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## STATUTORY INSTRUMENTS

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**2007 No. 779**

# EDUCATION, ENGLAND

## The Education (Fees and Awards) (England) Regulations 2007

*Made* - - - - *8th March 2007*  
*Laid before Parliament* *19th March 2007*  
*Coming into force* - - *1st September 2007*

The Secretary of State for Education and Skills makes the following Regulations in exercise of the powers conferred by sections 1 and 2 of the Education (Fees and Awards) Act 1983 <sup>M1</sup>.

### Marginal Citations

**M1** 1983 c.40. Section 1 was amended by the Education Reform Act 1988 (c.40), **Schedule 12**, paragraph 91; the Further and Higher Education Act 1992 (c.13), **Schedule 8**, paragraph 19; the Education Act 1994 (c. 30), **Schedule 2**, paragraph 7; the Education Act 1996 (c.56), **Schedule 37**, paragraph 57; the Teaching and Higher Education Act 1998 (c. 30), **Schedule 3**, paragraph 5; the Learning and Skills Act 2000 (c.21) Schedule 9, paragraphs 1 and 11; the Education Act 2002 (c.32) Schedule 21, paragraph 5 and the Education Act 2005 (c.18) Schedule 14, paragraph 9. Section 2 was amended by the Teaching and Higher Education Act 1998, section 44 and Schedule 4.

### Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Fees and Awards) (England) Regulations 2007 and come into force on 1<sup>st</sup> September 2007.

(2) These Regulations apply in relation to England <sup>M2</sup>.

### Marginal Citations

**M2** The functions of the Secretary of State under section 1 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by [S.I. 2006/1458](#) with effect from 8<sup>th</sup> June 2006. The remaining functions under the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by [S.I. 1999/672](#) with effect from 1<sup>st</sup> July 1999.

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## Interpretation

### 2.—(1) In these Regulations—

“the 2005 Act” means the Education Act 2005 <sup>M3</sup>;

“academic year” means the period of twelve months beginning on 1<sup>st</sup> January, 1<sup>st</sup> April, 1<sup>st</sup> July or 1<sup>st</sup> September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1<sup>st</sup> January and before 1<sup>st</sup> April, on or after 1<sup>st</sup> April and before 1<sup>st</sup> July, on or after 1<sup>st</sup> July and before 1<sup>st</sup> August or on or after 1<sup>st</sup> August and on or before 31<sup>st</sup> December, respectively;

“award” means a fees award or a maintenance award or both;

“education” includes post-graduate research otherwise than in the course of employment;

“employment” means full-time or part-time employment;

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

“European Economic Area” means the area comprised by the EEA States;

“fees award” means an award in respect only of any fees payable other than any element of those fees which is a charge for maintenance;

<sup>F1</sup>  
...

“the Islands” means the Channel Islands and the Isle of Man;

<sup>F2</sup>  
...

“maintenance award” means any award other than a fees award;

[<sup>F3</sup>“OfS” means the Office for Students;]

“overseas territories” means Anguilla; Aruba; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; [<sup>F4</sup>Gibraltar;] Mayotte; Greenland; Montserrat; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten); Pitcairn, Henderson, Ducie & Oeno Islands; South Georgia and the South Sandwich Islands; [<sup>F5</sup>St-Barthélemy]; St Helena and Dependencies (Ascension Island and Tristan de Cunha); St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; Turks and Caicos Islands and Wallis and Futuna;

“post-compulsory education award” means a scholarship, exhibition, bursary or other allowance granted by a local education authority under the Local Education Authority (Post-Compulsory Education Awards) Regulations 1999 <sup>M4</sup>;

[<sup>F6</sup>“specified British overseas territories” means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan da Cunha); and Turks and Caicos Islands;]

“training provider” means a person who provides training for members of the school workforce under Part 3 of the 2005 Act;

[<sup>F3</sup>“UKRI” means United Kingdom Research and Innovation;]

(2) Despite section 11 of the Interpretation Act 1978 <sup>M5</sup> section 3(2) of the Education (Fees and Awards) Act 1983 (references to the United Kingdom to include references to the Islands) shall not apply for the purposes of interpreting these Regulations.

[<sup>F7</sup>(3) For the purposes of these Regulations, “parent” [<sup>F8</sup>means a parent, guardian or] any other person having parental responsibility for a child and “child” is to be construed accordingly.]

[<sup>F9</sup>(3A) For the purposes of these Regulations, a person is not to be treated as ordinarily resident in a place unless that person lawfully resides in that place.]

(4) For the purposes of these Regulations, a person is to be treated as ordinarily resident in England, England and Wales, Great Britain, the United Kingdom, the United Kingdom and Islands [<sup>F10</sup>, the territory comprising the United Kingdom, the Islands and the Republic of Ireland], in [<sup>F11</sup>the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland], in [<sup>F12</sup>the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories][<sup>F13</sup>, the territory comprising the United Kingdom, the Islands and the specified British overseas territories], or in [<sup>F14</sup>the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories] if he would have been so resident but for the fact that—

- (a) he;
- (b) his spouse or civil partner;
- (c) his parent; or
- (d) in the case of dependent direct relative in the ascending line, his child or child's spouse or civil partner,

is or was temporarily employed outside the area in question.

(5) For the purposes of paragraph (4), temporary employment includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces;
- [<sup>F15</sup>(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, the Islands and the Republic of Ireland as members of such forces;]
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising [<sup>F16</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland as members of such forces; and
- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside the territory comprising the European Economic Area, Switzerland and Turkey as members of such forces.

