person who—**

- (a) is a protected spouse or civil partner,
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules),
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom, and
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

**(3) A person who—**

- (a) is a protected child,
- (b) on the leave application date was—
  - (i) under 18 years old, and

- (ii) was the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be),
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom, and
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(4) In this paragraph—

- (a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that resulted in P becoming a person granted leave to enter or remain as a protected person;
- (b) “person granted leave to enter or remain as a protected person” means—
  - (i) a person granted leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules,
  - (ii) a person granted stateless leave,
  - (iii) a person with section 67 leave to remain, or
  - (iv) a person with Calais leave;
- (c) “person granted stateless leave” means a person who has extant leave to remain as a stateless person under the immigration rules;
- (d) “person with Calais leave” means a person with 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);

- (e) “person with section 67 leave to remain” means a person who has extant leave to remain in the United Kingdom under section 67 of the Immigration Act 2016 and in accordance with the immigration rules;
- (f) “protected child” means—
  - (i) a child of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules,
    - (ab) a person granted stateless leave, or
    - (ac) a person with section 67 leave to remain;
  - (ii) a child of the spouse or civil partner of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules, or
    - (ab) a person granted stateless leave;
- (g) “protected spouse or civil partner” means a spouse or civil partner of—
  - (i) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules, or
  - (ii) a person granted stateless leave.”

**185.** In Schedule 2, after paragraph 2A insert—

**“Category 2B - Persons granted leave to remain as a protected partner and their children**

**2B.—(1) A person—**

- (a) granted leave to remain as a protected partner,
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave, and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is the child of a person granted leave to remain as a protected partner,
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner,
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom, and
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) In this paragraph—

- (a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner;
- (b) “person granted leave to remain as a protected partner” means a person granted 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—
  - (i) paragraphs 289B and 289D (victims of domestic violence),
  - (ii) paragraphs D-DVILR.1.1. and D-DVILR.1.2. of Appendix FM (victims of domestic abuse),
  - (iii) paragraphs 40 and 41 of Appendix Armed Forces (victims of domestic violence who are partners of members of the armed forces),
  - (iv) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved spouses or civil partners),
  - (v) paragraphs D-BPILR.1.1. and D-BPILR.1.2. of Appendix FM (bereaved partners),
  - (vi) paragraphs 36 and 37 of Appendix Armed Forces (bereaved partners), or
  - (vii) paragraph 295N, as a person in relation to whom the requirements

in paragraph 295M of those rules are met (bereaved partners).”

**186.** In Schedule 2, omit paragraphs 3 (persons granted stateless leave and their family members) and 5 (persons with section 67 leave to remain).

**187.** In Schedule 2, in paragraph 6 (category 6 – workers, employed persons, self-employed persons and their family members)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (2)—
  - (i) in paragraph (b), at the end omit “and”;
  - (ii) in paragraph (c), for the words from “, as extended” to the end substitute “(“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day, and”;
  - (iii) after paragraph (c) insert—
    - (d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;
- (c) in sub-paragraph (2A), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”;
- (d) in sub-paragraph (3)—
  - (i) in the opening words, after “In sub-paragraph (1)” insert “and sub-paragraph (1) of paragraph 6A”;
  - (ii) in the definition of “family member”, in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person or 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(4)”.

**188.** In Schedule 2, after paragraph 6 insert—

**“Category 6A - Workers, employed persons, self-employed persons and their family members with protected rights”**

**6A.**—(1) A person with protected rights or a frontier worker, within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020, who—

- (a) is one of the following—

- (i) an EEA migrant worker or an EEA self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course;
- (ii) a Swiss employed person or a Swiss self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course;
- (iii) a family member of a person mentioned in sub-paragraph (i) or (ii), who is ordinarily resident in Wales on the first day of the first academic year of the course;
- (iv) an EEA frontier worker or an EEA frontier self-employed person;
- (v) a Swiss frontier employed person or a Swiss frontier self-employed person;
- (vi) a family member of a person mentioned in sub-paragraph (iv) or (v), and

(b) 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.

(2) A person with protected rights who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (b) 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
- (c) is entitled to support by virtue of Article 10 of 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 (“the Workers Regulation”), as it had effect immediately before IP completion day as extended by the EEA Agreement as it had effect immediately before IP completion day.

(3) For the purposes of sub-paragraph (2)(c), in Article 10 of the Workers Regulation—

(a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland, and

(b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.

(4) In this paragraph, a description of a person in sub-paragraph (1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.”

**189.** In Schedule 2, in paragraph 7 (category 7 – persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (1)(b), in the English language text, for “implementation period” substitute “IP”;
- (c) omit sub-paragraph (5).

**190.** In Schedule 2, after paragraph 7 insert—

**“Category 7A - Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere”**

**7A.—(1)** A person who—

- (a) is settled in the United Kingdom,
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day,
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising Gibraltar, 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 Gibraltar, 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 academic year of the course,

- (d) is ordinarily resident in the United Kingdom on the day on which the course begins,
- (e) 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
- (f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if subparagraph (3) or (4) applies to the person.

(3) This sub-paragraph applies to a person who is—

- (a) a United Kingdom national,
- (b) a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement), or
- (c) a person who had the right of permanent residence, who has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.

(4) This sub-paragraph applies to a person ("P")—

- (a) who is settled in the United Kingdom and had the right of permanent residence, and
- (b) who has gone to the state within the territory comprising the EEA and Switzerland of which P is a national or of which the person in relation to whom P is a family member is a national.

(5) For the purposes of this sub-paragraph, a person has 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.”

**191.** In Schedule 2, in paragraph 8 (category 8 – EU nationals)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (1A), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”;
- (c) omit sub-paragraph (5).

