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STATUTORY INSTRUMENTS

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**2019 No. 139**

**EXITING THE EUROPEAN UNION  
EDUCATION, ENGLAND**

**The Education (Student Fees, Awards and Support)  
(Amendment) (EU Exit) Regulations 2019**

*Made - - - - 28th January 2019*

*Laid before Parliament 31st January 2019*

*Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred by sections 1 and 2 of the Education (Fees and Awards) Act 1983(1), sections 22 and 42(6) of the Teaching and Higher Education Act 1998(2), sections 24(6) and 47(5) of the Higher Education Act 2004(3) and sections 10(4)(b) and 119(5) of the Higher Education and Research Act 2017(4), makes the following Regulations:

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- (1) 1983 c.40. Section 1 was amended by paragraph 91 of Part 2 of Schedule 12 to the Education Reform Act 1988 (c.40); paragraph 19 of Part 1 of Schedule 8 to the Further and Higher Education Act 1992 (c.13); paragraph 8 of Schedule 9 to the Further and Higher Education (Scotland) Act 1992 (c.37); paragraph 7 of Schedule 2 to the Education Act 1994 (c.30); paragraph 57 of Part 1 of Schedule 37 to the Education Act 1996 (c.56); paragraph 5 of Schedule 3 to the Teaching and Higher Education Act 1998 (c.30); paragraph 11 of Schedule 9 to the Learning and Skills Act 2000 (c.21); paragraph 5 of Schedule 21, and Part 3 of Schedule 22, to the Education Act 2002 (c.32); paragraph 9 of Schedule 14 to the Education Act 2005 (c.18); paragraph 5 of Schedule 5, and paragraph 5 of Schedule 16, to the Education Act 2011 (c.21); paragraph 33 of Part 2 of Schedule 14 to the Deregulation Act 2015 (c.20); S.I. 2005/3238, S.I. 2010/1080 and S.I. 2010/1158. Section 2 was amended by paragraph 1 of Schedule 4 to the Teaching and Higher Education Act 1998.
- (2) 1998 c.30. Section 22 was amended by section 146(2) of, and paragraph 1 of Schedule 11 to, the Learning and Skills Act 2000 (c.21); paragraph 236 of Part 2 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1); section 147(3) of the Finance Act 2003 (c.14); sections 42(1) and 43(2) and (3) of, and Schedule 7 to, the Higher Education Act 2004 (c.8); section 257(2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22); section 76(1) and (2)(a) of the Education Act 2011; section 88(2) to (5) of the Higher Education and Research Act 2017 (c.29); and S.I. 2013/1881. Section 22 is also amended by section 86(2) to (7) of the Higher Education and Research Act 2017 but those amendments are not yet in force. Section 42 was amended by paragraph 9 of Schedule 12 to the Education Act 2002; paragraph 9 of Schedule 6 to the Higher Education Act 2004; and paragraph 15 of Schedule 2 to the Education Act 2011. Section 43(1) of the Teaching and Higher Education Act 1998 defines “prescribed” and “regulations”.
- (3) 2004 c.8. Section 24 was amended by paragraph 26 of Schedule 14 to the Education Act 2005 and paragraph 20 of Schedule 5 to the Education Act 2011. Section 24(6) was repealed by paragraph 30 of Schedule 11 to the Higher Education and Research Act 2017 but saved by regulation 13 of S.I. 2018/245 for the period beginning with 1st of April 2018 and ending with 31st July 2019. Section 47(3)(a) and (c) and (4) was repealed by paragraph 30 of Schedule 11 to the Higher Education and Research Act 2017 but saved by regulation 15 of S.I. 2018/245 for the period beginning with 1st of April 2018 and ending with 31st July 2019.
- (4) 2017 c.29.

## Citation and commencement

1. These regulations may be cited as the Education (Student Fees, Awards and Support) (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

## Amendment of the Education (Student Support) Regulations 2011

2. The Education (Student Support) Regulations 2011(5) are amended as follows.

### Amendment of regulation 2

3. In regulation 2(1)(6) (interpretation), in the definition of “Erasmus year”—
- (a) after “year of a course”, insert “, whether or not that academic year began before exit day,”;
  - (b) after “where a student is”, insert “or was, immediately before exit day,”;
  - (c) in sub-paragraph (c)—
    - (i) in paragraph (ii)—
      - (aa) in sub-paragraph (aa), before “in respect of”, insert “subject to paragraph (iii),”;
      - (bb) in sub-paragraph (bb), after “30 weeks;”, insert “and”;
    - (ii) after paragraph (ii), insert—
      - “(iii) in respect of an academic year beginning before 1st August 2019, any one or more periods of full-time study at the institution in the United Kingdom after exit day will not be counted for the purposes of paragraph (ii)(aa),”.

