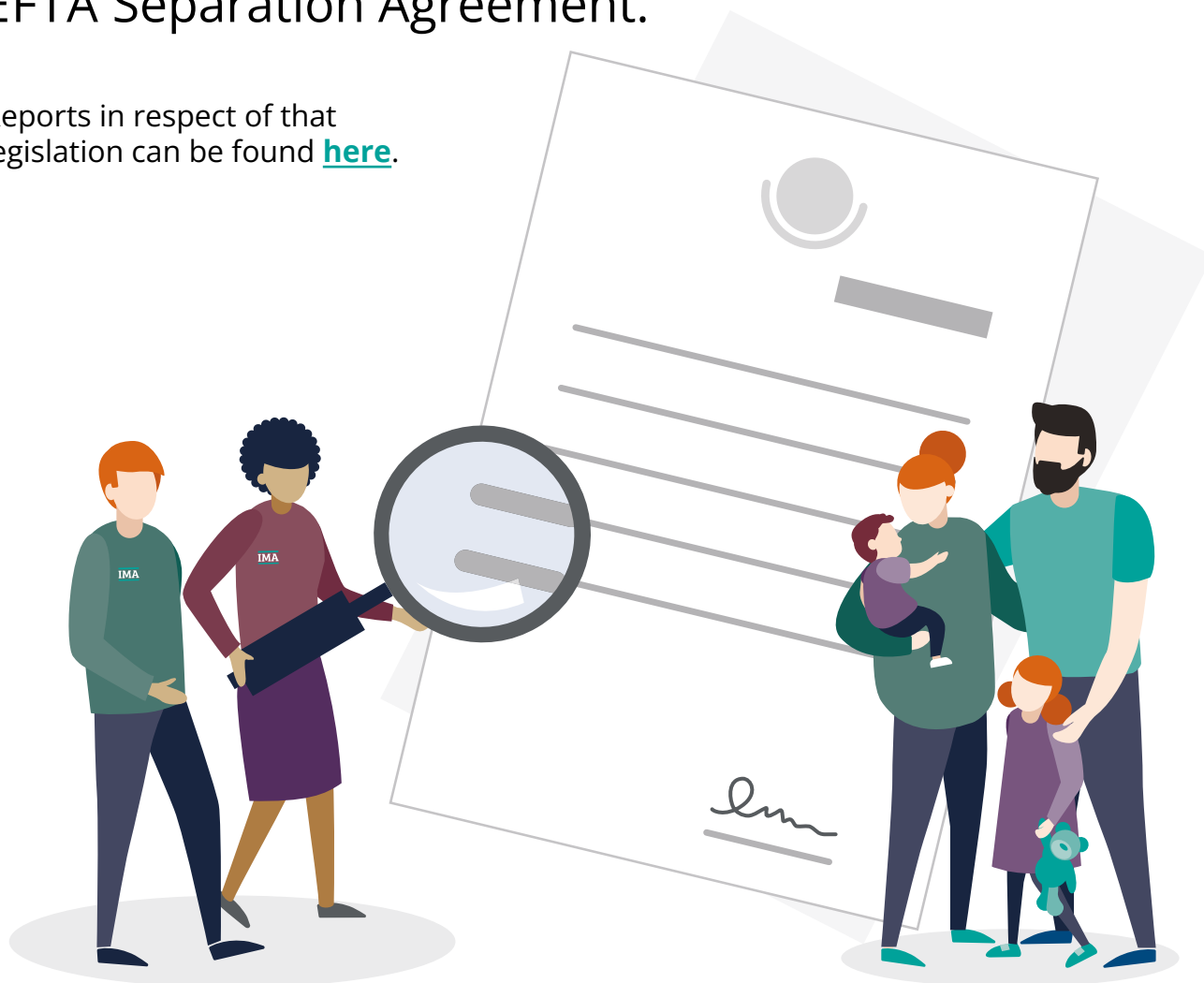


During 2022 the IMA looked at legislation across the UK and Gibraltar.

It identified **2 Bills** and **16 pieces of secondary legislation** that affected citizens' exercise of their rights under the Withdrawal Agreement and EEA EFTA Separation Agreement.

Reports in respect of that legislation can be found [here](#).



The legislation reviewed covered the areas of **education, benefits, employment, renting, mutual recognition of professional qualifications** and the **EU Settlement Scheme**.



The IMA has **submitted evidence to Parliament** on the Retained EU Law (Revocation and Reform) Bill, and is involved in **ongoing discussions with UK Government officials** on the Professional Qualifications Act 2022.



As a result of the IMA's legislation monitoring work, **2 pieces of legislation have been amended**, with a further piece of amended legislation awaited, incorrect information has been corrected on websites and **5 pieces of guidance have been or are in the process of being amended**.



Two main themes have emerged in 2022.

Theme One

Lack of clarity as to eligibility for some benefits and services for those citizens who make a late application to the EU Settlement Scheme and for joining family members.



Theme Two

Legislation that does not accurately reflect the policy position of government departments.



Case Studies on the two themes identified

Case Study One

Adult Disability Payment and Child Disability Payment (Scotland)

During 2022 the IMA considered a number of Scottish statutory instruments which were concerned with Child Disability Payment and Adult Disability Payment. These are new benefits administered by Social Security Scotland which replace Disability Living Allowance in Scotland.

