
WELSH STATUTORY INSTRUMENTS

2018 No. 814 (W. 165)

EDUCATION, WALES

**The Education (Student Finance) (Miscellaneous
Amendments) (Wales) Regulations 2018**

<i>Made</i>	- - - -	<i>3 July 2018</i>
<i>Laid before Parliament</i>		<i>6 July 2018</i>
<i>Coming into force</i>	- -	<i>30 July 2018</i>

The Welsh Ministers, in exercise of powers conferred on the Secretary of State under sections 1 and 2 of the Education (Fees and Awards) Act 1983⁽¹⁾ and sections 22 and 42(6) of the Teaching and Higher Education Act 1998⁽²⁾ now exercisable by them⁽³⁾ and powers conferred on them under sections 5(2)(b), 5(5)(b), 55(2) and 58(3) of the Higher Education (Wales) Act 2015⁽⁴⁾ make the following Regulations:

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- (1) 1983 c. 40; section 1 was amended by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91; the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 19; the Education Act 1994 (c. 30), Schedule 2, paragraph 7; the Education Act 1996 (c. 56), Schedule 37, paragraph 57; the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraphs 1 and 11; the Education Act 2002 (c. 32), Schedule 21, paragraph 5 and Schedule 22; the Education Act 2005 (c. 18), Schedule 14, paragraph 9; S.I. 2005/3238, Schedule 1, paragraph 9; S.I. 2010/1158, Schedule 2, paragraph 1; the Education Act 2011 (c. 21), Schedule 5, paragraph 5 and Schedule 16, paragraph 5 and the Deregulation Act 2015 (c. 20), Schedule 14, paragraph 33. Section 2 was amended by the Teaching and Higher Education Act 1998, section 44 and Schedule 4.
- (2) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147; the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7; the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257; the Education Act 2011 (c. 21), section 76; S.I. 2013/1181 and the Higher Education and Research Act 2017 (c. 29), section 88. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.
- (3) The functions of the Secretary of State in section 1 were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by S.I. 2006/1458 with effect from 8 June 2006. The functions of the Secretary of State in section 2 were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by S.I. 1999/672. The 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). The Secretary of State’s functions in section 22(2)(a) to (i) and (k) 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 subsections (a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State’s function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. The 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.
- (4) 2015 anaw 1.

PART 1

TITLE AND COMMENCEMENT

Title and commencement

1.—(1) The title of these Regulations is the Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018.

(2) These Regulations come into force on 30 July 2018.

PART 2

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

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

2. The Education (Student Support) (Wales) Regulations 2018⁽⁵⁾ are amended in accordance with regulations 3 to 20.

3. In regulation 14 (maximum period of eligibility – tuition fee loans and grants for new students), in paragraph (2)—

- (a) for “, a disabled student’s grant,” substitute “or”; and
- (b) omit “or a grant for dependants”.

4. In regulation 16 (maximum period of eligibility – tuition fee loans and grants for certain continuing students)—

- (a) for paragraph (1)(b)(i) substitute—
 - “(i) who has completed a relevant course (the “preliminary course”),”;
- (b) in paragraph (1)(c)(i), after “full-time foundation degree course” insert “or ordinary degree course”;
- (c) in paragraph (2)—
 - (i) for “, a disabled student’s grant” substitute “or”;
 - (ii) omit “or a grant for dependants”; and
- (d) after paragraph (3) insert—
 - “(4) In paragraph (1)(b)(i), “relevant course” means a full-time course for the—
 - (a) Diploma of Higher Education,
 - (b) Certificate of Higher Education, or
 - (c) Higher National Diploma or Higher National Certificate of either the Business and Technology Education Council or the Scottish Qualification Authority.”

5. After regulation 22 (refugees who cease to have leave to remain) insert—

“Persons who cease to have stateless leave

22A.—(1) This regulation applies where—

(5) S.I. 2018/191 (W. 42).

- (a) a person (“P”) was a Category 2A eligible student (see Schedule 2) in connection with an application for support—
 - (i) for an earlier year of the present course,
 - (ii) for a full time-course in relation to which the present course is a full-time end-on course, or
 - (iii) for a course from which P’s status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which—
 - (i) P, or
 - (ii) the person, who, as a result of being a person granted stateless leave, caused P to be a Category 2A eligible student,
is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules(6) is pending.

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

6. In the Welsh text of regulation 30, in paragraph (4), after “unrhyw fenthyciad cynhaliaeth” for “a” substitute “neu”.

7. After regulation 34 (Welsh Ministers’ decision on an application) insert—

“34A.—(1) This regulation applies where—

- (a) a person (“P”) makes an application for support in accordance with regulation 32,
- (b) any information or documentation provided by P in, or in connection with, the application is not materially inaccurate, and
- (c) P receives notification from the Welsh Ministers under regulation 34(5) incorrectly stating that P is an eligible student.