### Amendment of regulation 17

4. In regulation 17(d)(7) (events), after “EU national”, insert “or of a person who is eligible other than as a family member under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule”.

### Amendment of regulation 42

5. In regulation 42(1)(ge)(8) (interpretation of chapter 4)—
- (a) in paragraph (ii), for “another Member State”, substitute “a Member State”;
  - (b) for paragraph (iii), substitute—
    - “(iii) where the legislation of—
      - (aa) the United Kingdom and one or more Member States; or
      - (bb) more than one Member State
 applies to the period, A’s total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A’s total income in that period is greatest,”;
  - (c) for “except than”, substitute “except that”.

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(5) S.I. 2011/1986, amended by S.I. 2012/1653, S.I. 2013/235, S.I. 2013/630, S.I. 2013/1728, S.I. 2013/3106, S.I. 2014/1766, S.I. 2014/2103, S.I. 2014/2765, S.I. 2015/1951, S.I. 2016/211, S.I. 2016/270, S.I. 2016/584, S.I. 2017/52, S.I. 2017/114, S.I. 2017/204, S.I. 2018/136, S.I. 2018/137, S.I. 2018/434, S.I. 2018/443, S.I. 2018/472 and S.I. 2018/599.

(6) The definition of “Erasmus year” in regulation 2(1) was substituted by S.I. 2013/1728 and subsequently amended by S.I. 2017/114 and S.I. 2018/472; there are other amending instruments relating to regulation 2(1) but none is relevant to these Regulations.

(7) Regulation 17 was amended by S.I. 2018/137.

(8) Regulation 42(1)(ge) was added by S.I. 2012/1653 and subsequently substituted by S.I. 2014/1766.

### Amendment of regulation 138

6. In regulation 138(4)(d)(9) (students becoming eligible for support under Part 11A during the course of the academic year), after “EU national”, insert “or of a person who is eligible other than as a family member under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule”.

### Amendment of Schedule 1

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

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

(a) in sub-paragraph (1)—

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

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

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

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

(3) In Part 2 (categories)—

(a) in the following paragraphs, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”—

(i) paragraph 3(1)(d) (persons who are settled in the United Kingdom);

(ii) paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members);

(iii) paragraph 7(b) (workers, employed persons, self-employed persons and their family members);

(iv) paragraph 8(1)(d) and (e) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere);

(b) in paragraph 9(10) (EU nationals)—

(i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(ii) after sub-paragraph (3), insert—

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

(c) in paragraph 10 (EU nationals)—

(i) in sub-paragraphs (1)(a) and (2)(11), omit “other than a United Kingdom national”;

(ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(d) in paragraph 10A(12) (EU nationals)—

(i) in sub-paragraphs (1)(a) and (2), omit “other than a United Kingdom national”;

(ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

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(9) Regulation 138 was amended by [S.I. 2018/137](#) and [S.I. 2018/472](#).

(10) Paragraph 9(1)(b) was amended by [S.I. 2018/137](#).

(11) Paragraph 10(2) was amended by [S.I. 2012/1653](#).

(12) Paragraph 10A was added by [S.I. 2016/270](#).

- (e) in paragraph 11 (children of Swiss nationals)—
  - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
  - (ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (iii) after sub-paragraph (1)(d) as so renumbered, insert—
    - “(2) Any description of person who would have been eligible under this paragraph immediately before exit day is to be eligible on and after exit day.”;
- (f) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”.