(6) For the purposes of Regulations 6, 7, 8 and 9 a person is to be treated as ordinarily resident in England, England and Wales, Great Britain, the United Kingdom, the United Kingdom and Islands [<sup>F17</sup>, the territory comprising the United Kingdom, the Islands and the Republic of Ireland], in [<sup>F18</sup>the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland], in [<sup>F19</sup>the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories][<sup>F20</sup>, the territory comprising the United Kingdom, the Islands and the specified British overseas territories], or in [<sup>F21</sup>the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey] if he would have been so resident but for the fact that—

- (a) he;
- (b) his spouse or civil partner;
- (c) his parent; or
- (d) in the case of a dependent direct relative in the ascending line, his child or his child's spouse or civil partner,

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was temporarily receiving full-time education outside the area in question.

(7) For the purposes of these Regulations an area [<sup>F22</sup>other than the United Kingdom or Gibraltar] which—

- (a) was previously not part of the European Community or the European Economic Area; but
- (b) at any time before or after these Regulations come into force has become part of one or the other or both of these areas,

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

<sup>F23</sup>(8) .....

**Textual Amendments**

- F1** Words in reg. 2(1) omitted (1.8.2019) by virtue of The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **27(2)(a)**
- F2** Words in reg. 2(1) omitted (1.9.2010) by virtue of The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments to Subordinate Legislation) (England) Order 2010 (S.I. 2010/1941), arts. 1, **19(2)**
- F3** Words in reg. 2(1) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **27(2)(b)**
- F4** Word in reg. 2(1) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(a)**
- F5** Words in reg. 2(1) inserted (1.8.2012) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2012 (S.I. 2012/1653), regs. 1(3), **8(a)**
- F6** Words in reg. 2 inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **27(a)**
- F7** Reg. 2(3) substituted (9.2.2011) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2011 (S.I. 2011/87), regs. 1(2), **6** (with reg. 13(1))
- F8** Words in reg. 2(3) substituted (1.8.2012) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2012 (S.I. 2012/1653), regs. 1(3), **8(b)**
- F9** Reg. 2(3A) inserted (1.8.2012) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2012 (S.I. 2012/1653), regs. 1(3), **8(c)**
- F10** Words in reg. 2(4) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **27(b)(i)**
- F11** Words in reg. 2(4) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(b)(i)**
- F12** Words in reg. 2(4) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(b)(ii)**
- F13** Words in reg. 2(4) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **27(b)(ii)**
- F14** Words in reg. 2(4) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(b)(iii)**
- F15** Reg. 2(5)(aa) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **27(c)**
- F16** Words in reg. 2(5) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(c)**
- F17** Words in reg. 2(6) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **27(d)(i)**
- F18** Words in reg. 2(6) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(d)(i)**
- F19** Words in reg. 2(6) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(d)(ii)**

- F20** Words in reg. 2(6) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **27(d)(ii)**
- F21** Words in reg. 2(6) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(d)(iii)**
- F22** Words in reg. 2(7) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **15(e)**
- F23** Reg. 2(8) omitted (1.3.2021) by virtue of The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **27(e)**

### Marginal Citations

- M3** 2005 c.18.
- M4** S.I. 1999/229, amended by S.I. 2000/2057, and revoked in relation to Wales by S.I. 2002/1856.
- M5** 1978 c.30.

### Lawful acts

3.—(1) If discrimination arises from the remission in whole or in part of any fee (on grounds of financial hardship or otherwise), nothing in these Regulations shall be construed as rendering that discrimination unlawful, if it would have been lawful had these Regulations not been made.

(2) If discrimination arises from any rule of eligibility for an award, nothing in these Regulations shall be construed as rendering that discrimination unlawful, if it would have been lawful had these Regulations not been made.

### Fee charging

4.—<sup>F24</sup>(1) Subject to paragraph (1B), it shall be lawful for the institutions mentioned in paragraph (3) to charge higher fees in the case of a person who does not fall within any of —

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
- (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (1A) applies,

than in the case of a person who does fall within any of those paragraphs.

(1A) This paragraph applies where—

- (a) in connection with a course beginning before 1st August 2021, a person (“A”) fell within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; and
- (b) A is liable for fees in connection with—
  - (i) that course; or
  - (ii) a course provided by an institution mentioned in paragraph (3) to which A transfers from that course.

(1B) In relation to a course beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.]

(2) For the purposes of this regulation a person falls within <sup>F25</sup>a paragraph of] Schedule 1 if they fall within it on the first day of an academic year of the course.

(3) The institutions mentioned in this paragraph are institutions—

- (a) within the higher education sector, including a constituent college, school or hall of such an institution;
- (b) within the further education sector;

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- (c) which are training providers and are receiving financial [<sup>F26</sup>assistance—
- (i) from the Secretary of State under section 14 of the Education Act 2002; or
  - (ii) from a person who is receiving financial assistance under that section”.]
- (d) which provide further education and are maintained by a local education authority;
- (4) This regulation does not make lawful the charging of a fee which is unlawful by reason of a [<sup>F27</sup>fee limit condition imposed under section 10 of the Higher Education and Research Act 2017].

