

SCHEDULE 2

ORDINARY RESIDENCE

1.—(1) For the purposes of paragraph 1(a) and paragraph 8(b) of Schedule 1 a person shall be treated as being ordinarily resident in Scotland on the relevant date if the Scottish Ministers are satisfied that that person was not actually so resident only because—

- (a) that person or their spouse or civil partner or either of their parents; or
- (b) in the case of a dependant direct relative in the ascending line, the child upon whom that person was dependent or that child's spouse or civil partner,

was for the time being—

- (i) employed outside Scotland; or
- (ii) attending a course of study or undertaking postgraduate research outside Scotland.

(2) For the purposes of paragraph 1(a) of Schedule 1 and subject to sub paragraph (3), a person shall not be treated as being ordinarily resident in Scotland on the relevant date if the Scottish Ministers are satisfied that that person's residence there on that date is in any sense attributable to, or connected with, any period of residence in Scotland within 3 years immediately preceding the relevant date as respects any part of which its purpose was wholly or mainly that of receiving full time education.

(3) Sub paragraph (2) shall not apply to a person who has acquired settled status in the United Kingdom under the Immigration Act 1971⁽¹⁾ as a result of residence for full time education which has led to a right of permanent residence arising under Directive 2004/38.

(1) 1971 c. 77.