#### **Amendment of Schedule 4**

- 8.**—(1) Schedule 4 (financial assessment) is amended as follows.
- (2) In paragraph 1(1)(o)(**13**) (definitions)—
    - (a) in sub-paragraph (ii), for “another Member State”, substitute “a Member State”;
    - (b) for sub-paragraph (iii), substitute—
      - “(iii) where the legislation of—
        - (aa) the United Kingdom and one or more Member States; or
        - (bb) more than one Member State
 applies to the period, A’s total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A’s total income in that period is greatest (except as otherwise provided in paragraph 5),”;
    - (c) for “except than”, substitute “except that”.
  - (3) In paragraph 2(1)(g) (independent eligible student), after “residing outside”, insert “the United Kingdom, Gibraltar and”.
  - (4) In the following paragraphs, for “another Member State”, substitute “a Member State”—
    - (a) paragraph 4(1)(b)(**14**) (calculation of eligible student’s residual income);
    - (b) paragraph 5(**15**) (calculation of parent’s residual income)—
      - (i) sub-paragraph (2)(a);
      - (ii) sub-paragraph (7) each time it occurs;
      - (iii) sub-paragraph (8).

#### **Amendment of Schedule 6**

- 9.**—(1) Schedule 6(**16**) (assessment of eligible part-time student’s household income) is amended as follows.
- (2) In paragraph 1(1)(l) (definitions)—
    - (a) in sub-paragraph (ii), for “another Member State”, substitute “a Member State”;
    - (b) for sub-paragraph (iii), substitute—

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(13) Paragraph 1(1)(o) was substituted by [S.I. 2014/1766](#).

(14) Paragraph (4)(1)(b) was amended by [S.I. 2014/1766](#).

(15) Paragraph (5) was amended by [S.I. 2013/1728](#), [S.I. 2014/1766](#), [S.I. 2015/1951](#) and [S.I. 2017/114](#).

(16) Schedule 6 was added by [S.I. 2018/472](#).

“(iii) where the legislation of—

- (aa) the United Kingdom and one or more Member States; or
- (bb) more than one Member State

applies to the period, A’s total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A’s total income in that period is greatest (except as otherwise provided in paragraph 5),”;

(c) for “except than”, substitute “except that”.

(3) In paragraph 2(1)(g) (independent eligible part-time student), after “residing outside”, insert “the United Kingdom, Gibraltar and”.

(4) In the following paragraphs, for “another Member State”, substitute “a Member State”—

- (a) paragraph 4(1)(b) (calculation of eligible part-time student’s residual income);
- (b) paragraph 5 (calculation of parent’s residual income)—
  - (i) sub-paragraph (1)(a);
  - (ii) sub-paragraph (6) each time it occurs;
  - (iii) sub-paragraph (7).

### **Amendment of the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007**

**10.**—(1) The Schedule to the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007(**17**) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1)(**18**)—

- (i) omit the definition of “European Union national”;
- (ii) omit “other than the United Kingdom” each time it occurs;
- (iii) after the definition of “European Union”, insert—

““EU national” means a national of a Member State of the European Union;”;
- (iv) in the definition of “family member”, for “EC national”, substitute “EU national” each time it occurs;
- (v) in the definition of “overseas territories”, after “French Southern and Antarctic Territories;”, insert “Gibraltar;”;

(b) in sub-paragraph (3)(**19**)—

- (i) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
- (ii) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;

(17) S.I. 2007/778, amended by S.I. 2007/2263, S.I. 2008/1640, S.I. 2011/87, S.I. 2011/1043, S.I. 2012/1653, S.I. 2016/584, S.I. 2017/114 and S.I. 2018/137.

(18) Paragraph 1(1) was amended by S.I. 2011/87, S.I. 2011/1043, S.I. 2012/1653 and S.I. 2018/137.

(19) Paragraph 1(3) was amended by S.I. 2007/2263.

- (iii) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;
- (c) in sub-paragraph (4)(b) and (c), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (d) in sub-paragraph (5)(**20**), after “an area”, insert “other than the United Kingdom or Gibraltar”.
- (3) In the following paragraphs, after “the territory comprising”, insert “the United Kingdom,”—
  - (a) paragraph 3(d)(**21**) (persons who are settled in the United Kingdom);
  - (b) paragraph 6(1)(c)(**22**) (workers, employed persons, self-employed persons and their family members);
  - (c) paragraph 7(b)(**23**) (workers, employed persons, self-employed persons and their family members).
- (4) In paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
  - (a) in sub-paragraph (1)(d)(**24**), after “the territory comprising”, insert “the United Kingdom,”;
  - (b) in sub-paragraph (1)(e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”.
- (5) In paragraph 9(**25**) (EC nationals)—
  - (a) in the heading, for “EC nationals”, substitute “EU nationals”;
  - (b) in sub-paragraph (1)—
    - (i) in paragraph (a)(i), for “EC national”, substitute “EU national”;
    - (ii) in paragraph (c), after “the territory comprising”, insert “the United Kingdom,”;
  - (c) for sub-paragraph (1A), substitute—
 

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

    - (a) is—
      - (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under article 7(1) of Directive 2004/38; or
      - (ii) an EU national; 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.”;
  - (d) after sub-paragraph (2), insert—
 

“(3) Any description of person who would have fallen within this paragraph immediately before exit day is to be treated as falling within this paragraph on and after exit day.”.