(2) Despite the notification incorrectly stating that P is an eligible student, the Welsh Ministers may, for the purposes of these Regulations, treat P as being an eligible student.”

8. In regulation 40 (amount of tuition fee loan)—

(a) in paragraph (3)—

- (i) at the end of Category 1 for “or 5” substitute “, 5 or 6”;
- (ii) in Category 4, omit “, including an eligible student undertaking an Erasmus year of a full-time course provided by an institution in England, Scotland or Wales”; and
- (iii) after Category 5 insert—

“Category 6

An eligible student undertaking an Erasmus year of a full-time course provided by an institution in England, Scotland or Wales.”;

(b) in Table 2 of paragraph (3)—

- (i) omit the words “and Scotland” from the 14th row of column 4 (location of course provider);

(6) See Appendix AR: administrative review.

- (ii) insert the words “Scotland and” before the words “Northern Ireland” in the 15th row of column 4; and
- (iii) at the end insert—

Beginning on or after 1 September 2018	6	Ordinary provider	Wales	£1,350
			England and Scotland	£1,385

9. In regulation 47 (amount of maintenance grant: part-time students), in paragraph (4), for “exceeds £59,200” substitute “is £59,200 or more”.

10. In regulation 54 (qualifying conditions for a maintenance loan), omit Exception 5.

11. In regulation 65 (grant for travel for medical students), in paragraph (3)—

- (a) for “£59,200 or less” substitute “less than £59,200”; and
- (b) for “more than £59,200” substitute “£59,200 or more”.

12. In regulation 66 (grant for travel for study or work overseas), in paragraph (2)—

- (a) for “£59,200 or less” substitute “less than £59,200”; and
- (b) for “more than £59,200” substitute “£59,200 or more”.

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

- (a) in paragraph (2), sub-paragraph (b)(i), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”;
- (b) in paragraph (3), in the appropriate place insert—

““person granted stateless leave” (“person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth”).

14. In regulation 81 (qualifying for grants or maintenance loan during the academic year), paragraph (3), sub-paragraph (b)(i), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

15. In Schedule 1, paragraph 6(1), in the definition of “close relative” after paragraph (c) insert—

“(d) P’s child, where P is dependent on that child;”.

16. In Schedule 2—

- (a) after paragraph 2 (category 2 - refugees and their family members) insert—

“Category 2A - Persons granted stateless leave and their family members

2A.—(1) A person granted stateless leave who—

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

(2) A person—

- (a) who—
- (i) is the spouse or civil partner of a person granted stateless leave, and

- (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave,
 - (b) who is ordinarily resident in Wales on the first day of the first academic year of the course, and
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (3) A person—
 - (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave, and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave,
 - (b) who was under 18 on the leave application date,
 - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course, and
 - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (4) In this paragraph—
 - (a) “leave application date” (*“dyddiad y cais i gael caniatâd i aros”*) means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules,
 - (b) “person granted stateless leave” (*“person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth”*) means a person who—
 - (i) has extant leave to remain as a stateless person under the immigration rules, and
 - (ii) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave.”;
- (b) in paragraph 3 (category 3 – persons with leave to enter or remain and their family members)—
 - (i) for sub-paragraph (2)(b) substitute—
 - “(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date.”;
 - (ii) for sub-paragraph (3)(b) substitute—
 - “(b) who, on the leave application date, was under 18 years old and was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date.”;
 - (iii) for sub-paragraph (4)(a) and (b) substitute—
 - “(a) who has—

- (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is considered not to qualify for recognition as a refugee it is thought right to allow P to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly,
- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly,
- (iii) been granted leave to remain on the grounds of private life under the immigration rules,
- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, P has been granted leave to remain outside the rules⁽⁷⁾ on the grounds of Article 8 of the European Convention on Human Rights,”; and

(iv) after sub-paragraph (4) insert—

“(5) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”; and

(c) in paragraph 11, in the appropriate place insert—

““immigration rules” (*“rheolau mewnfudo”*) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971⁽⁸⁾.”.

17. In Schedule 4—

- (a) in paragraph 2(2), for “recognised educational institution”, in each place where it occurs, substitute “publicly funded institution”;
- (b) after paragraph 12 insert—

“Persons who cease to have stateless leave

12A.—(1) This paragraph applies where—

- (a) a person (“P”) was a category 2A eligible postgraduate student (see Schedule 2) in connection with an application for a disabled postgraduate student’s grant—
 - (i) for an earlier year of the present postgraduate course, or
 - (ii) in connection with a course from which P’s status as an eligible postgraduate student has been transferred to the present postgraduate course under paragraph 15, and

⁽⁷⁾ Paragraph 276BE(2) of the immigration rules refers.

