STATUTORY RULES OF NORTHERN IRELAND

# 2020 No. 296

# EXITING THE EUROPEAN UNION

EDUCATION

# The Further Education (Student Support) (Eligibility) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2020

*Made - - - - 1st December 2020*

*Coming into operation in accordance with regulation 1*

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

## Citation and commencement

**1.**—(1) These Regulations may be cited as the Further Education (Student Support) (Eligibility) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2020.

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

(3) Regulation 3 comes into operation on IP completion day.

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

(**2**) Article 5(b) and Part II of Schedule 3 to the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481) transferred functions under the Education (Student Support) (Northern Ireland) Order 1998 from the Department of Education to the Department of Higher and Further Education, Training and Employment. The Department of Higher and Further Education, Training and Employment was renamed the Department for Employment and Learning by 2001 c. 15 (N.I.), section 1, and following the dissolution of that department by the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)), section 1(10), its functions under the Education (Student Support) (Northern Ireland) Order 1998 were transferred to the Department for the Economy by S.R. 2016 No. 76, Article 6(1)(c).

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

**2.** The Education (Student Fees and Support) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019(**3**) are revoked insofar as they have not already been revoked(**4**).

**Amendment of the Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012**

**3.**—(1) The Schedule to the Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012(**5**) is amended as follows.

(2) In Part 1 (interpretation), in paragraph 1—

(a) in sub-paragraph (1)—

(i) omit "other than the United Kingdom" each time it occurs;

(ii) at the appropriate place, insert the following definitions—

""EEA EFTA separation agreement" has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;

"residence scheme immigration rules" has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;

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

"Swiss citizens' rights agreement" has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;";

(b) in sub-paragraphs (3) and (4) after "the territory comprising", insert "the United Kingdom, Gibraltar," each time it occurs.

(c) In sub-paragraph (5), after "an area", insert "other than the United Kingdom or Gibraltar".

(3) In Part 2 (categories)—

(a) in paragraph 5(b) (workers, employed persons, self-employed persons and their family members), after "the territory comprising", insert "the United Kingdom, Gibraltar,";

(b) in paragraph 6 (EU nationals)—

(i) the existing provisions become sub-paragraph (1);

(ii) in sub-paragraph (1)(c) after "the territory comprising", insert "the United Kingdom, Gibraltar,";

(iii) after sub-paragraph (1), insert—

"(2) Any person who would have been eligible under this paragraph immediately before exit day is to continue to be eligible on and after IP completion day."

(c) for paragraph 7 (children of Swiss nationals), substitute—

"**7.**—(1) A person who—

(**3**) S.I. 2019/387.

(**4**) Regulations 2 to 13 inclusive of The Education (Student Fees and Support) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 are to be revoked immediately before IP completion day by Regulation 2 of the Education (Student Fees and Support) (Amendment etc.) (EU Exit) Regulations (Northern Ireland) 2020.

(**5**) S.R. 2012 No. 306.