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(20) Paragraph 1(5) was amended by [S.I. 2011/1043](#).

(21) Paragraph 3(d) was amended by [S.I. 2007/2263](#).

(22) Paragraph 6 was substituted by [S.I. 2007/2263](#).

(23) Paragraph 7(b) was amended by [S.I. 2007/2263](#).

(24) Paragraph 8(1)(d) was amended by [S.I. 2007/2263](#).

(25) Paragraph 9 was amended by [S.I. 2007/2263](#) and [S.I. 2012/1653](#).

- (6) In paragraph 9A(26) (EC nationals)—
- (a) in sub-paragraphs (1)(a) and (2), for “a European Union national other than a United Kingdom national”, substitute “an EU national”;
  - (b) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”.
- (7) In paragraph 10(27) (children of Swiss nationals)—
- (a) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
  - (b) in sub-paragraph (1)(c) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
  - (c) in sub-paragraph (1)(d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (d) after sub-paragraph (1)(d) as so renumbered, insert—
    - “(2) Any description of person who would have fallen within this paragraph immediately before exit day is to be treated as falling within this paragraph on and after exit day.”.
- (8) In paragraph 11(c)(28) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom,”.

#### **Amendment of the Education (Fees and Awards) (England) Regulations 2007**

11. The Education (Fees and Awards) (England) Regulations 2007(29) are amended as follows.

#### **Amendment of regulation 2**

12. In regulation 2 (interpretation)—
- (a) in paragraph (1)(30), in the definition of “overseas territories”, after “French Southern and Antarctic Territories,”; insert “Gibraltar,”;
  - (b) in paragraph (4)(31)—
    - (i) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
    - (ii) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
    - (iii) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;
  - (c) in paragraph (5)(b) and (c), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (d) in paragraph (6)—

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(26) Paragraph 9A was added by [S.I. 2007/2263](#) and subsequently amended by [S.I. 2011/1043](#).

(27) Paragraph 10(c) was amended by [S.I. 2007/2263](#).

(28) Paragraph 11(c) was amended by [S.I. 2007/2263](#).

(29) [S.I. 2007/779](#), amended by [S.I. 2007/2263](#), [S.I. 2010/1172](#), [S.I. 2010/1941](#), [S.I. 2011/87](#), [S.I. 2011/1043](#), [S.I. 2011/1987](#), [S.I. 2012/765](#), [S.I. 2012/956](#), [S.I. 2012/1653](#), [S.I. 2015/971](#), [S.I. 2016/584](#), [S.I. 2017/114](#), [S.I. 2018/137](#) and [S.I. 2018/1141](#).

(30) Regulation 2(1) was amended by [S.I. 2010/1172](#), [S.I. 2010/1941](#), [S.I. 2011/1043](#) and [S.I. 2012/1653](#).

(31) Regulation 2(4) was amended by [S.I. 2007/2263](#).

- (i) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
- (ii) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
- (iii) for “the territory comprising the European Economic Area, Switzerland and Turkey”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey”;
- (e) in paragraph (7)(32), after “an area”, insert “other than the United Kingdom or Gibraltar”.

### **Amendment of Schedule 1**

**13.**—(1) Schedule 1 is amended as follows.

(2) In paragraph 1(33)—

- (a) omit the definition of “European Union national”;
- (b) omit “other than the United Kingdom” each time it occurs;
- (c) after the definition of “employed person”, insert—
  - ““EU national” means a national of a Member State of the European Union;”;
- (d) in the definition of “family member”, for “EC national”, substitute “EU national” each time it occurs.

(3) In the following paragraphs, after “the territory comprising”, insert “the United Kingdom,”—

- (a) paragraph 3(d)(34) (persons who are settled in the United Kingdom);
- (b) paragraph 6(1)(c)(35) (workers, employed persons, self-employed persons and their family members);
- (c) paragraph 7(b)(36) (workers, employed persons, self-employed persons and their family members).

