

## SCHEDULE 1

Regulation 3(1)

### PERSONS ELIGIBLE FOR BURSARIES

1. A person who—
  - (a) is ordinarily resident in the area of the education authority on the qualifying day in relation to the course of study in respect of which that person seeks a bursary;
  - (b) has been ordinarily resident in the British Islands throughout the period of 3 years preceding the relevant date; and
  - [<sup>F1</sup>(c) is—
    - (i) settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 on the relevant date;
    - (ii) under the age of 18 and has lived in the United Kingdom throughout the seven-year period preceding the relevant date; or
    - (iii) aged 18 years old or above and, preceding the relevant date, has lived in the United Kingdom throughout either half his or her life or a period of twenty years.]

#### Textual Amendments

- F1** Sch. 1 para. 1(c) substituted (1.8.2017) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/180\)](#), regs. 1, 7

#### Commencement Information

- I1** Sch. 1 para. 1 in force at 1.8.2007, see [reg. 1](#)

2. A person who—
  - (a) is—
    - (i) an EEA migrant worker or an EEA self employed person;
    - (ii) a Swiss employed person or a Swiss self employed person;
    - (iii) an EEA frontier worker or an EEA frontier self employed person; or
    - (iv) a Swiss frontier [<sup>F2</sup>employed person] or a Swiss frontier self employed person;
  - (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date; and
  - (c) is—
    - (i) ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary; or
    - (ii) not ordinarily resident on that day in the area of any education authority in Scotland and seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority.

#### Textual Amendments

- F2** Words in sch. 1 para. 2(a)(iv) substituted (1.4.2012) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/72\)](#), regs. 1, **10(2)**

#### Commencement Information

- I2** Sch. 1 para. 2 in force at 1.8.2007, see [reg. 1](#)

**Status:** Point in time view as at 06/04/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007, SCHEDULE 1. (See end of Document for details)

**3. A person who—**

- (a) is—
  - (i) the family member of a person mentioned in paragraph 2(a); or
  - (ii) is entitled to support by virtue of <sup>F3</sup>Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union], as extended by the EEA agreement;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date; and
- (c) is—
  - (i) ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary, or
  - (ii) not ordinarily resident on that day in the area of any education authority in Scotland and seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority.

**Textual Amendments**

**F3** Words in *sch. 1 para. 3(a)(ii)* substituted (1.4.2013) by *The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2013 (S.S.I. 2013/80)*, regs. 1(2), **13(2)**

**Commencement Information**

**I3** *Sch. 1 para. 3* in force at 1.8.2007, see **reg. 1**

**4.—(1) A person who—**

- (a) is settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 [<sup>F4</sup>on the relevant date];
  - <sup>F5</sup>(b) was ordinarily resident in Scotland (and the Scottish Ministers are satisfied that such residence was not in any sense attributable to, or connected with, any period of residence in Scotland within the 3 years immediately preceding in respect of which any part of its purpose was wholly or mainly that of receiving full time education) and settled in the United Kingdom [<sup>F6</sup>within the meaning given by section 33(2A) of the Immigration Act 1971] immediately before leaving the United Kingdom and who has utilised a right of residence;]
  - (c) is—
    - (i) ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary; or
    - (ii) not ordinarily resident on that day in the area of any education authority in Scotland and seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority;
  - (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date; and
  - (e) in the case where their ordinary residence referred to in sub sub paragraph (d) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of residence referred to in sub sub paragraph (d).
- (2) For the purposes of this paragraph, a person has utilised a right of residence if that person—

- (a) is—
  - (i) a United Kingdom national;
  - (ii) a family member of a United Kingdom national with rights under Article 7 of Directive 2004/38(1) (or corresponding provisions under the EEA agreement or the Switzerland Agreement(2)); or
  - (iii) a person who has a right of permanent residence arising under Directive 2004/38; and
- (b) either—
  - (i) has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland Agreement in a State other than the United Kingdom; or
  - (ii) in the case of a person who has a right of permanent residence in the United Kingdom arising under Directive 2004/38, has gone to the State within the territory comprising the European Economic Area and Switzerland of which that person is a national or of which the person in relation to whom that person is a family member is a national.

[<sup>F7</sup>(3) Sub-paragraph (1)(a) [<sup>F8</sup>and the requirement in sub-paragraph (1)(b) to be settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 immediately before leaving the United Kingdom do] not apply where the person applying for support is a person falling within sub-paragraph (2)(a)(ii).]