⁽⁸⁾ 1971 c. 77.

- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant, the period for which—
- (i) P, or
 - (ii) the person who, as a result of being a person granted stateless leave, caused P to be a Category 2A eligible postgraduate student, is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules⁽⁹⁾ is pending.
- (2) Where this paragraph applies, P's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant.”;
- (c) in paragraph 14, sub-paragraph (3)(b)(i), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”; and
- (d) in paragraph 14, sub-paragraph (4), in the appropriate place insert—
- ““person granted stateless leave” (“*person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth*”);”.
- 18.** In the Welsh text of Schedule 4—
- (a) in paragraph 2(2)(c), omit “gan Gyngor Cyllido Addysg Uwch Cymru”; and
 - (b) in paragraph 9(c), for “yn dod yn fyfyrwr cwmwys” substitute “hefyd yn cymhwyso i gael cymorth”.
- 19.** In Schedule 5, paragraph 4—
- (a) in sub-paragraph (2)(a), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”;
 - (b) in sub-paragraph (3), in the appropriate place insert—
- ““person granted stateless leave” (“*person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth*”);”.
- 20.** In Schedule 7 (index of defined terms), Table 16, in the appropriate places insert—

“immigration rules”	Schedule 2, paragraph 11
“person granted stateless leave”	Schedule 2, paragraph 2A(4)

PART 3

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

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

21. The Education (Student Support) (Wales) Regulations 2017⁽¹⁰⁾ are amended in accordance with regulations 22 to 38.

22. In regulation 2 (interpretation), in paragraph (1)—

⁽⁹⁾ See Appendix AR :administrative review.

⁽¹⁰⁾ S.I. 2017/47 (W. 21) as amended by S.I. 2018/191 (W. 42).

(a) in the appropriate places insert—

““close relative” (*perthynas agos*)” (in relation to a person (“P”)) means—

- (a) P’s spouse or civil partner;
- (b) a person ordinarily living with P as if the person were P’s spouse or civil partner;
- (c) P’s parent, where P is under the age of 25;
- (d) P’s child, where P is dependent on that child;”;

““immigration rules” (*rheolau mewnfudo*)” means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;”;

““member of the armed forces” (*aelod o’r lluoedd arfog*)” means a member of the regular naval, military or air forces of the Crown;”;

““person granted stateless leave” (*person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth*)” means a person who—

- (a) has extant leave to remain as a stateless person under the immigration rules; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;

(b) for paragraphs (a) and (b) of the definition of “person with leave to enter or remain”, substitute—

“(a) who has—

- (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is considered not to qualify for recognition as a refugee, it is thought right to allow A to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;
- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow A to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;
- (iii) been granted leave to remain on the grounds of private life under the immigration rules; or
- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, A has been granted leave to remain outside the rules(11) on the grounds of Article 8 of the European Convention on Human Rights;”.

23. In regulation 4 (eligible students)—

(a) after paragraph (9) insert—

“(9A) Where—

(11) Paragraph 276BE(2) of the immigration rules refers.

- (a) the Welsh Ministers have determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was—
 - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course, or other designated course from which A’s status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or
 - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A’s status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
- (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which a person granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules(12) is pending,

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

- (b) in paragraph (11), for “Paragraphs (9) and (10)” substitute “Paragraphs (9), (9A) and (10)”.

24. In regulation 6 (period of eligibility)—

- (a) in paragraphs (8) and (11), for “or a grant for living costs” substitute “, grant for travel, maintenance grant or a special support grant”;
- (b) in paragraph (10)—
 - (i) in sub-paragraph (b)(i), for “or 3” substitute “, 3 or 4”; and
 - (ii) for sub-paragraph (c)(i) substitute—

“(i) has completed a full-time foundation degree course or ordinary degree course;”.

25. In regulation 13 (fee support generally)—

- (a) in paragraph (5), at the beginning, insert “Subject to paragraph (5A),”;
- (b) after paragraph (5) insert—

“(5A) Paragraph (5) does not apply where—

 - (a) the student (“S”) or a close relative of S is a member of the armed forces,
 - (b) S is not undertaking the course in Wales on the first day of the first academic year, and
 - (c) S is not undertaking the course in Wales on that day because S or the close relative is serving as a member of the armed forces outside Wales.”; and
- (c) after paragraph (6) insert—

(12) See Appendix AR: administrative review.