(4) In paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—

- (a) in sub-paragraph (1)(d)(37), after “the territory comprising”, insert “the United Kingdom,”;
- (b) in sub-paragraph (1)(e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”.

(5) In paragraph 9(38) (EC nationals)—

- (a) in the heading, for “EC nationals”, substitute “EU nationals”;
- (b) in sub-paragraph (1)—
  - (i) in paragraph (a)(i), for “EC national”, substitute “EU national”;
  - (ii) in paragraph (c), after “the territory comprising”, insert “the United Kingdom,”;
- (c) for sub-paragraph (1A), substitute—

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(32) Regulation 2(7) was amended by [S.I. 2011/1043](#).

(33) Paragraph 1 was amended by [S.I. 2011/87](#), [S.I. 2011/1043](#) and [S.I. 2018/137](#).

(34) Paragraph 3(d) was amended by [S.I. 2007/2263](#).

(35) Paragraph 6 was substituted by [S.I. 2007/2263](#).

(36) Paragraph 7(b) was amended by [S.I. 2007/2263](#).

(37) Paragraph 8(1)(d) was amended by [S.I. 2007/2263](#).

(38) Paragraph 9 was amended by [S.I. 2007/2263](#) and [S.I. 2011/1987](#).



- “(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—
- (a) is—
    - (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under article 7(1) of Directive 2004/38; or
    - (ii) an EU national; 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.”;
  - (d) after sub-paragraph (2), insert—

“(3) Any description of person who would have fallen within this paragraph immediately before exit day is to be treated as falling within this paragraph on and after exit day.”.
  - (6) In paragraph 10(39) (EC nationals)—
    - (a) in sub-paragraphs (1)(a) and (2), for “a European Union national other than a United Kingdom national”, substitute “an EU national”;
    - (b) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”.
  - (7) In paragraph 11(40) (children of Swiss nationals)—
    - (a) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
    - (b) in sub-paragraph (1)(c) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
    - (c) in sub-paragraph (1)(d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
    - (d) after sub-paragraph (1)(d) as so renumbered, insert—

“(2) Any description of person who would have fallen within this paragraph immediately before exit day is to be treated as falling within this paragraph on and after exit day.”.
  - (8) In paragraph 12(c)(41) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom,”.

## **Amendment of the Education (Student Support) (European University Institute) Regulations 2010**

14. The Education (Student Support) (European University Institute) Regulations 2010(42) are amended as follows.

### **Amendment of Schedule 1**

- 15.—(1) Schedule 1 (eligible students) is amended as follows.
- (2) In Part 1 (interpretation), paragraph 1—

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(39) Paragraph 10 was amended by [S.I. 2007/2263](#) and [S.I. 2011/1043](#).

(40) Paragraph 11(c) was amended by [S.I. 2007/2263](#).

(41) Paragraph 12(c) was amended by [S.I. 2007/2263](#).

(42) [S.I. 2010/447](#), amended by [S.I. 2011/83](#), [S.I. 2011/2430](#), [S.I. 2012/3059](#), [S.I. 2013/630](#), [S.I. 2013/1728](#), [S.I. 2016/211](#), [S.I. 2017/114](#), [S.I. 2017/204](#), [S.I. 2018/137](#) and [S.I. 2018/472](#).

- (a) in sub-paragraph (1)(43), in the definition of “EEA national”, omit “other than the United Kingdom”;
  - (b) in the following sub-paragraphs, omit “other than the United Kingdom”—
    - (i) sub-paragraph (2)(b);
    - (ii) sub-paragraph (3)(b);
    - (iii) sub-paragraph (4)(b);
    - (iv) sub-paragraph (5)(b);
  - (c) in sub-paragraphs (7) and (8) after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs.
- (3) In Part 2 (categories)—
- (a) in the following paragraphs, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”—
    - (i) paragraph 3(d) (persons who are settled in the United Kingdom);
    - (ii) paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members);
    - (iii) paragraph 7(b) (workers, employed persons, self-employed persons and their family members);
    - (iv) paragraph 8(1)(d) and (e) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere);
  - (b) in paragraph 9 (EU nationals)—
    - (i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
    - (ii) after sub-paragraph (2), insert—
 

“(3) Any description of person who would have been eligible under this paragraph immediately before exit day is to be eligible on and after exit day.”;
  - (c) in paragraph 10 (EU nationals)—
    - (i) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;
    - (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (d) in paragraph 10A(44) (EU nationals)—
    - (i) in sub-paragraphs (a) and (2), omit “other than a United Kingdom national”;
    - (ii) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (e) in paragraph 11 (children of Swiss nationals)—
    - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
    - (ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
    - (iii) after sub-paragraph (1)(d) as so renumbered, insert—
 

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

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(43) Paragraph 1(1) was amended by [S.I. 2011/83](#).

