
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

2021 No. 1294 (W. 328)

**EXITING THE EUROPEAN
UNION, WALES**

EDUCATION, WALES

The Education (European
University Institute) (Wales)
(Amendment) (EU Exit)
Regulations 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (European University Institute) (Wales) Regulations 2014 (S.I. 2014/3037 (W. 303)) (“the European University Institute Regulations”). The amendments take effect in relation to an academic year beginning on or after 1 September 2022. 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;
- (c) to change the application deadline to 28 February.

Regulation 4 amends the definitions.

Regulation 5 amends the provisions relating to eligibility for student support. It makes provision for new eligibility categories which apply in relation to applications for support by students undertaking courses in an academic year beginning on or after 1 September 2022. It restricts certain eligibility categories applicable before 1 September 2022 to students falling within those categories before 1 September 2022 and undertaking a course beginning before 1 September 2022. Those eligibility categories continue to apply in relation to such a course and the first course to which that person’s status as an eligible

student may be transferred in accordance with the European University Institute Regulations.

Regulation 6 makes corresponding amendments in relation to the transfer of eligibility of an eligible student.

Regulations 7 to 10 make amendments to provisions relating to grants for living and other costs, adult dependants' grants and parents' learning allowance.

Regulation 11 amends Schedule 1 to the European University Institute Regulations, principally to insert new eligibility paragraphs and related definitions. The amendments apply in relation to—

- 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 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 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 IP completion day;
- United Kingdom nationals and their family members who, before IP 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 and Islands;
- 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 IP completion day.

The amendments also make minor corrections.

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.

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

2021 No. 1294 (W. 328)

**EXITING THE EUROPEAN
UNION, WALES**

EDUCATION, WALES

**The Education (European
University Institute) (Wales)
(Amendment) (EU Exit)
Regulations 2021**

Made 20 November 2021

Laid before Senedd Cymru 23 November 2021

Coming into force 31 December 2021

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

-
- (1) 1998 c. 30; section 22(1) was amended by the Learning and Skills Act 2000 (c. 21), section 146(2)(a) and the Higher Education and Research Act 2017 (c. 29), section 86(2). Section 22(2)(a) was amended by the Higher Education and Research Act 2017 (c. 29), section 86(3)(a). *See* section 43(1) of the Teaching and Higher Education Act 1998 for the definitions of “prescribed” and “regulations”.
- (2) The Secretary of State’s functions in sections 22(1)(a), 22(2)(a) and 22(2)(e) 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) 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).

Title and commencement

1.—(1) The title of these Regulations is the Education (European University Institute) (Wales) (Amendment) (EU Exit) Regulations 2021.

(2) These Regulations come into force on 31 December 2021.

2. These Regulations apply in relation to the provision of support to a student in relation to an academic year which begins on or after 1 September 2022, whether or not anything done under these Regulations is done before, on or after that date.

Amendment of the Education (European University Institute) (Wales) Regulations 2014

3. The Education (European University Institute) (Wales) Regulations 2014⁽¹⁾ are amended as follows.

4. In regulation 3 (interpretation)—

- (a) number the existing text as paragraph (1);
- (b) in the appropriate place insert—

““2020 Citizens’ Rights Regulations” (*“Rheoliadau Hawliau Dinasyddion 2020”*) means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020⁽²⁾”;

““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 the following provisions of the immigration rules—

- (a) paragraph 289B (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);

⁽¹⁾ S.I. 2014/3037 (W. 303), amended by S.I. 2016/211 (W. 84); S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54), S.I. 2019/1192 (W. 209), S.I. 2020/1302 (W. 287), S.I. 2021/9 (W. 4).

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

- (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 gwarchoddedig*”) means—

(1)(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 an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations where the relevant period has not expired; or
 - (iv) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; 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.

(2) In paragraph (1)(a)(iv), “citizens’ rights deeming provisions” means—

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

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

- (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020⁽¹⁾); or
- (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement[”];

““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 cyllun preswyllo*”) 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[”];

(c) after paragraph (1) insert—

“(2) 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.”