#### Textual Amendments

- F24** Reg. 4(1)-(1B) substituted for reg. 4(1) (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **28(a)**
- F25** Words in reg. 4(2) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **28(b)**
- F26** Words in reg. 4(3)(c) substituted (1.4.2012) by The Education Act 2011 (Consequential Amendments to Subordinate Legislation) Order 2012 (S.I. 2012/765), arts. 1, **9(2)**
- F27** Words in reg. 4(4) substituted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **27(3)**

#### Awards by local education authorities

5.—(1) [<sup>F28</sup>Subject to paragraph (2),] it shall be lawful for a local education authority to adopt rules of eligibility for awards under sections 1(6) or 2 of the Education Act 1962 <sup>M6</sup> or for post-compulsory education awards which—

- (a) do not take account of regulation 2(4);
- [<sup>F29</sup>(b) confine eligibility in the case of fees awards to those persons who fall within any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
- (c) confine eligibility in the case of maintenance awards to those persons who fall within any of paragraphs 2, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9B, 10A, 11A, 12A and 13 of Schedule 1.]

[<sup>F30</sup>(2) In relation to a course beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraphs (b) and (c), in each case, did not mention paragraphs 8A and 9B of Schedule 1.]

#### Textual Amendments

- F28** Words in reg. 5(1) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **29(a)(i)**
- F29** Reg. 5(1)(b)(c) substituted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **29(a)(ii)**
- F30** Reg. 5(2) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **29(b)**

#### Marginal Citations

- M6** 1962 c.12. The Education Act 1962 was repealed by the Teaching and Higher Education Act 1998, subject to transitional and saving provisions to enable payments to be made pursuant to awards made under the Act before its repeal, and to enable awards to be made in respect of courses beginning before 1<sup>st</sup> September 1999 and certain courses beginning after that date.

## Awards by research councils [<sup>F31</sup>, UKRI] and others

6.—(1) [<sup>F32</sup>Subject to paragraph (1C),] it shall be lawful for a research council or institution mentioned in Schedule 2 [<sup>F33</sup>, or UKRI,] to adopt rules of eligibility which—

(a) do not take account of regulation 2(4);

[<sup>F34</sup>(b) confine eligibility in the case of fees awards in connection with courses of education or training or the undertaking of research to those persons who fall within any of—

(i) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or

(ii) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (1A) applies; or

(c) confine eligibility in the case of maintenance awards in connection with courses of education or training or the undertaking of research to those persons who fall within any of—

(i) paragraphs 2, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9B, 10A, 11A, 12A and 13 of Schedule 1; or

(ii) paragraphs 6, 7, 8, 10, 11 and 12 of Schedule 1, where paragraph (1B) applies.]

[<sup>F35</sup>(1A) This paragraph applies where—

(a) in connection with courses of education or training, or the undertaking of research, beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year of that course or research beginning before 1st August 2021; and

(b) A’s eligibility for an award is being assessed in relation to that course or research.

(1B) This paragraph applies where—

(a) in connection with courses of education or training, or the undertaking of research, beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 10, 11 and 12 of Schedule 1, in relation to an academic year of that course or research beginning before 1st August 2021; and

(b) A’s eligibility for an award is being assessed in relation to that course or research.

(1C) In relation to a course of education or training or the undertaking of research beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraphs (b) and (c), in each case, did not mention paragraphs 8A and 9B of Schedule 1.]

(2) As regards paragraphs 2 and 3 of Schedule 1, the research council or institution may, in adopting rules of eligibility under paragraph (1)—

(a) confine eligibility to those persons who have been ordinarily resident in Great Britain for three years preceding the date of application for the award, or

(b) exclude from eligibility those persons who are not ordinarily resident in Great Britain, in England and Wales or in England (as the maker of the award may determine) on the date of application for the award.

(3) Where rules of eligibility confine awards to persons who are or will be ordinarily resident in part only of the United Kingdom and Islands, a person who is ordinarily resident in some other part of the United Kingdom and Islands shall not for the purposes of this regulation be considered to fall within [<sup>F36</sup>paragraph 2A, paragraph 9, paragraph 9A, paragraph 9B, paragraph 9C, paragraph 9D or paragraph 9E] of Schedule 1.

(4) The makers of awards may adopt different eligibility rules for different classes or descriptions of awards.



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### Textual Amendments

- F31** Word in reg. 6 heading inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **27(4)(a)**
- F32** Words in reg. 6(1) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **30(a)(i)**
- F33** Words in reg. 6(1) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **27(4)(b)**
- F34** Reg. 6(1)(b)(c) substituted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **30(a)(ii)**
- F35** Reg. 6(1A)-(1C) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **30(a)(iii)**
- F36** Words in reg. 6(3) substituted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **30(b)**

### Payments by the Training and Development Agency for Schools

7.—(1) [<sup>F37</sup>Subject to paragraph (3),] it shall be lawful for the [<sup>F38</sup>Secretary of State] to adopt rules of eligibility for awards by any training provider to which it makes grants, loans or other payments under [<sup>F39</sup>section 14 of the Education Act 2002] which confine eligibility to those persons who fall within [<sup>F40</sup>any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of] Schedule 1.

(2) [<sup>F37</sup>Subject to paragraph (3),] it shall be lawful for a training provider who is receiving financial support under [<sup>F39</sup>section 14 of the Education Act 2002] to adopt rules of eligibility for awards which confine eligibility to those persons who fall within [<sup>F40</sup>any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of] Schedule 1.

[<sup>F41</sup>(3) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, they did not mention paragraphs 8A and 9B of Schedule 1.]