(44) Paragraph 10A was added by [S.I. 2017/114](#).

- (f) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”.

## **Amendment of Schedule 2**

**16.**—(1) Schedule 2 (student’s contribution) is amended as follows.

(2) In Part 1 (interpretation), paragraph 1(1), in the definition of “taxable income”—

- (a) in paragraph (b), for “another EEA State”, substitute “an EEA State”;
- (b) for paragraph (c), substitute—

“(c) where the legislation of—

- (i) the United Kingdom and one or more EEA States or Switzerland;
- (ii) more than one EEA State; or
- (iii) an EEA State and Switzerland

applies to the period, the legislation under which the Secretary of State considers the person will pay the largest amount of tax in that period.”.

(3) In Part 2 (calculation of contribution)—

- (a) in paragraph 3(1)(b) (calculation of the student’s residual income), for “another Member State”, substitute “a Member State”;
- (b) in paragraph 4 (calculation of the student’s partner’s residual income), in the following sub-paragraphs, for “another EEA State”, substitute “an EEA State”—
- (i) sub-paragraph (1)(a);
- (ii) sub-paragraph (2)(a);
- (iii) sub-paragraph (5)(45) each time it occurs;
- (iv) sub-paragraph (6).

## **Amendment of the Further Education Loans Regulations 2012**

**17.** The Further Education Loans Regulations 2012(46) are amended as follows.

### **Amendment of regulation 7**

**18.** In regulation 7(d)(47) (students becoming eligible other than prior to the beginning of a designated further education course), after “EU national”, insert “or of a person who is eligible other than as a family member under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule”.

## **Amendment of Schedule 1**

**19.**—(1) Schedule 1 (eligible students) is amended as follows.

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

- (a) in sub-paragraph (1), omit “other than the United Kingdom” each time it occurs;
- (b) in sub-paragraphs (5) and (6), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;

(45) Paragraph 4(5)(a) was amended by [S.I. 2013/1728](#).

(46) [S.I. 2012/1818](#), amended by [S.I. 2014/290](#), [S.I. 2014/1766](#), [S.I. 2015/181](#), [S.I. 2016/238](#), [S.I. 2016/584](#), [S.I. 2017/336](#) and [S.I. 2018/182](#).

(47) Regulation 7 was amended by [S.I. 2016/238](#) and [S.I. 2018/182](#).

- (c) in sub-paragraph (7), after “an area”, insert “other than the United Kingdom or Gibraltar”.
- (3) In Part 2 (categories)—
- (a) in the following paragraphs, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”—
- (i) paragraph 3(d) (persons who are settled in the United Kingdom);
  - (ii) paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members);
  - (iii) paragraph 7(b) (workers, employed persons, self-employed persons and their family members);
  - (iv) paragraph 8(1)(d) and (e) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere);
- (b) in paragraph 9 (EU nationals)—
- (i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (ii) after sub-paragraph (3), insert—
 

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

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

### **Amendment of the Education (Postgraduate Master’s Degree Loans) Regulations 2016**

**20.** The Education (Postgraduate Master’s Degree Loans) Regulations 2016(48) are amended as follows.

#### **Amendment of regulation 8**

**21.** In regulation 8(d)(49) (events), after “EU national”, insert “or of a person who is eligible other than as a family member under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule”.

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(48) S.I. 2016/606, amended by S.I. 2016/668, S.I. 2017/594, S.I. 2017/831, S.I. 2018/137 and S.I. 2018/599.

(49) Regulation 8 was amended by S.I. 2018/137.

## Amendment of Schedule 1

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

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

(a) in sub-paragraph (1)—

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

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

(b) in sub-paragraphs (5) and (6), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;

(c) in sub-paragraph (7), after “an area”, insert “other than the United Kingdom or Gibraltar”.