#### Textual Amendments

- F4** Words in sch. 1 para. 4(1)(a) inserted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(3)(a)(i)**
- F5** Sch. 1 para. 4(1)(b) substituted (25.6.2009) by The Education (Fees and Awards for EC Nationals and UK Returners) (Scotland) Regulations 2009 (S.S.I. 2009/188), regs. 1, **5(a)**
- F6** Words in sch. 1 para. 4(1)(b) inserted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(3)(a)(ii)**
- F7** Sch. 1 para. 4(3) inserted (1.12.2007) by The Education (Amendments in respect of Graduate Endowment, Student Fees and Support) (Scotland) Regulations 2007 (S.S.I. 2007/503), regs. 1(1), **6(3)(a)**
- F8** Words in sch. 1 para. 4(3) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(3)(b)**

#### Commencement Information

- I4** Sch. 1 para. 4 in force at 1.8.2007, see **reg. 1**

5. A person who—
- (a) at the date that the education authority received their application for a bursary is—
    - (i) a refugee who has been ordinarily resident in the British Islands at all times since that person was first recognised as a refugee; or
    - (ii) the spouse, civil partner, or child, of such a refugee; and
  - (b) (i) is ordinarily resident in the area of the education authority on the qualifying day; or  
(ii) seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority.

(1) O.J. No. L 158, 30.04.04, p.77.

(2) Cm. 5639.

**Status:** Point in time view as at 06/04/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007, SCHEDULE 1. (See end of Document for details)

#### Commencement Information

**I5** Sch. 1 para. 5 in force at 1.8.2007, see [reg. 1](#)

#### 6. A person who—

- (a) (i) has 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 that person is considered not to qualify for recognition as a refugee, it is thought right to allow that person to enter or remain in the United Kingdom and that person has been granted leave to enter or remain accordingly;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such leave to enter or remain; and
- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub paragraph (a) and who meets a residence requirement specified in sub paragraph (a)(iii).

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 1.8.2007, see [reg. 1](#)

#### [<sup>F9</sup>6A. A person who—

- (a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and
- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets a residence requirement specified in sub-paragraph (a)(iii).]

#### Textual Amendments

**F9** Sch. 1 para. 6A inserted (30.9.2009) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2009 \(S.S.I. 2009/309\)](#), regs. 1, 4

#### [<sup>F10</sup>6B. A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and

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**Changes to legislation:** There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007, SCHEDULE 1. (See end of Document for details)

- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets a residence requirement specified in sub-paragraph (a)(iii).]

**Textual Amendments**

**F10** Sch. 1 para. 6B inserted (1.8.2016) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/82\)](#), regs. 1(4), **6(2)**

[<sup>F11</sup>**6C.** A person who—

- (a) (i) is an Afghan national who has been granted limited leave to remain in the United Kingdom under the Locally Employed Staff Ex-Gratia Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such limited leave to remain in the United Kingdom; and
- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of education at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets the residence requirement specified in sub-paragraph (a)(iii).

**Textual Amendments**

**F11** Sch. 1 paras. 6C, 6D inserted (1.8.2018) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/171\)](#), regs. 1, **3**

**6D.** A person who—

- (a) (i) has been granted limited leave to remain in the United Kingdom as a stateless person under the immigration rules operated by the Home Department;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such limited leave to remain in the United Kingdom; and
- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of education at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets the residence requirement specified in sub-paragraph (a)(iii).]

**Textual Amendments**

**F11** Sch. 1 paras. 6C, 6D inserted (1.8.2018) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/171\)](#), regs. 1, **3**

[<sup>F12</sup>**6E.**—(1) A person who—

- (a) has been granted discretionary leave to remain in the United Kingdom due to being identified as a victim of modern slavery,

**Status:** Point in time view as at 06/04/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007, SCHEDULE 1. (See end of Document for details)

- (b) has been ordinarily resident in the British Islands at all times since that person was first granted such discretionary leave to remain in the United Kingdom, and
- (c) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of education at an educational establishment in the area of the education authority.

(2) For the purposes of this paragraph, “modern slavery” includes human trafficking, slavery, servitude and forced or compulsory labour.]

#### Textual Amendments

**F12** Sch. 1 para. 6E inserted (6.4.2019) by The Education (Fees and Student Support) (Miscellaneous Amendments) (EU Exit) (Scotland) Regulations 2019 (S.S.I. 2019/70), regs. 1, 4(a)

#### 7. A person who—

- (a) at the date that the education authority received that person’s application for a bursary has been granted temporary protection and who has been ordinarily resident in the British Islands at all times since that person was first granted temporary protection;
- (b) has not attained the age of 18 years on the relevant date; and
- (c) is ordinarily resident in the area of the education authority on the qualifying day, provided that a bursary paid to a person only by virtue of that person qualifying under this paragraph shall not continue beyond the end of any academic year in which that person attains the age of 18 years.