5. In regulation 6 (eligible students)—

(a) in paragraph (2)—

(i) for “paragraph” substitute “paragraphs (2B) and”;

(ii) for sub-paragraph (b) substitute—

“(b) the Welsh Ministers determine in connection with an application for

(1) 2020 c. 1.

support under these Regulations that the person falls within one of the categories set out—

- (i) in paragraphs 2A, 4, 6A, 7, 8A, 9A, 9B, 9BA, 9C, 9D, 10A, 11A and 12A in Part 2 of Schedule 1, or
- (ii) in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 1, where paragraph (2A) applies.

(2A) This paragraph applies where—

- (a) in connection with a designated course beginning before 1 September 2022, the Welsh Ministers, in assessing an application for support by a person (“A”), determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1 September 2022; and
- (b) A applies for support in connection with that course, or a designated course to which A’s status as an eligible student is transferred from that course in accordance with this Part.

(2B) In connection with a designated course beginning on or after 1 January 2028, paragraph (2)(b) has effect as if it did not mention paragraphs 8A, 9B, 9BA and 9D.”;

(b) in paragraph (8), for “(9) and (10)” insert “(2B) and (9) to (10D)”;

(c) after paragraph (10A) insert—

“(10B) Where—

- (a) the Welsh Ministers 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 student in connection with—
 - (i) an application for support for an earlier year of the current course; or
 - (ii) an application for support in connection with a designated course at the Institute from which A’s status as an eligible student has been transferred to the current 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 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 determined that, by virtue of being a person with Calais leave, a person (“A”) was an eligible student in connection with an application for support for an earlier year of the current course or in connection with an application for support for a designated course at the Institute from which A's status as an eligible student has been transferred to the current course; and
- (b) the period for which a person with Calais leave is allowed to stay in the United Kingdom is due to expire before the first day of the academic year in respect of which A is applying for support and, as at the day before that academic year begins, no further leave to remain has been granted,

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

(10D) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person granted leave to remain as a protected partner or the child of such a person (“A”) was an eligible student in connection with an application for support for an earlier year of the current course or in connection with an application for support for a designated course at the Institute from which A's status as an eligible student has been transferred to the current course; and
- (b) the period for which a person granted leave to remain as a protected partner is allowed to stay in the United Kingdom is due to expire before the first day of the academic year in respect of which A is applying for support and, as at the day before that academic year begins, 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 student terminates on the day 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), (iv) or (v) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iii) or (iv) in 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; 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 student terminates immediately before the first day of the academic year in respect of which A is applying for support.”

6. In regulation 9 (transfer of eligibility), after paragraph (1) insert—

“(1A) Paragraph (1) applies to a person who is an eligible student by virtue of regulation 6(2)(b)(ii) only where that person's status as an eligible student has not been transferred on or after 1 September 2022 from the designated course referred to in regulation 6(2A)(a) to another designated course.”

7. In regulation 15(2) (grants for living and other costs), for the words from “paragraph 9” to the end substitute “the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9BA, 9C, 9D, 10 and 10A.”

8. In regulation 17(2) (disabled student's allowance), for the words from “paragraph 9” to the end substitute “the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9BA, 9C, 9D, 10 and 10A.”

(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.

9. In regulation 20(3) (adult dependants' grant), for the words from "paragraph 9" to the end substitute "the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9BA, 9C, 9D, 10 and 10A."

10. In regulation 22(2) (parents' learning allowance), for the words from "paragraph 9" to the end substitute "the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9BA, 9C, 9D, 10 and 10A."

11.—(1) Schedule 1 (eligible students) is amended as follows:

(2) 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 6A(3)";

(bb) in paragraph (c), after "Directive 2004/38"⁽¹⁾ 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) for the definition of "United Kingdom national" substitute—

⁽¹⁾ OJ No L158, 30.04.2004, p. 77.