### Textual Amendments

- F37** Words in reg. 7(1)(2) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **31(a)(i)**
- F38** Words in reg. 7 substituted (1.4.2012) by The Education Act 2011 (Consequential Amendments to Subordinate Legislation) Order 2012 (S.I. 2012/765), arts. 1, **9(3)(a)**
- F39** Words in reg. 7 substituted (1.4.2012) by The Education Act 2011 (Consequential Amendments to Subordinate Legislation) Order 2012 (S.I. 2012/765), arts. 1, **9(3)(b)**
- F40** Words in reg. 7(1)(2) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **31(a)(ii)**
- F41** Reg. 7(3) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **31(b)**

### Payments by [<sup>F42</sup>the OfS]

8.—(1) [<sup>F43</sup>Subject to paragraph (4),] it shall be lawful for [<sup>F44</sup>OfS] to adopt rules of eligibility for awards to be made to students who are being trained (otherwise than by a course leading to a first degree) to teach persons over compulsory school age by an institution to which it makes grants, loans or other payments under [<sup>F45</sup>39 or 40 of the Higher Education and Research Act 2017] which confine eligibility to those persons who fall [<sup>F46</sup>within any of—



- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
- (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.]
- (2) [<sup>F43</sup>Subject to paragraph (4),] it shall be lawful for an institution to which [<sup>F44</sup>OfS] pays grants, loans or other payments for the purpose described in paragraph 1 to adopt rules of eligibility for awards which confine eligibility to those persons who fall [<sup>F46</sup>within any of—
- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
- (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.]
- [<sup>F47</sup>(3) This paragraph applies where—
- (a) in connection with training beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year beginning before 1st August 2021; and
- (b) A’s eligibility for an award is being assessed in relation to that training.
- (4) In relation to training beginning on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.]

#### Textual Amendments

- F42** Words in [reg. 8 heading](#) substituted (1.8.2019) by [The Higher Education and Research Act 2017 \(Further Implementation etc.\) Regulations 2019 \(S.I. 2019/1027\)](#), regs. 1, **27(5)(a)**
- F43** Words in [reg. 8\(1\)\(2\)](#) inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **32(a)(i)**
- F44** Word in [reg. 8](#) substituted (1.8.2019) by [The Higher Education and Research Act 2017 \(Further Implementation etc.\) Regulations 2019 \(S.I. 2019/1027\)](#), regs. 1, **27(5)(b)**
- F45** Words in [reg. 8\(1\)](#) substituted (1.8.2019) by [The Higher Education and Research Act 2017 \(Further Implementation etc.\) Regulations 2019 \(S.I. 2019/1027\)](#), regs. 1, **27(5)(c)**
- F46** Words in [reg. 8\(1\)\(2\)](#) substituted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **32(a)(ii)**
- F47** [Reg. 8\(3\)\(4\)](#) inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **32(b)**

#### Payments by the [<sup>F48</sup>Secretary of State <sup>F49</sup> ... ]

- 9.—(1) [<sup>F50</sup>Subject to paragraph (4),] it shall be lawful for the [<sup>F51</sup>Secretary of State <sup>F49</sup> ... ] to adopt rules of eligibility for awards by an institution to which [<sup>F52</sup>that person] makes grants, loans or other payments under [<sup>F53</sup>[<sup>F54</sup>section 14 of the Education Act 2002 or section] 100 of the Apprenticeships, Skills, Children and Learning Act 2009] which confine eligibility to those persons who fall [<sup>F55</sup>within any of—
- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
- (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.]
- (2) [<sup>F50</sup>Subject to paragraph (4),] it shall be lawful for an institution to which the [<sup>F51</sup>Secretary of State <sup>F49</sup> ... ] pays grants, loans or other payments to adopt rules of eligibility for awards (however described) which confine eligibility to those persons who fall [<sup>F55</sup>within any of—
- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or

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(b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.]

[<sup>F56</sup>(3) This paragraph applies where—

(a) a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year beginning before 1st August 2021; and

(b) A’s eligibility for a further award is being assessed in connection with that award.

(4) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.]

### Textual Amendments

- F48** Words in regulation 9 heading substituted (1.5.2012) by [The Young Peoples Learning Agency Abolition \(Consequential Amendments to Subordinate Legislation\) \(England\) Order 2012 \(S.I. 2012/956\)](#), arts. 1, **15(2)**
- F49** Words in reg. 9 omitted (26.5.2015) by virtue of [The Deregulation Act 2015 \(Consequential Amendments\) Order 2015 \(S.I. 2015/971\)](#), art. 1(2)(a), **Sch. 3 para. 12**
- F50** Words in reg. 9(1)(2) inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **33(a)(i)**
- F51** Words in reg. 9 substituted (1.5.2012) by [The Young Peoples Learning Agency Abolition \(Consequential Amendments to Subordinate Legislation\) \(England\) Order 2012 \(S.I. 2012/956\)](#), arts. 1, **15(3)(a)**
- F52** Words in reg. 9(1) substituted (1.5.2012) by [The Young Peoples Learning Agency Abolition \(Consequential Amendments to Subordinate Legislation\) \(England\) Order 2012 \(S.I. 2012/956\)](#), arts. 1, **15(3)(b)(i)**
- F53** Words in reg. 9(1) substituted (1.9.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Subordinate Legislation\) \(England\) Order 2010 \(S.I. 2010/1941\)](#), arts. 1, **19(5)**
- F54** Words in reg. 9(1) substituted (1.5.2012) by [The Young Peoples Learning Agency Abolition \(Consequential Amendments to Subordinate Legislation\) \(England\) Order 2012 \(S.I. 2012/956\)](#), arts. 1, **15(3)(b)(ii)**
- F55** Words in reg. 9(1)(2) substituted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **33(a)(ii)**
- F56** Reg. 9(3)(4) inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **33(b)**

### [<sup>F57</sup>Payments by a combined authority

**9A.**—(1) [<sup>F58</sup>Subject to paragraph (4),] it shall be lawful for a combined authority to adopt rules of eligibility for awards by an institution to which the combined authority makes grants, loans or other payments under section 100 of the Apprenticeships, Skills, Children and Learning Act 2009 which confine eligibility to those persons who fall within [<sup>F59</sup>any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of] Schedule 1.