“(7) But paragraph (6) does not apply where the student is undertaking the course outside the United Kingdom because the student or a close relative of the student is serving as a member of the armed forces.”

26. In regulation 15 (events), paragraph (b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

27. In regulation 23 (general qualifying conditions for grants for living costs), paragraph (12)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

28. In regulation 24 (grants for disabled students’ living costs)—

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

(b) after paragraph (4) insert—

“(4A) Paragraph (4) does not apply where—

(a) the student (“S”) or a close relative of S is a member of the armed forces,

(b) S is not undertaking the course in Wales on the first day of the first academic year, and

(c) S is not undertaking the course in Wales on that day because S or the close relative is serving as a member of the armed forces outside Wales.”; and

(c) after paragraph (5) insert—

“(5A) But paragraph (5) does not apply where the student is undertaking the course outside the United Kingdom because the student or a close relative of the student is serving as a member of the armed forces.”

29. In regulation 41 (qualifying conditions for loans for living costs), omit paragraph (4).

30. In regulation 49 (students becoming eligible during the course of an academic year), paragraph (2)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

31. In regulation 64 (eligible distance learning students)—

(a) after paragraph (10) insert—

“(10A) Where—

(a) the Welsh Ministers determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible distance learning student in connection with an application for support for an earlier year of the present distance learning course or an application for support in connection with a designated course, designated part-time course or other designated distance learning course from which A’s status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the present distance learning course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules(13) is pending,

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

(13) See Appendix AR: administrative review.

- (b) in paragraph (12), for “paragraphs (10) and (11)” substitute “paragraphs (10), (10A) and (11)”.

32. In regulation 65 (students becoming eligible during the course of the academic year), in paragraph (4)(b) after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

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

- (a) after paragraph (9) insert—

“(9A) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which A’s status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; and

- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules(14) is pending,

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

- (b) in paragraph (11), for “Paragraphs (9) and (10)” substitute “Paragraphs (9), (9A) and (10)”;

- (c) after paragraph (14) insert—

“(14A) But paragraph (14) does not apply to support under regulations 85 to 88 where—

- (a) the student (“S”) or a close relative of S is a member of the armed forces,
(b) S is not undertaking the course in Wales on the first day of the first academic year, and
(c) S is not undertaking the course in Wales on that day because S or the close relative is serving as a member of the armed forces outside Wales.”; and

- (d) after paragraph (15) insert—

“(15A) But paragraph (15) does not apply to support under regulations 85 to 88 where the student is undertaking the course outside the United Kingdom because the student or a close relative of the student is serving as a member of the armed forces.”

34. In regulation 82 (students becoming eligible during the course of the academic year), in paragraph (4)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

35. In regulation 110 (eligible postgraduate students)—

- (a) after paragraph (11) insert—

“(11A) Where—

(14) See Appendix AR: administrative review.

- (a) the Welsh Ministers determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which A’s status as an eligible postgraduate student has been transferred to the present postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules(15) is pending,

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

- (b) in paragraph (12)(a), for “refugee” substitute “person with leave to enter or remain” in both places where it occurs.

36. In regulation 111 (students becoming eligible during the course of the academic year), in paragraph (2)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

37. In Schedule 1—

- (a) after paragraph 4 (refugees and their family members) insert—

“Persons granted stateless leave and their family members

4A.—(1) A person granted stateless leave who—

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

(2) A person—

- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(3) A person—

- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and

(15) See Appendix AR: administrative review.

- (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;
 - (b) who was under 18 on the leave application date;
 - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (4) In this paragraph, “leave application date” means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules.”;
- (b) in paragraph 5 (persons with leave to enter or remain and their family members)—
 - (i) for sub-paragraph (2)(b) substitute—

“(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date;”;
 - (ii) for sub-paragraph (3)(b) substitute—

“(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;
 - (iii) for sub-paragraph (3)(c) substitute—

“(c) who was under 18 on the leave application date;”;

 and
 - (iv) after sub-paragraph (3) insert—

“(4) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”
- 38.** In Schedule 4, in paragraph 6(a), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

Part 4

Amendments relating to the immigration status of students

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

39. The Education (Fees and Awards) (Wales) Regulations 2007(16) are amended in accordance with regulations 40 and 41.

40. In regulation 5 (awards by local authorities), in paragraph (1)—

- (a) in sub-paragraph (b), for “within paragraph 5” substitute “within paragraphs 4A and 5”;
- (b) in sub-paragraph (c), for “within paragraphs 5 and 9” substitute “within paragraphs 4A, 5 and 9.”

(16) S.I. 2007/2310 (W. 181) as amended by S.I. 2010/1142 (W. 101) and S.I. 2011/1978 (W. 218); there are other amending instruments but none is relevant.

