

SCHEDULE

Regulation 4(1)(b)(i)

Conditions of eligibility

1. The conditions prescribed for the purposes of regulation 4(1)(b)(i) are that, subject to paragraphs 3 and 4, the student—

- (a) is on the relevant date ordinarily resident in Northern Ireland for the purposes of the Students Awards Regulations⁽¹⁾ for the time being in force, made under Articles 50(1) and (2) and 134(1) of the Education and Libraries (Northern Ireland) Order 1986⁽²⁾;
- (b) is on the relevant date settled in the United Kingdom within the meaning of the Immigration Act 1971⁽³⁾ unless he is such a person as is mentioned in paragraph 2;
- (c) throughout the three years preceding the relevant date has been ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man or, in the case of such a person as is mentioned in paragraph 2, has been so resident in the European Economic Area; and
- (d) has not during any part of the said three year period been resident in the United Kingdom, the Channel Islands or the Isle of Man or, in the case of such a person as is mentioned in paragraph 2, the European Economic Area wholly or mainly for the purpose of receiving full-time education.

2.—(1) The person referred to in paragraph 1(b) to 1(d) is—

- (a) an EEA migrant worker who is entitled to a loan by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on free movement of workers within the community, as extended by the EEA Agreement⁽⁴⁾, or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3) of that Council Regulation;
- (b) the spouse of an EEA migrant worker who is installed in the United Kingdom with his spouse; or
- (c) the child of an EEA migrant worker who is entitled to a loan by virtue of Article 12 of Council Regulation (EEC) No. 1612/68, or where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12 of that Council Regulation.

(2) In sub-paragraph (1)(c) “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.

3. A person shall be treated for the purposes of paragraph 1 above as ordinarily resident in Northern Ireland; in the United Kingdom, the Channel Islands or the Isle of Man, or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental responsibility for him, or any person having care of him while he is a child is, or was, temporarily employed outside Northern Ireland, outside the United Kingdom, the Channel Islands or the Isle of Man or, as the case may be, outside the European Economic Area and paragraph 1(d) shall not apply in the case of such a person.

(1) The regulations in force on the date these Regulations are made are the Students Awards Regulations (Northern Ireland) 1996 (S.R. 1996 No. 298) and the provision therein corresponding to paragraph 3 of the Schedule to these Regulations is regulation 7(1).

(2) S.I. 1986/594 (N.I. 3) as amended by S.I. 1993/2810 (N.I. 12)

(3) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), Section 39 and Schedule 4, by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12

(4) O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968 (II) p. 475)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

4. Paragraph 1(b) shall not apply in the case of a person who—
- (a) has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom;
 - (b) has been granted leave to enter or remain accordingly, and
 - (c) has been ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man throughout the period since he was granted leave to enter or remain

or in the case of the spouse or child of such a person.

5. For the purposes of these Regulations an area which—
- (a) was previously not part of the area comprised by the member States of the European Community or by the European Economic Area, but
 - (b) at any time before or after these Regulations come into operation has become part of one or other or both of these areas

shall be considered to have always been part of the European Economic Area.

6. In this Schedule—

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽⁵⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁶⁾;

“EEA migrant worker” means a person who is a national of a Member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom—

- (a) under Council Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community, as extended by the EEA Agreement; or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of that Council Regulation;

“European Community” means the territory comprised by the member States of the European Economic Community as constituted from time to time;

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway, and the Principality of Liechtenstein; and

“the relevant date” means the first day of the course.

(5) Cmnd, 2073
(6) Cmnd. 2183