(2) [<sup>F58</sup>Subject to paragraph (4),] it shall be lawful for an institution to which a combined authority provides financial resources to adopt rules of eligibility for awards (however described) which confine eligibility to those persons who fall within [<sup>F59</sup>any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of] Schedule 1.

(3) In this regulation, a “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 (“the Local

Democracy Act”) that exercises functions under Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009 by virtue of an order under section 105A of the Local Democracy Act.]

[<sup>F60</sup>(4) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, they did not mention paragraphs 8A and 9B of Schedule 1.]

#### Textual Amendments

- F57** Reg. 9A inserted (6.11.2018) by The Greater Manchester Combined Authority (Adult Education Functions) Order 2018 (S.I. 2018/1141), arts. 1(1), **10(2)**
- F58** Words in reg. 9A(1)(2) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **34(a)(i)**
- F59** Words in reg. 9A(1)(2) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **34(a)(ii)**
- F60** Reg. 9A(4) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **34(b)**

#### Revocation

- 10.**—(1) The following Regulations are revoked in relation to England—
- (a) The Education (Fees and Awards) Regulations 1997 <sup>M7</sup>;
  - (b) The Education (Fees and Awards) (Amendment) (England) Regulations 2000 <sup>M8</sup>;
  - (c) The Education (Fees and Awards) (Amendment No 2) (England) Regulations 2000 <sup>M9</sup>
  - (d) The Education (Student Fees and Support) (Switzerland) Regulations 2003 <sup>M10</sup>;
  - (e) The Education (Fees and Awards) (Amendment) Regulations 2006 <sup>M11</sup>;
  - (f) Regulation 5 of the Local Education Authority (Post-Compulsory Education Awards) Regulations 1999.

#### Marginal Citations

- M7** S.I. 1997/1972, amended by S.I. 1999/229, S.I. 2000/2192, S.I. 2000/2945, S.I. 2003/3280, S.I. 2005/2114 and S.I. 2006/483.
- M8** S.I. 2000/2192.
- M9** S.I. 2000/2945.
- M10** S.I. 2003/3280.
- M11** S.I. 2006/483.

*Bill Rammell*  
*Minister of State*  
Department for Education and Skills

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## SCHEDULE 1

1.—<sup>F61</sup>(1) For the purposes of this Schedule—

<sup>F62</sup>“the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;]

“Directive 2004/38” means Directive 2004/38/EC of the European Parliament and of the Council of 29<sup>th</sup> April 2004 <sup>M12</sup> on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

<sup>F63</sup>“EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;]

<sup>F64</sup> ...

“EEA frontier self-employed person” means an EEA national who—

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State <sup>F65</sup>... and returns to his residence in Switzerland or that EEA State daily or at least once a week;

“EEA frontier worker” means an EEA national who—

- (a) is a worker in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State <sup>F65</sup>... and returns to his residence in Switzerland or that EEA State daily or at least once a week;

“EEA migrant worker” means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” means a national of an EEA State <sup>F65</sup>...;

“EEA self-employed person” means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“employed person” means an employed person with the meaning of Annex 1 to the Swiss Agreement;

<sup>F66</sup>“EU national” means a national of a Member State of the European Union;]

“family member” means—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person <sup>F67</sup>, an EEA self-employed person, or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 6A(3)]—
  - (i) his spouse or civil partner;
  - (ii) <sup>F68</sup>direct descendants of the person or of the person’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependents of the person or the person’s spouse or civil partner; or]
  - (iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
  - (i) his spouse or civil partner; or
  - (ii) his child or the child of his spouse or civil partner;

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- (c) in relation to an [<sup>F69</sup>EU national] who falls within article 7(1)(c) of Directive 2004/38 [<sup>F70</sup>or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national]—
  - (i) his spouse or civil partner; or
  - (ii) direct descendants of his or of his spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or his spouse or civil partner;
- (d) in relation to an [<sup>F69</sup>EU national] who falls within article 7(1)(b) of Directive 2004/38 [<sup>F71</sup>or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(b) of Directive 2004/38 if that person were an EU national or solely an EU national]—
  - (i) his spouse or civil partner;
  - (ii) direct descendants of his or of his spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or his spouse or civil partner; or
  - (iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of [<sup>F72</sup>, paragraphs 9, 9B, 9C, 9D and 9E]—
  - (i) his spouse or civil partner; or
  - (ii) direct descendants of his or of his spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or his spouse or civil partner;

[<sup>F73cc</sup>“grace period” has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;]

[<sup>F74cc</sup>“person granted humanitarian protection” means a person—

- (a) who, on the grounds of humanitarian protection, has been granted leave to remain under the immigration rules as defined in section 33(1) of the Immigration Act 1971;
- (b) whose leave to remain is extant, or in respect of whose leave to remain an appeal is pending (within section 104 of the Nationality, Immigration and Asylum Act 2002); and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave to remain;]

[<sup>F75cc</sup>“person granted stateless leave” means a person—

- (a) who has extant leave to remain as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971); and
- (b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;]

[<sup>F76cc</sup>“person with protected rights” means—

- (a) a person within the personal scope of the citizens’ rights provisions who—
  - (i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;

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- (ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom;
  - (iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations where the grace period has not ended; or
  - (iv) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations where the relevant period has not expired; or
- (b) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;]

F77 ...