41. In the Schedule—

(a) in paragraph 1—

(i) in the appropriate places insert—

““immigration rules” (*“rheolau mewnfudo”*) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;” and

““person granted stateless leave” (*“person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth”*) means a person who—

- (a) has extant leave to remain as a stateless person under the immigration rules; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;

(ii) for the definition of “person with leave to enter or remain” substitute—

““person with leave to enter or remain” (*“person sydd â chaniatâd i ddod i mewn neu i aros”*) means a person (“P”)—

(a) who has—

- (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for recognition as a refugee, it is thought right to allow P to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;
- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;
- (iii) been granted leave to remain on the grounds of private life under the immigration rules; or
- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, P has been granted leave to remain outside the rules⁽¹⁷⁾ on the grounds of Article 8 of the European Convention on Human Rights;

(b) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002⁽¹⁸⁾); and

(c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since P was granted leave to enter or remain;”;

⁽¹⁷⁾ Paragraph 276BE(2) of the immigration rules refers.

⁽¹⁸⁾ 2002 c. 41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Schedules 2 and 4, the Immigration, Asylum and Nationality Act 2006 (c. 13), section 19, S.I. 2010/21 and the Immigration Act 2014 (c. 22), Schedule 9.

(b) after paragraph 4 (refugees and their family members) insert—

“Persons granted stateless leave and their family members

4A.—(1) A person granted stateless leave who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(2) A person—

- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(3) A person—

- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;
- (b) who was under 18 on the leave application date;
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules.”;

(c) in paragraph 5 (persons with leave to enter or remain and their family members)—

(i) for sub-paragraph (2)(b) substitute—

“(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date; and”;

(ii) for sub-paragraph (3)(b) substitute—

“(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;

(iii) for sub-paragraph (3)(c) substitute—

“(c) who was under 18 on the leave application date; and”; and

(iv) after sub-paragraph (3) insert—

“(4) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”

Amendments to the Education (European University Institute) (Wales) Regulations 2014

42. The Education (European University Institute) (Wales) Regulations 2014⁽¹⁹⁾ are amended in accordance with regulations 43 to 45.

43. In regulation 3—

(a) in the appropriate places insert—

““immigration rules” (*“rheolau mewnfudo”*) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;”; and

““person granted stateless leave” (*“person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth”*) means a person who—

(a) has extant leave to remain as a stateless person under the immigration rules; and

(b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;

(b) for paragraphs (a) and (b) of the definition of “person with leave to enter or remain”, substitute—

“(a) who has—

(i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is considered not to qualify for recognition as a refugee, it is thought right to allow A to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;

(ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow A to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;

(iii) been granted leave to remain on the grounds of private life under the immigration rules; or

(iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, A has been granted leave to remain outside the rules⁽²⁰⁾ on the grounds of Article 8 of the European Convention on Human Rights;”.

⁽¹⁹⁾ S.I. 2014/3037 (W. 303).

⁽²⁰⁾ Paragraph 276BE(2) of the immigration rules refers.

44. In regulation 6 (eligible students), after paragraph (9) insert—

“(9A) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person granted stateless leave, or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) 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 stateless 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 and no application for administrative review in accordance with the immigration rules⁽²¹⁾ is pending,

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.”

45. In Schedule 1—

- (a) after paragraph 4 (refugees) insert—

“Persons granted stateless leave and their family members

4A.—(1) A person granted stateless leave who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(2) A person—

- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(3) A person—

- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;

(21) See Appendix AR: administrative review.

- (b) who was under 18 on the leave application date;
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules.”;

(b) in paragraph 5—

(i) for sub-paragraph (2)(b) substitute—

“(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date;”;

(ii) for sub-paragraph (3)(b) substitute—

“(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;

(iii) for sub-paragraph (3)(c) substitute—

“(c) who was under 18 on the leave application date;” and

(iv) after sub-paragraph (3) insert—

“(4) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”

Amendments to the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015

46. The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015(**22**) are amended in accordance with regulations 47 to 49.

47. In regulation 2 (interpretation), in paragraph (1)—

(a) in the appropriate places insert—

““the 2017 Regulations” (“*Rheoliadau 2017*”) means the Education (Student Support) (Wales) Regulations 2017(**23**);” and

““the 2018 Regulations” (“*Rheoliadau 2018*”) means the Education (Student Support) (Wales) Regulations 2018(**24**);”;

(b) in the definition of “end-on course”, after “2015 Regulations” insert “ or regulation 2(1) of the 2017 Regulations”;

(c) in the definition of “preceding course”, after “2015 Regulations” insert “, a course mentioned in paragraph 2 or 3 of Schedule 2 to the 2017 Regulations”; and

(d) for the definition of “single course” substitute—

““single course” (“*cwrs sengl*”) means a course to which—

(22) S.I. 2015/1484 (W. 163), as amended by S.I. 2016/276 (W. 100).