In order to be eligible for the benefits, a person must not be subject to “immigration control” under section 115(9) of the Immigration and Asylum Act 1999. Citizens who have either pre-settled or settled status are not subject to immigration control. Whilst the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 make it clear that some EU and EEA EFTA citizens and their family members who have a pending application for status made under the UK Government’s EU Settlement Scheme before 30 June 2021 are not subject to “immigration control”, there is no equivalent domestic legislation in respect of late applicants or joining family members who arrive after 30 June 2021. The Home Office however recognised in an announcement on 6 August 2021 that applicants to the EU Settlement Scheme after 30 June 2021, including joining family members are entitled to rights whilst their application is being processed.

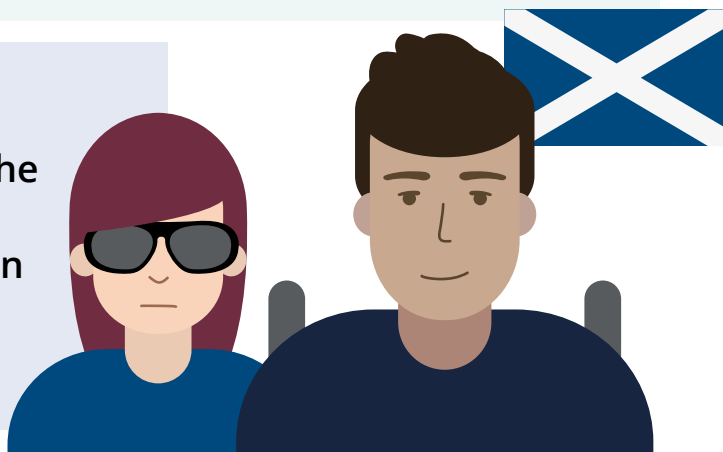
This an issue that is being considered separately by the IMA, however in the meantime the IMA was keen to better understand how caseworkers were treating applications from late applications and joining family members.

Consideration of the case-worker guidance revealed that it did not adequately provide for late applicants or joining family members.

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Following discussion between the IMA and Scottish Government officials, changes have now been made to the relevant guidance.

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Case Study Two

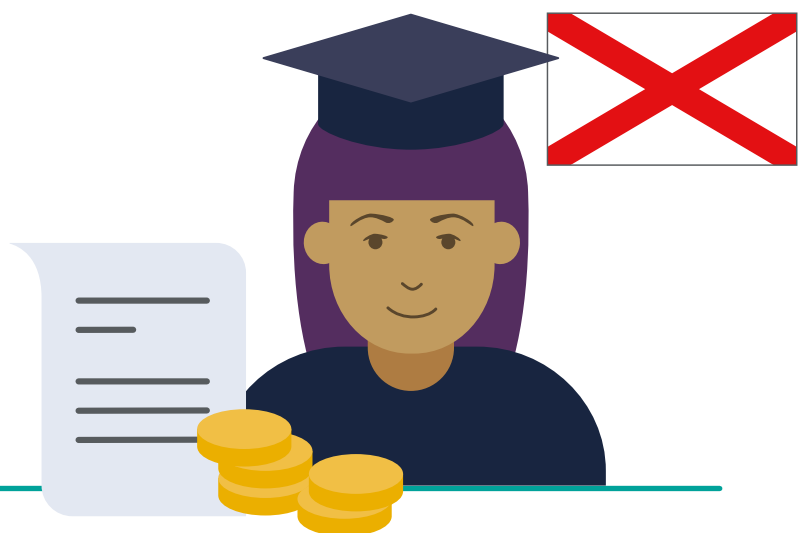
The Agriculture (Student fees) Regulation (Northern Ireland) 2022

The Regulations set the level of fees payable for undergraduate and postgraduate higher education courses delivered by the Department of Agriculture, Environment and Rural Affairs at its college of Agriculture, Food and Rural Enterprise in Northern Ireland.

Whilst it was clear from the policy memorandum to the Regulations that the intended policy was to treat citizens with status under the EUSS the same as students ordinarily domiciled in Northern Ireland so far as fees were concerned, the Regulations did not provide for EU national students with pre-settled status to be treated in such a manner.



Following discussions with officials from the Executive Office, Northern Ireland, they have agreed to progress amendments to the Regulations.



Case Study Three

The Education Fees (Scotland) Regulations 2022

The Regulations replaced the Education (Fees) (Scotland) Regulations 2011. They provide that it is lawful for a Scottish Higher Education Institution to charge higher fees to students who do not have a 'relevant connection' with Scotland. Scottish Higher Education Institutions are however prevented from charging higher fees to certain categories of students, referred to in the legislation as 'excepted students'.

Whilst under the 2011 Regulations, EU nationals and their family members who were within scope of the Withdrawal Agreement were 'excepted students' and could not be charged higher fees where they could demonstrate that they had been ordinarily resident in the UK and Islands, Gibraltar, the EEA, and Switzerland for 3 years prior to the first day of the start of the first year of their academic course, this provision had been restricted under the 2022 Regulations to residence in the UK only.

Restricting residence to the UK only meant that this criterion was impossible for some EU citizens with protected rights under the Withdrawal Agreement to meet. It also led to an odd situation whereby EU national students who had previously been 'excepted students' would no longer be in such category.



Officials at the Scottish Government confirmed that there had been no change in policy and the omission of residence in the EEA was accidental. The IMA was able to work promptly with officials to ensure that the sector was informed of the error and that amending legislation was made.