“refugee” means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 <sup>M13</sup> as extended by the Protocol thereto which entered into force on 4th October 1967 <sup>M14</sup>;

[<sup>F78</sup>“relevant period” has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;]

[<sup>F78</sup>“relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;]

[<sup>F79</sup>“residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;]

F80 ...

“self-employed person” means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“settled” has the meaning given by section 33(2A) of the Immigration Act 1971 <sup>M15</sup>;

“Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21<sup>st</sup> June 1999 <sup>M16</sup> and which came into force on 1<sup>st</sup> June 2002;

[<sup>F81</sup>“Swiss citizens' rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;]

“Swiss employed person” means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” means a Swiss national who—

- (a) is an employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State <sup>F65</sup>... and returns to his residence in Switzerland or that EEA State daily or at least once a week;

“Swiss frontier self-employed person” means a Swiss national who—

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State <sup>F65</sup>... and returns to his residence in Switzerland or that EEA State daily or at least once a week;

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“Swiss self-employed person” means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

[<sup>F82</sup>“United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;]

“Turkish worker” means a Turkish national who—

- (a) is ordinarily resident in the United Kingdom; and
- (b) is, or has been lawfully employed in the United Kingdom.

“worker” means a worker within the meaning of article 7 of Directive 2004/38 or the EEA Agreement as the case may be.

[<sup>F83</sup>(2) For the purposes of this Schedule, a reference to a “Member State” or “State” in Article 7 of Directive 2004/38 is to be read as including the United Kingdom.

(3) For the purposes of this Schedule, a person is within the personal scope of the citizens’ rights provisions if that person falls within—

- (a) Article 10 (personal scope) of the EU withdrawal agreement;
- (b) Article 9 (personal scope) of the EEA EFTA separation agreement; or
- (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.]

#### Textual Amendments

- F61** Sch. 1 para. 1 renumbered as Sch. 1 para. 1(1) (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(2)(a)**
- F62** Words in Sch. 1 para. 1(1) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(2)(b)(i)**
- F63** Words in Sch. 1 para. 1 inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(2)(c)**
- F64** Words in Sch. 1 para. 1 omitted (31.12.2020) by virtue of The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(2)(a)**
- F65** Words in Sch. 1 para. 1 omitted (31.12.2020) by virtue of The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(2)(b)**
- F66** Words in Sch. 1 para. 1 inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(2)(d)**
- F67** Words in Sch. 1 para. 1(1) substituted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(2)(b)(ii)(aa)**
- F68** Words in Sch. 1 para. 1 substituted (9.2.2011) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2011 (S.I. 2011/87), regs. 1(2), **7(a)(i)** (with reg. 13(1))
- F69** Words in Sch. 1 para. 1 substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(2)(e)**
- F70** Words in Sch. 1 para. 1(1) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(2)(b)(ii)(bb)**
- F71** Words in Sch. 1 para. 1(1) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(2)(b)(ii)(cc)**
- F72** Words in Sch. 1 para. 1(1) substituted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(2)(b)(ii)(dd)**
- F73** Words in Sch. 1 para. 1(1) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(2)(b)(iii)**
- F74** Words in Sch. 1 para. 1 inserted (9.2.2011) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2011 (S.I. 2011/87), regs. 1(2), **7(a)(ii)** (with reg. 13(1))



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- F75** Words in Sch. 1 para. 1 inserted (with application in accordance with reg. 1(4) of the amending S.I.) by *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2018* (S.I. 2018/137), regs. 1(2), **17(a)**
- F76** Words in Sch. 1 para. 1(1) inserted (1.3.2021) by *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021* (S.I. 2021/127), regs. 1(1), **35(2)(b)(iv)**
- F77** Words in Sch. 1 para. 1 omitted (9.2.2011) by virtue of *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2011* (S.I. 2011/87), regs. 1(2), **7(a)(iii)** (with reg. 13(1))
- F78** Words in Sch. 1 para. 1(1) inserted (1.3.2021) by *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021* (S.I. 2021/127), regs. 1(1), **35(2)(b)(v)**
- F79** Words in Sch. 1 para. 1 inserted (31.12.2020) by *The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020* (S.I. 2020/1181), regs. 1(3), **16(2)(f)**
- F80** Words in Sch. 1 para. 1(1) omitted (1.3.2021) by virtue of *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021* (S.I. 2021/127), regs. 1(1), **35(2)(b)(vi)**
- F81** Words in Sch. 1 para. 1 inserted (31.12.2020) by *The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020* (S.I. 2020/1181), regs. 1(3), **16(2)(h)**
- F82** Words in Sch. 1 para. 1(1) inserted (1.3.2021) by *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021* (S.I. 2021/127), regs. 1(1), **35(2)(b)(vii)**
- F83** Sch. 1 para. 1(2)(3) inserted (1.3.2021) by *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021* (S.I. 2021/127), regs. 1(1), **35(2)(c)**

#### Marginal Citations

- M12** OJ L158, 30.4.2004, p77-123
- M13** Cmnd. 9171.
- M14** Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).
- M15** 1971 c.77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the [British Nationality Act 1981](#) (c.61).
- M16** Cm. 4904.