(23) S.I. 2017/47 (W. 21).

(24) S.I. 2018/191 (W. 42).

- (a) regulation 5(6) of the 2015 Regulations applies and which falls within the description of a course in that regulation;
 - (b) regulation 5(6) of the 2017 Regulations applies and which falls within the description of a course in that regulation; or
 - (c) regulation 6(4) of the 2018 Regulations applies and which falls within the description of a course in regulation 6(3) of the 2018 Regulations.”
- 48. In regulation 4 (prescribed description of a qualifying person), for paragraph (1) substitute—
 - “(1) A qualifying person who is prescribed for the purposes of section 5(5) of the 2015 Act is a person who falls within the Schedule on the first day of an academic year, other than—
 - (a) a person who is not eligible for support under the 2015 Regulations by reason of regulation 4(3)(c), (d), (e) or (f) of those Regulations;
 - (b) a person who is not eligible for support under the 2017 Regulations by reason of regulation 4(3)(c), (d), (e) or (f) of those Regulations;
 - (c) a person who is not eligible for support under the 2018 Regulations because they are a person to whom Exception 3, paragraph (a), Exception 4, Exception 5 or Exception 6 listed in regulation 10(1) of those Regulations applies; or
 - (d) a person mentioned in paragraphs (2), (3), or (8).”
- 49. In the Schedule—
 - (a) in paragraph 1(1)—
 - (i) in the appropriate places insert—
 - ““immigration rules” (*“rheolau mewnfudo”*) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;”;
 - and
 - ““person granted stateless leave” (*“person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth”*) means a person who—
 - (a) has extant leave to remain as a stateless person under the immigration rules; and
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;
 - (ii) for paragraphs (a) and (b) of the definition of “person with leave to enter or remain” substitute—
 - “(a) who has—
 - (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is considered not to qualify for recognition as a refugee, it is thought right to allow P to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;
 - (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;

- (iii) been granted leave to remain on the grounds of private life under the immigration rules; or
 - (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, P has been granted leave to remain outside the rules(25) on the grounds of Article 8 of the European Convention on Human Rights;” and
- (b) after paragraph 4 (refugees and their family members) insert—

“Persons granted stateless leave and their family members

4A.—(1) A person granted stateless leave who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (2) A person—
- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
 - (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (3) A person—
- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;
 - (b) who was under 18 on the leave application date;
 - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(25) Paragraph 276BE(2) of the immigration rules refers.

- (4) In this paragraph, “leave application date” means the date on which the person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules.”;
- (c) in paragraph 5 (persons with leave to enter or remain and their family members)—
- (i) for sub-paragraph (2)(b) substitute—
- “ (b) was the spouse or civil partner of the person with leave to enter or remain on the leave application date; and”;
- (ii) for sub-paragraph (3)(b) substitute—
- “ (b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;
- (iii) for sub-paragraph (3)(c) substitute—
- “ (c) who was under 18 on the leave application date; and”;
- (iv) after sub-paragraph (3) insert—
- “ (4) In this paragraph “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”

Amendments to the Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017

50. The Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017(26) are amended in accordance with regulations 51 to 53.

51. In regulation 2 (interpretation), in paragraph (1)—

- (a) in the appropriate places insert—
- “ “immigration rules” (*“rheolau mewnfudo”*) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;”;
- and
- “ “person granted stateless leave” (*“person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth”*) means a person who—
- (a) has extant leave to remain as a stateless person under the immigration rules; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;
- (b) for paragraphs (a) and (b) of the definition of “person with leave to enter or remain”, substitute—
- “ (a) who has—
- (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is considered not to qualify for recognition as a refugee, it is thought right to allow A to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;

- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow A to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;
- (iii) been granted leave to remain on the grounds of private life under the immigration rules; or
- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, A has been granted leave to remain outside the rules⁽²⁷⁾ on the grounds of Article 8 of the European Convention on Human Rights.”.

52. In regulation 8 (events), in paragraph (b), after “is recognised as a refugee or” insert “a person granted stateless leave or”.

53. In Schedule 1—

- (a) after paragraph 4 (refugees and their family members) insert—

“Persons granted stateless leave and their family members

4A.—(1) A person granted stateless leave who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(2) A person—

- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first year of the first academic year of the course.

(3) A person—

- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;

(27) Paragraph 276BE(2) of the immigration rules refers.