(3) In Part 2 (categories)—

(a) in the following paragraphs, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”—

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

(ii) paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members);

(iii) paragraph 7(b) (workers, employed persons, self-employed persons and their family members);

(iv) paragraph 8(1)(d) and (e) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere);

(b) in paragraph 9 (EU nationals)—

(i) in sub-paragraphs (1)(c) and (d) and (2)(50), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(ii) after sub-paragraph (3), insert—

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

(c) in paragraph 10 (EU nationals)—

(i) in sub-paragraphs (1)(a) and (2), omit “other than a United Kingdom national”;

(ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(d) in paragraph 11 (children of Swiss nationals)—

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

(ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(iii) after sub-paragraph (1)(d) as so renumbered, insert—

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

(e) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”.

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(50) Paragraph 9(2) was amended by [S.I. 2017/594](#).

## **Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017**

**23.** The Higher Education (Fee Limit Condition) (England) Regulations 2017(**51**) are amended as follows.

### **Amendment of regulation 6**

**24.** In regulation 6(2)(d)(**52**) (qualifying person: effect of event during academic year), after “EU national”, insert “or of a person who is a qualifying person other than as a family member under paragraph 10 of Part 2 of the Schedule by virtue of paragraph 10(4) of Part 2 of the Schedule”.

### **Amendment of the Schedule**

**25.**—(1) The Schedule is amended as follows.

(2) In Part 1 (interpretation)—

(a) in paragraph 1 (interpretation: general)—

(i) in sub-paragraph (1)(**53**)—

(aa) omit “other than the United Kingdom” each time it occurs;

(bb) in the definition of “overseas territories”, after “French Southern and Antarctic Territories;”, insert “Gibraltar;”;

(ii) in sub-paragraph (2), after “an area”, insert “other than the United Kingdom or Gibraltar”;

(b) in paragraph 2 (interpretation: ordinarily resident)—

(i) in sub-paragraph (2)—

(aa) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;

(bb) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;

(cc) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;

(ii) in sub-paragraph (5)(**54**), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs.

(3) In Part 2 (qualifying persons)—

(a) in the following paragraphs, after “the territory comprising”, insert “the United Kingdom,”—

(i) paragraph 4(d) (persons who are settled in the United Kingdom);

(ii) paragraph 7(1)(c) (workers, employed persons, self-employed persons and their family members);

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(51) S.I. 2017/1189, amended by S.I. 2018/903.

(52) Regulation 6(2) was amended by S.I. 2018/903.

(53) Paragraph 1(1) was amended by S.I. 2018/903.

(54) Paragraph 2(5) was amended by S.I. 2018/903.

- (iii) paragraph 8(b) (workers, employed persons, self-employed persons and their family members);
- (b) in paragraph 9 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
  - (i) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”;
  - (ii) in sub-paragraph (1)(e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (c) in paragraph 10(55) (EU nationals)—
  - (i) in sub-paragraph (1)(c), after “the territory comprising”, insert “the United Kingdom,”;
  - (ii) for sub-paragraph (2), substitute—
    - “(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—
    - (a) is—
      - (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or
      - (ii) an EU national; 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.”;
  - (iii) after sub-paragraph (3), insert—
    - “(4) Any description of person who would have fallen within this paragraph immediately before exit day is to be treated as falling within this paragraph on and after exit day.”;
- (d) in paragraph 11 (EU nationals)—
  - (i) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;
  - (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”;
- (e) in paragraph 12 (children of Swiss nationals)—
  - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
  - (ii) in sub-paragraph (1)(c) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
  - (iii) in sub-paragraph (1)(d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (iv) after sub-paragraph (1)(d) as so renumbered, insert—
    - “(2) Any description of person who would have fallen within this paragraph immediately before exit day is to be treated as falling within this paragraph on and after exit day.”;

- (f) in paragraph 13(1)(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom,”.

### **Amendment of the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018**

**26.** The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018(**56**) are amended as follows.

#### **Amendment of regulation 8**

**27.** In regulation 8(d) (events), after “EU national”, insert “or of a person who is eligible other than as a family member under paragraph 10 of Part 2 of Schedule 1 by virtue of paragraph 10(4) of Part 2 of that Schedule”.

#### **Amendment of Schedule 1**

**28.**—(1) Schedule 1 (eligible students) is amended as follows.

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

(a) in sub-paragraph (1)—

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

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

(b) in sub-paragraphs (5) and (6), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;

(c) in sub-paragraph (7), after “an area”, insert “other than the United Kingdom or Gibraltar”.