**192.** In Schedule 2, after paragraph 8 insert—

**“Category 8A - EU nationals etc. with protected rights”**

**8A.**—(1) A person with protected rights—

- (a) who is—
  - (i) an EU national on the first day of the first academic year of the course,
  - (ii) a family member of a person mentioned in sub-paragraph (i), or
  - (iii) a family member of a relevant person of Northern Ireland,
- (b) who is undertaking a designated course in Wales,
- (c) 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
- (d) whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, EEA and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 11(2)).

(2) A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course,
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (c) has been ordinarily resident in the United Kingdom and Islands

throughout the three-year period immediately preceding the first day of the first academic year of the course, and

- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

#### **Category 8B - United Kingdom nationals**

##### **8B.—(1) A person—**

- (a) who is—
  - (i) a United Kingdom national on the first day of the first academic year of the course, 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 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) 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 (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 11(2)).

(2) Where a person ("P") falls within subparagraph (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).

#### **Category 8C – Family members of United Kingdom nationals**

##### **8C. A person—**

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course,
- (b) who is undertaking a designated course in Wales,
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in subparagraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 11(2)).

#### **Category 8D - Persons resident in Gibraltar**

##### **8D. A person—**

- (a) who is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar,
  - (ii) a family member of a United Kingdom national where that family member has resident status in Gibraltar granted by the Government of Gibraltar,
  - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement, or

- (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement,
- (b) who is undertaking a designated course in Wales,
- (c) 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
- (d) 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 sub-paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 11(2))."

**193.** In Schedule 2, in paragraph 9 (category 9 – children of Swiss nationals)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

**194.** In Schedule 2, after paragraph 9 insert—

**“Category 9A - Children of Swiss nationals within scope of the Swiss citizens’ rights agreement”**

**9A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement,
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (c) 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
- (d) in a case where the person’s ordinary residence referred to in sub-paragraph

(c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).”

**195.** In Schedule 2, in paragraph 10 (children of Turkish workers), in the heading, at the end insert “—courses beginning before 1 August 2021”.

**196.** In Schedule 2, after paragraph 10 insert—

**“Category 10A - Children of Turkish workers”**

**10A.—(1)** A person who—

- (a) is the child of a Turkish worker (“T”) where T was ordinarily resident in the United Kingdom immediately before IP completion day,
- (b) immediately before IP completion day—
  - (i) was the child of T, and
  - (ii) was ordinarily resident in the United Kingdom,
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course, and
- (d) had been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

(2) In this paragraph, “Turkish worker” means a Turkish national who—

- (a) is ordinarily resident in the United Kingdom and Islands, and
- (b) is, or has been, lawfully employed in the United Kingdom.”

**197.** In Schedule 2, in paragraph 11 (ordinary residence – additional provision)—

- (a) in sub-paragraph (2), after “Islands”, in each place it occurs, insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;
- (b) in sub-paragraph (3)—

(i) after “Islands” insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

(ii) after paragraph (a) insert—

“(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces;”.

**198.** In Schedule 2, in paragraph 13 (interpretation)—

(a) the existing text becomes sub-paragraph (1);

(b) in that sub-paragraph—

(i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;

(ii) at the appropriate place insert—

““family member” (“*aelod o deulu*”) means (unless otherwise indicated) in relation to a person (“P”—

(a) P’s spouse or civil partner,

(b) direct descendants of P or of P’s spouse or civil partner who are—

(i) under the age of 21, or

(ii) dependants of P or of P’s spouse or civil partner, or

(c) in a case where P is—

(i) an EU national who falls within Article 7(1)(b) of Directive 2004/38, or

(ii) for the purposes of paragraph 8A, 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,

dependent direct relatives in P’s ascending line or the ascending line of P’s spouse or civil partner;”;

““United Kingdom national” (“*gwladolyn o'r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement.”;

(c) after that sub-paragraph insert—

“(2) 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.”

**199.** In Schedule 4 (index of defined terms), in Table 3—

- (a) for the entry in the second column corresponding to—
  - (i) “family member” substitute “Schedule 2, paragraph 13”;
  - (ii) “person granted stateless leave” substitute “Schedule 2, paragraph 2A”;
  - (iii) “person with section 67 leave to remain” substitute “Schedule 2, paragraph 2A”;
- (b) omit the following entries—
  - (i) “leave application date” (for the purpose of determining if a person is the family member of a person granted stateless leave);
  - (ii) “leave application date” (for the purpose of determining if a person is the child of a person with section 67 leave to remain);
  - (iii) “right of permanent residence”;
- (c) at the appropriate place insert—

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“2020 Citizens’ Rights Schedule 1, paragraph 3(1)  
Regulations”

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“family member” (for the purposes of paragraphs 6(1) and 6A(1) of Schedule 2)

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“grace period” Schedule 1, paragraph 3(1)

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“leave application date” Schedule 2, paragraph 2B (for the purpose of determining if a person is a child of a protected partner)

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“leave application date” Schedule 2, paragraph 2A (for the purpose of determining if a person is a protected spouse or civil partner or protected child)

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“person granted leave to enter or remain as a protected person”

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“person granted leave to remain as a protected partner”

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“person with Calais leave” Schedule 2, paragraph 2A

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“person with protected rights” Schedule 1, paragraph 3(1)

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“protected child”	Schedule 2, paragraph 2A
“protected spouse or civil partner”	Schedule 2, paragraph 2A
“relevant period”	Schedule 1, paragraph 3(1)
“relevant person of Northern Ireland”	Schedule 1, paragraph 3(1)
“residence scheme immigration rules”	Schedule 1, paragraph 3(1)
“Swiss citizens’ rights agreement”	Schedule 1, paragraph 3(1)
“United Kingdom national”	Schedule 2, paragraph 13

*Kirsty Williams*

Minister for Education, one of the Welsh Ministers

19 April 2021