- (b) who was under 18 on the leave application date;
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules.”;

(b) in paragraph 5 (persons with leave to enter or remain and their family members)—

(i) for sub-paragraph (2)(b) substitute—

“(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date;”;

(ii) for sub-paragraph (3)(b) substitute—

“(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;

(iii) for sub-paragraph (3)(c) substitute—

“(c) who was under 18 on the leave application date;”;

(iv) after sub-paragraph (3) insert—

“(4) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”

Amendments to the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018

54. The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018(28) are amended in accordance with regulations 55 and 56.

55. In regulation 2 (interpretation), in paragraph (1), for paragraphs (a) and (b) of the definition of “person with leave to enter or remain”, substitute—

“(a) who has—

- (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is considered not to qualify for recognition as a refugee, it is thought right to allow A to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;
- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow A to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;
- (iii) been granted leave to remain on the grounds of private life under the immigration rules; or

(iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, A has been granted leave to remain outside the rules(29) on the grounds of Article 8 of the European Convention on Human Rights;”.

56. In Schedule 1, paragraph 6 (persons with leave to enter or remain and their family members)

(a) for sub-paragraph (2)(b) substitute—

“(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date;”;

(b) for sub-paragraph (3)(b) substitute—

“(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;

(c) for sub-paragraph (3)(c) substitute—

“(c) who was under 18 on the leave application date;”;

(d) after sub-paragraph (3) insert—

“(4) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”.

3 July 2018

Kirsty Williams
Cabinet Secretary for Education, one of the
Welsh Ministers

(29) Paragraph 376BE(2) of the immigration rules refers.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend—

- (a) the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”);
- (b) the Education (Student Support) (Wales) Regulations 2017 (“the 2017 Regulations”);
- (c) the Education (Fees and Awards) (Wales) Regulations 2007 (“the Fees and Awards Regulations”);
- (d) the Education (European University Institute) (Wales) Regulations 2014 (“the European University Institute Regulations”);
- (e) the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015 (“the Qualifying Courses and Persons Regulations”);
- (f) the Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017 (“the Master’s Regulations”); and
- (g) the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 (“the Doctoral Regulations”).

The 2017 Regulations and the 2018 Regulations provide for financial support for students taking designated higher education courses which begin, respectively, on or after 1 September 2017, and on or after 1 August 2018. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018.

Regulation 16 amends Schedule 2 to the 2018 Regulations to create a new category of eligible student: persons granted stateless leave and their family members. It also amends that Schedule to ensure that persons who have been granted leave to remain on the grounds of private life and their family members are included in the existing category of eligible student “*persons with leave to enter or remain and their family members*”.

Regulations 5, 13, 14, 17(b), (c) and (d), 19 and 20 make amendments which are consequential on the amendments made by regulation 16.

A summary of the further amendments made to the 2018 Regulations is set out below.

Regulation 3 amends regulation 14 of the 2018 Regulations so that the maximum period of eligibility calculated in accordance with paragraph (2) does not apply to grants for dependants or disabled students.

Regulation 4 amends regulation 16 of the 2018 Regulations. The amendments provide for eligible students who have completed a full-time course for the Certificate of Higher Education or an ordinary degree, and who go on to undertake certain further study, to be subject to the maximum period of eligibility calculated in accordance with paragraph (2). Paragraph (2) is amended so that the calculation of the maximum period for eligibility does not apply to grants for dependants or disabled students.

Regulation 6 makes an amendment to the Welsh text of regulation 30 paragraph (4), to effect equivalence with the English text.

Regulation 7 introduces a new regulation 34A into the 2018 Regulations. Regulation 34A provides that the Welsh Ministers have discretion to treat as eligible a student who received from

them incorrect notification that they are eligible in cases where the information or documentation provided by the student, in relation to their application for support, was not materially inaccurate.

Regulation 8 amends regulation 40 of the 2018 Regulations in relation to the maximum amount of tuition fee loan for eligible students undertaking an Erasmus year of a full-time course provided by an institution in England, Scotland or Wales. It also amends the maximum amount of tuition fee loan for Category 4 students in regulation 40, who are studying at an ordinary course provider located in Scotland.

Regulation 9 amends regulation 47(4) of the 2018 Regulations. This amendment provides that if a part-time student's household income is £59,200 or more, the student will not receive a maintenance grant.

Regulation 10 amends regulation 54 of the 2018 Regulations. This amendment removes Exception 5, so that eligible students studying on courses leading to qualification as a landscape architect, landscape designer, landscape manager, town planner or a town and country planner qualify for a maintenance loan.

Regulations 11 and 12 amend respectively regulation 65 and 66 of the 2018 Regulations. The amendments adjust the threshold amounts of an eligible student's household income for the purposes of calculating a grant for travel for medical students (regulation 65) and grant for travel for study or work overseas (regulation 66).