““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”

(b) after sub-paragraph (5) insert—

“(5A) 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 (7) after “Islands” insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(d) in sub-paragraph (8)—

(i) after “United Kingdom” the first time it appears, insert “, the territory comprising the United Kingdom, the 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, the Islands and the Republic of Ireland as members of such forces;”.

(3) In paragraph 2(1) (persons settled in the United Kingdom), for paragraph (a) substitute—

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

(4) After paragraph 2 insert—

“**2A.**—(1) A person—

(a) who is settled in the United Kingdom on the relevant date and does not fall within paragraph 3;

(b) who is ordinarily resident in Wales on the relevant date;

(c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland and 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(7).”

(5) In paragraph 3—

- (a) number the existing text as sub-paragraph (1);
- (b) for sub-paragraph (1)(a) as so numbered substitute—

“(a) meets one of the following conditions on the relevant date—

- (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

- (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 or otherwise has rights deemed to apply by virtue of any of the citizens' rights provisions specified in paragraph (3); 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 otherwise has a deemed right of permanent residence by virtue of any of the citizens' rights provisions specified in paragraph (3); 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 (1) insert—
- “(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for in definite 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 (as defined in section 33(1) of the Immigration Act 1971).
- (3) For the purposes of sub-paragraph (1)(a)(iv), the citizens' rights provisions referred to are—
- (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;

- (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(3) (issuance of residence documents) of the Swiss citizens' rights agreement."

(6) 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) 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⁽¹⁾ 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) “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) “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—

(1) 2016 c. 19.

- (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.”

(7) After paragraph 4ZA (protected persons and their family members) 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.”

(8) In Schedule 1, omit—

- (a) paragraph 4A (persons granted stateless leave and their family members); and
- (b) paragraph 5A (persons with section 67 leave to remain).

(9) 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) on the relevant date, 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 relevant date; 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 relevant date.

(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.”

(1) S.I. 2020/1213.

(10) After paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere) 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 relevant date;
- (d) is ordinarily resident in Wales on the relevant date;
- (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 relevant date; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes 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.”

(11) In the heading of paragraph 9 (EU nationals), at the end insert “etc.”.

(12) After paragraph 9 insert—

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

(a) who on the relevant date is—

(i) an EU national;

(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 ordinarily resident in Wales on the relevant date;

(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 relevant date; 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(7).

United Kingdom nationals

9B.—(1) A person—

- (a) who on the relevant date is—
 - (i) a United Kingdom national; or
 - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area and Switzerland; or
 - (ii) in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland, and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the relevant date;
- (c) who is ordinarily resident in Wales on the relevant date;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(7).

(3) Where a person (“P”) falls within sub-paragraph (1)(a)(ii), the person in relation to

whom P is a family member must also meet the requirements of sub-paragraph (1)(b) and (d).

9BA.—(1) A person—

- (a) who on the relevant date is an Irish citizen;
- (b) who was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area and Switzerland, or
 - (ii) in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland,and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the relevant date;
- (c) who is ordinarily resident in Wales on the relevant date;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(7).

9C.—(1) A person—

- (a) who on the relevant date is a family member of a person who is a United Kingdom national;

- (b) who is ordinarily resident in Wales on the relevant date;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date; 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(7).

Persons resident in Gibraltar

9D. —(1) A person—

- (a) who on the relevant date 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 ordinarily resident in Wales on the relevant date;
- (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 relevant date; 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(7).”

(13) Before paragraph 10 insert the heading—

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

(14) After paragraph 10 insert—

“10A. A person with protected rights who—

- (a) on the relevant date is an EU national;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the relevant date; 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”

(15) After paragraph 11 (children of Swiss nationals) insert—

“11A. A person with protected rights who—

- (a) on the relevant date 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 relevant date;
- (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 relevant date; 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”

(16) 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 relevant date; 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.”

Jeremy Miles

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

20 November 2021