

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 below, the student—

- (a) is on the relevant date ordinarily resident in England and Wales for the purposes of the Education Act 1962⁽¹⁾, read with the regulations for the time being in force made under section 1 of and Schedule 1 to that Act (but disregarding any provision in such regulations corresponding to paragraph 3 of this Schedule)⁽²⁾;
- (b) throughout the three years preceding the relevant date has been ordinarily resident in the British Islands or, in the case of such a person as is mentioned in paragraph 2 below, has been so resident in the **European Economic Area**; and
- (c) has not during any part of the said three year period been resident in the British Islands or, in the case of such a person as is mentioned in paragraph 2 below, **the European Economic Area** wholly or mainly for the purpose of receiving full-time education.

2. The person mentioned in paragraph 1(b) or 1(c) above is a person to whom Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement for workers within the Community⁽³⁾ as given effect by the EEA Agreement applies.

3. A person shall be treated for the purposes of paragraph 1 above as ordinarily resident in England and Wales, in the British Islands, 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 actual custody of him during his minority is, or was, temporarily employed outside England and Wales, outside the British Islands or, as the case may be, outside the **European Economic Area** and paragraph (1)(c) above shall not apply in the case of such a person.

4.—(1) A person shall be treated for the purposes of paragraph 1 above as having been ordinarily resident in the British islands throughout the three years preceding the relevant date if he is a British citizen within the meaning of the British Nationality Act 1981⁽⁴⁾ and—

- (a) he was not so resident only because he was ordinarily resident for the purposes of employment in the **European Economic Area** during every part of that period in which he was not ordinarily resident in the British Islands; or
- (b) (i) he was not so resident throughout that period only because his parent is such a person as is mentioned in sub-paragraph (a); and
(ii) his parent is ordinarily resident in Great Britain on the relevant day.

(2) In sub-paragraph (1) above “parent” includes a guardian and any other person having actual custody of a minor, and “relevant day” means—

- (i) where the person had entered the United Kingdom before the day one month earlier than that of the beginning of the term in which he commences his course, that day;
- (ii) where he had not so entered the United Kingdom, the day of the beginning of that term.

5. In this Schedule—

(1) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20).
(2) The regulations in force on the date these Regulations are made are the Education (Mandatory Awards) Regulations 1993 (S.I. 1993/1850) and the provision therein corresponding to paragraph 3 of the Schedule to these Regulations is regulation 5(4).
(3) OJ No. L 257, 19.10.68, p. 2 (OJ/SE 1968(II), p. 475).
(4) 1981 c. 61.

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

“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);

“European Community” means the territory comprised by the member states of the European Economic Community as constituted from time to time and, as respects any period prior to the unification of the Federal Republic of Germany with the former German Democratic Republic, that former Republic;

“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 Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and, from such date as the EEA Council, established by article 89 of the EEA Agreement, determines that that Agreement shall enter into force as regards the Principality of Liechtenstein, the Principality of Liechtenstein; and

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

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