#### Commencement Information

**I7** Sch. 1 para. 7 in force at 1.8.2007, see reg. 1

#### [<sup>F13</sup>8.—(1) A person who

- (a) is, on the relevant date, a non UK EC national or the family member of such a national;
- (b) is ordinarily resident in the area of the education authority on the qualifying day in relation to the course of study in respect of which that person seeks a bursary;
- (c) has been ordinarily resident in the British Islands throughout the period of 3 years immediately preceding the relevant date; and
- (d) in the case where their ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of residence referred to in paragraph (c).

(2) Where a state accedes to the EU after the relevant date and a person is a national of that state, the requirement in sub-paragraph (1)(a) to be a non UK EC national on the relevant date is treated as being satisfied.]

#### Textual Amendments

**F13** Sch. 1 para. 8 substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, 10(4)

### Commencement Information

**I8** Sch. 1 para. 8 in force at 1.8.2007, see [reg. 1](#)

- [<sup>F14</sup>9.—(1) A person who—
- [<sup>F15</sup>(a) is, on the relevant date—
- (i) an EC national; or
  - (ii) the family member of an EC national accompanying or joining that EC national in the United Kingdom; and]
- (b) subject to paragraph (2) has been ordinarily resident in the area comprising the European Economic Area, Switzerland and the EU overseas territories throughout the period of 3 years immediately preceding the relevant date; and
- (c) seeks a bursary in respect of a course of study at an establishment in the area of the education authority
- (2) Sub-paragraph (1)(b) does not apply to a family member of an EC national where that EC national has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the EU overseas territories throughout the period of 3 years immediately preceding the relevant date
- (3) For the purposes of this paragraph—
- (a) an EC national does not include a United Kingdom national who has not utilised a right of residence; and
- [<sup>F16</sup>(b) a United Kingdom national has utilised a right of residence if that person has—
- (i) exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland Agreement in a state other than the United Kingdom; or
  - (ii) resided in a state—
    - ((aa)) within the territory comprising the European Economic Area and Switzerland other than the United Kingdom; and
    - ((bb)) of which that person is a national,
- in circumstances in which, had the person not been a national of that state, would have involved the person exercising a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland Agreement.]
- (4) Where a state accedes to the EU after the relevant date and a person is a national of that state, the requirement in sub-paragraph (1)(a) to be an EC national on the relevant date is treated as being satisfied.]

### Textual Amendments

- F14** Sch. 1 para. 9 substituted (1.4.2012) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/72\)](#), regs. 1, **10(5)**
- F15** Sch. 1 para. 9(1)(a) substituted (1.4.2013) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/80\)](#), regs. 1(2), **13(3)(a)**
- F16** Sch. 1 para. 9(3)(b) substituted (1.4.2013) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/80\)](#), regs. 1(2), **13(3)(b)**

### Commencement Information

**I9** Sch. 1 para. 9 in force at 1.8.2007, see [reg. 1](#)

**Status:** Point in time view as at 06/04/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007, SCHEDULE 1. (See end of Document for details)

**10.** A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Switzerland Agreement;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date;
- (c) is ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary; and
- (d) in the case where their ordinary residence referred to in paragraph (b) was wholly or mainly for the purpose of receiving full time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of residence referred to in paragraph (b).

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.8.2007, see [reg. 1](#)

**11.** A person to whom, or in respect of whom, a bursary has been paid in accordance with these Regulations within the year immediately preceding the relevant date, provided that this paragraph will not apply where it would result in the payment of a bursary to a person after the end of any academic year in which that person attained the age of 18 years where that person qualified only by virtue of paragraph 7.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.8.2007, see [reg. 1](#)

[<sup>F17</sup>**12.** A person who—

- (a) is the child of a Turkish worker;
- (b) is ordinarily resident in Scotland on the [<sup>F18</sup>qualifying day]; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the period of 3 years preceding the [<sup>F19</sup>relevant date].]

**Textual Amendments**

**F17** Sch. 1 para. 12 inserted (1.12.2007) by The Education (Amendments in respect of Graduate Endowment, Student Fees and Support) (Scotland) Regulations 2007 (S.S.I. 2007/503), regs. 1(1), **6(3)(b)**

**F18** Words in sch. 1 para. 12(b) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(6)(a)**

**F19** Words in sch. 1 para. 12(c) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(6)(b)**

[<sup>F20</sup>**13.** A person who would have fallen within one or more of paragraphs 1 to 12 immediately before exit day is to be treated as falling within the same paragraph or paragraphs on and after exit day.]



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**Textual Amendments**

**F20** Sch. 1 para. 13 inserted (6.4.2019) by The Education (Fees and Student Support) (Miscellaneous Amendments) (EU Exit) (Scotland) Regulations 2019 (S.S.I. 2019/70), regs. 1, **4(b)**

**Status:**

Point in time view as at 06/04/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007, SCHEDULE 1.