#### [<sup>F84</sup>Persons who are settled in the United Kingdom

2.—(1) A person—

(a) who on the first day of the first academic year of the course—

(i) [<sup>F85</sup>is settled in the United Kingdom and does not fall within paragraph 3;]

(ii) is ordinarily resident in the United Kingdom;

(iii) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and

(b) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in sub-paragraph (a)(iii) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (b) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with regulation 2(4).]

#### Textual Amendments

- F84** Sch. 1 para. 2 substituted (3.3.2017) by *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2017* (S.I. 2017/114), regs. 1(2), **31(a)**
- F85** Sch. 1 para. 2(1)(a)(i) substituted (1.3.2021) by *The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021* (S.I. 2021/127), regs. 1(1), **35(3)**

<sup>F86</sup>**2A.**—(1) A person—

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within paragraph 3;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the Republic of Ireland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with regulation 2(4).]

#### Textual Amendments

**F86** Sch. 1 para. 2A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(4)**

**3.**—<sup>F87</sup>(1)] A person who—

<sup>F88</sup>(a) meets one of the following conditions on the first day of an academic year of the course—

- (i) the person is within the personal scope of the citizens' rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;
- (ii) the person—
  - (aa) is within the personal scope of the citizens' rights provisions;
  - (bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and
  - (cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;
- (iii) the person—
  - (aa) is within the personal scope of the citizens' rights provisions;
  - (bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations; and
  - (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period;
- (iv) the person—
  - (aa) is within the personal scope of the citizens' rights provisions;
  - (bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations; and

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- (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period; or
- (v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;]
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his 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 [<sup>F89</sup>the United Kingdom,] the [<sup>F90</sup>European Economic Area, Switzerland and the overseas territories] immediately before the period of residence referred to in paragraph (c).

[<sup>F91</sup>(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).]

#### Textual Amendments

- F87** Sch. 1 para. 3 renumbered as Sch. 1 para. 3(1) (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(5)(a)**
- F88** Sch. 1 para. 3(1)(a) substituted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(5)(b)**
- F89** Words in Sch. 1 para. 3(d) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(3)(b)**
- F90** Words in Sch. 1 para. 3(d) substituted (1.9.2007) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2007 \(S.I. 2007/2263\)](#), regs. 1, **7(a)**
- F91** Sch. 1 para. 3(2) inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(5)(c)**

#### Refugees and their family members

- 4.—(1) A person—
- (a) who is a refugee;
  - (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he was recognised as a refugee; and
  - (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.
- (2) A person—
- (a) who is the spouse or civil partner of a refugee;
  - (b) who was the spouse or civil partner of the refugee on the date on which the refugee made his application for asylum;

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- (c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he was given leave to remain in the United Kingdom; and
  - (d) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.
- (3) A person—
- (a) who is the child of a refugee or the child of the spouse or civil partner of a refugee;
  - (b) who, on the date on which the refugee made his application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
  - (c) who was under 18 on the date on which the refugee made his application for asylum;
  - (d) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he was given leave to remain in the United Kingdom; and
  - (e) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

#### [<sup>F92</sup>Persons granted stateless leave and their family members

**4A.**—[<sup>F93</sup>(1) A person granted stateless leave, who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]

- (2) A person—
- (a) who—
    - (i) is the spouse or civil partner of a person granted stateless leave; and
    - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
  - [<sup>F94</sup>(b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
  - (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]
- (3) A person—
- (a) who—
    - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
    - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;
  - (b) [<sup>F95</sup>who] was under 18 on the leave application date;
  - [<sup>F96</sup>(c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
  - (d) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]

(4) In this paragraph, “leave application date” means the date on which the person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971).]

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**Textual Amendments**

- F92** Sch. 1 para. 4A inserted (with application in accordance with reg. 1(4) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2018 \(S.I. 2018/137\)](#), regs. 1(2), **17(b)**
- F93** Sch. 1 para. 4A(1) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(2)(a)**
- F94** Sch. 1 para. 4A(2)(b)(c) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(2)(b)**
- F95** Word in Sch. 1 para. 4A(3)(b) inserted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(2)(c)(i)**
- F96** Sch. 1 para. 4A(3)(c)(d) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(2)(c)(ii)**

**[<sup>F97</sup>Persons granted section 67 leave**

**4B.** A person who—

- (a) has extant leave to remain as a person granted leave under paragraph 352ZG of the immigration rules, having been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016, or a dependent child of such a person who has been granted “leave in line” under paragraph 352ZO of those rules;
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave; [<sup>F98</sup>and]
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.<sup>F99</sup> ...]

<sup>F100</sup>(d) .....

**Textual Amendments**

- F97** Sch. 1 para. 4B inserted (21.2.2019) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), regs. 1(1), **37(2)** (with reg. 1(2)(3)(5))
- F98** Word in Sch. 1 para. 4B(b) inserted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(3)(a)**
- F99** Word in Sch. 1 para. 4B(c) omitted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(3)(b)**
- F100** Sch. 1 para. 4B(d) omitted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(3)(c)**

**[<sup>F101</sup>Persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse**

**4C.** A person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
  - (i) paragraph 289B (victims of domestic violence);
  - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse); or
  - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces);
- (b) who has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave; and
- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]

**Textual Amendments**

**F101** Sch. 1 para. 4C inserted (with application in accordance with reg. 1(3)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), regs. 1(1), **2(1)**

**[<sup>F102</sup>Persons granted Calais leave**

**4D.** A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971;
- (b) has been ordinarily resident in the United Kingdom and the Islands since the person was first granted such leave; [<sup>F103</sup>and]
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.<sup>F104</sup>...]