Regulation 15 amends the definition of "close relative" in paragraph 6(1) of Schedule 1 to the 2018 Regulations.

Regulation 17(a) amends paragraph 2(2) of Schedule 4 to the 2018 Regulations. The amendments change the term "recognised educational institution" to "publicly funded institution", for consistency with Condition 4 of paragraph 2(1).

Regulation 18 makes minor amendments to the Welsh text of paragraphs 2(2)(c) and 9(c) of Schedule 4 of the 2018 Regulations, to effect equivalence with the English text.

Regulation 22 amends regulation 2(1) of the 2017 Regulations. It inserts four new definitions: "close relative", "immigration rules", "member of the armed forces" and "person granted stateless leave". It also amends the definition of "person with leave to enter or remain" to ensure that persons who have leave to remain on the grounds of private life, and their family members, are included in the relevant category of eligible student. Regulation 37 makes amendments to Schedule 1 to the 2017 Regulations which are consequential on the amendment to the definition of "person with leave to enter or remain" and to create a new category of eligible student: persons granted stateless leave and their family members.

Regulations 23, 26, 27, 30, 31, 32, 33(a) and (b), 34, 35, 36 and 38 make amendments to the 2017 Regulations which are consequential on the amendments made by regulations 22 and 37.

A summary of the further amendments made to the 2017 Regulations is set out below.

Regulation 24 amends regulation 6 of the 2017 Regulations so that the calculations of the maximum period for eligibility in paragraphs (8) and (11) do not apply to grants for dependants or disabled students. The amendments also provide for eligible students who have completed a full-time course for the Certificate of Higher Education or an ordinary degree, and who go on to undertake certain further study, to be subject to the maximum period of eligibility calculated in accordance with paragraph (11).

Regulation 25 amends regulation 13 of the 2017 Regulations to provide exemptions to the requirements that an eligible student must undertake their distance learning course in Wales on the first day of the first academic year of the course, and to undertake that course in the United Kingdom, in order to be eligible for fee support.

Regulation 28 amends regulation 24 of the 2017 Regulations to provide exemptions to the requirements that an eligible student must undertake their distance learning course in Wales on the

first day of the first academic year of the course, and to undertake that course in the United Kingdom, in order to be eligible for a grant for disabled students' living costs.

Regulation 29 amends regulation 41 of the 2017 Regulations. This amendment removes paragraph (4), so that eligible students studying on courses leading to qualification as a landscape architect, landscape designer, landscape manager, town planner or a town and country planner qualify for a loan for living costs.

Regulation 33(c) and (d) amends regulation 81 of the 2017 Regulations to provide exemptions to the requirements that an eligible part-time student must undertake their distance learning course in Wales on the first day of the first academic year of the course, and undertake that course in the United Kingdom, in order to be eligible for support under regulations 85 to 88.

The Fees and Awards Regulations provide that, in the circumstances described in the Regulations, it is lawful for institutions to discriminate between some or all of those persons mentioned in the Schedule and any other person, by charging higher fees to persons not mentioned in the Schedule, than the fees which are charged to persons so mentioned. Regulations 40 and 41 of these Regulations amend regulation 5 and the Schedule to the Fees and Awards Regulations to include persons granted leave to remain the grounds of private life in the definition of "*person with leave to enter or remain*" and to insert a new category of "*persons granted stateless leave and their family members*".

The European University Institute Regulations provide for support for one eligible student taking a designated higher education course at the European University Institute. Regulations 43 to 45 of these Regulations make amendments to the European University Institute Regulations to ensure that persons who have been granted leave to remain on the grounds of private life and their family members are included in the existing category of eligible student "*persons with leave to enter or remain and their family members*" and to create a new category of eligible student: "*persons granted stateless leave and their family members*".

The Qualifying Courses and Persons Regulations prescribe the qualifying courses and persons for the purposes of section 5 of the Higher Education (Wales) Act 2015, which sets out that fee and access plans must specify (or provide for the determination of) fee limits in relation to qualifying courses each academic year. Regulations 47 and 48 of these Regulations make amendments to the Qualifying Courses and Persons Regulations to include references to the 2017 Regulations and the 2018 Regulations. Regulation 49 makes amendments to the Schedule of the Qualifying Courses and Persons Regulations to ensure that persons with leave to remain on the grounds of private life are included in the definition of "*person with leave to enter or remain*" and to add a new category: "*persons granted stateless leave and their family members*". That Schedule lists those persons who may be qualifying persons.

Regulations 51 to 53 and regulations 55 and 56 make corresponding amendments to the Master's Regulations and the Doctoral Regulations respectively.

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.