(3) In Part 2 (categories)—

(a) in the following paragraphs, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”—

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

(ii) paragraph 7(1)(c) (workers, employed persons, self-employed persons and their family members);

(iii) paragraph 8(b) (workers, employed persons, self-employed persons and their family members);

(iv) paragraph 9(1)(d) and (e) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere);

(b) in paragraph 10 (EU nationals)—

(i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(ii) after sub-paragraph (3), insert—

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

(c) in paragraph 11 (EU nationals)—

(i) in sub-paragraphs (1)(a) and (2), omit “other than a United Kingdom national”;



- (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (d) in paragraph 12 (children of Swiss nationals)—
  - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
  - (ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (iii) after sub-paragraph (1)(d) as so renumbered, insert—
    - “(2) Any description of person who would have been eligible under this paragraph immediately before exit day is to be eligible on and after exit day.”;
- (e) in paragraph 13(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”.

28th January 2019

*Chris Skidmore*  
Minister of State  
Department for Education

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## EXPLANATORY NOTE

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

These Regulations amend the Education (Student Support) Regulations 2011 (S.I. 2011/1986) (“the Student Support Regulations”), the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007 (S.I. 2007/778), the Education (Fees and Awards) (England) Regulations 2007 (S.I. 2007/779), the Education (Student Support) (European University Institute) Regulations 2010 (S.I. 2010/447), the Further Education Loans Regulations 2012 (S.I. 2012/1818), the Education (Postgraduate Master’s Degree Loans) Regulations 2016 (S.I. 2016/606), the Higher Education (Fee Limit Condition) (England) Regulations 2017 (S.I. 2017/1189) and the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599).

The principal amendments which these Regulations make to the Student Support Regulations ensure that references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 3 amends the definition of “Erasmus year” in regulation 2(1) of the Student Support Regulations so that access to current levels of support is preserved for students on an Erasmus year, in order to ensure that they are not disadvantaged in student support terms by reason of having made plans to undertake an Erasmus year during the academic year in which exit occurs. These amendments also provide that, in respect of the 2018/2019 academic year, periods spent studying at the relevant institution in the United Kingdom after exit day will not count towards the time limit imposed by sub-paragraph (c)(ii)(aa) of the Erasmus year definition.

Regulations 5, 8 and 9 amend references to “Member State” in provisions relating to the calculation of students’ income, to ensure that these references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 7 amends definitions and references relating to the European Economic Area and the European Union which are used in Schedule 1 to the Student Support Regulations, to ensure that these definitions and references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 7(3)(b)(ii) amends paragraph 9 of Part 2 of Schedule 1, which confers eligibility on EU nationals and their family members. This regulation adds a new sub-paragraph (4) to paragraph 9, which provides that any description of person who would have been eligible under that paragraph immediately before exit day is to be eligible on and after exit day.

Regulation 7(3)(e)(iii) makes similar provision in relation to children of Swiss nationals who, after exit day, may no longer fall within paragraph 11 of Part 2 of Schedule 1.

Regulations 4 and 6 are consequential on regulation 7(3)(b)(ii) and amend regulations 17 and 138 of the Student Support Regulations. Regulations 17 and 138 stipulate that a student who becomes a family member of an EU national during the course of an academic year may qualify for support in respect of that academic year. The amendments made by regulations 4 and 6 extend this position to a student who becomes a family member of a person who is eligible by virtue of the new provision in paragraph 9(4) of Part 2 of Schedule 1. This does not apply if the person in respect of whom the student is a family member is themselves only eligible as a family member.

Regulation 10 makes similar amendments to the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007.

Regulations 11, 12 and 13 make similar amendments to the Education (Fees and Awards) (England) Regulations 2007.

Regulations 14, 15 and 16 make similar amendments to the Education (Student Support) (European University Institute) Regulations 2010.

Regulations 17, 18 and 19 make similar amendments to the Further Education Loans Regulations 2012.

Regulations 20, 21 and 22 make similar amendments to the Education (Postgraduate Master's Degree Loans) Regulations 2016.

Regulations 23, 24 and 25 make similar amendments to the Higher Education (Fee Limit Condition) (England) Regulations 2017.

Regulations 26, 27 and 28 make similar amendments to the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018.

An impact assessment has not been produced for this instrument as it has no impact, or no significant impact, on the costs of business, charities or the voluntary sector.