<sup>F105</sup>(d) .....

**Textual Amendments**

**F102** Sch. 1 para. 4D inserted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), regs. 1(1), **3(1)**

**F103** Word in Sch. 1 para. 4D(b) inserted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(4)(a)**

**F104** Word in Sch. 1 para. 4D(c) omitted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(4)(b)**

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**F105** Sch. 1 para. 4D(d) omitted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(4)(c)**

#### [<sup>F106</sup>Persons granted indefinite leave to remain as a bereaved partner

**4E.** A person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
  - (i) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved partners);
  - (ii) paragraph 295N, as a person in relation to whom the requirements in paragraph 295M of those rules are met (bereaved partners);
  - (iii) paragraph D-BPILR.1.1 of Appendix FM (bereaved partners); or
  - (iv) paragraph 36 of Appendix Armed Forces (bereaved partner of a member of HM Forces);
- (b) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave; and
- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]

#### Textual Amendments

**F106** Sch. 1 para. 4E inserted (with application in accordance with reg. 1(4)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **11**

#### [<sup>F107</sup>Persons granted humanitarian protection and their family members

**5.—(1)** A person granted humanitarian protection who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(2) A person—

- (a) who is the spouse or civil partner of a person granted humanitarian protection;
- (b) who was the spouse or civil partner of the person granted humanitarian protection on the date on which that person applied for asylum (the “asylum application date”); <sup>F108</sup> ...
- (c) [<sup>F109</sup>who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
- (d) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]

(3) A person—

- (a) who is the child of a person granted humanitarian protection or the child of the spouse or civil partner of a person granted humanitarian protection;
- (b) who, on the asylum application date, was the child of that person or the child of a person who was the spouse or civil partner of the person granted humanitarian protection on that date;



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- (c) who was under 18 on the asylum application date; <sup>F110</sup> ...
- (d) [<sup>F111</sup>who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
- (e) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]]

#### Textual Amendments

- F107** Sch. 1 para. 5 substituted (9.2.2011) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2011 \(S.I. 2011/87\)](#), regs. 1(2), **7(b)** (with reg. 13(1))
- F108** Word in Sch. 1 para. 5(2)(b) omitted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(5)(a)(i)**
- F109** Sch. 1 para. 5(2)(c)(d) substituted for Sch. 1 para. 5(2)(c) (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(5)(a)(ii)**
- F110** Word in Sch. 1 para. 5(3)(c) omitted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(5)(b)(i)**
- F111** Sch. 1 para. 5(3)(d)(e) substituted for Sch. 1 para. 5(3)(d) (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **18(5)(b)(ii)**

#### Workers, employed persons, self-employed persons and their family members

- <sup>F112</sup>6.—(1) 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) a family member of a person mentioned in paragraph (i) or (ii);
    - (iv) an EEA frontier worker or an EEA frontier self-employed person;
    - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
    - (vi) a family member of a person mentioned in paragraph (iv) or (v);
  - (b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
  - (c) has been ordinarily resident in the territory comprising [<sup>F113</sup>the United Kingdom,] the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.
- (2) Paragraph (b) of sub-paragraph (1) does not apply where the person falls within paragraph (a) (iv), (v) or (vi) of that sub-paragraph.]

#### Textual Amendments

- F112** Sch. 1 para. 6 substituted (1.9.2007) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2007 \(S.I. 2007/2263\)](#), regs. 1, **7(b)**
- F113** Words in Sch. 1 para. 6(1)(c) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(4)**

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**[<sup>F114</sup>6A.—**(1) A person with protected rights, or a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020, 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) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) In this paragraph, a description of a person in sub-paragraph(1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.]

#### Textual Amendments

**F114** Sch. 1 para. 6A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(6)**

7.—**[<sup>F115</sup>(1)]** A person who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising [<sup>F116</sup>the United Kingdom,] the [<sup>F117</sup>European Economic Area, Switzerland and the overseas territories] throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation ([EEC](#)) No. 1612/68 on the freedom of movement of workers <sup>M17</sup>, as extended by the EEA Agreement.

**[<sup>F118</sup>(2)** Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.]

#### Textual Amendments

**F115** Sch. 1 para. 7(a)-(c) renumbered as Sch. 1 para. 7(1)(a)-(c) (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(5)(a)**

**F116** Words in Sch. 1 para. 7(1)(b) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(5)(b)**

**F117** Words in Sch. 1 para. 7(b) substituted (1.9.2007) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2007 \(S.I. 2007/2263\)](#), regs. 1, **7(e)**

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**F118** Sch. 1 para. 7(2) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(5)(c)**

#### Marginal Citations

**M17** OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

[<sup>F119</sup>7A.—(1) A person with protected rights who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
  - (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
  - (c) is entitled to support by virtue of 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 (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.
- (2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—
- (a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and
  - (b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.]

#### Textual Amendments

**F119** Sch. 1 para. 7A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(7)**

### Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

8.—(1) A person who—

- (a) is settled in the United Kingdom;
  - (b) left the United Kingdom and exercised a right of residence [<sup>F120</sup>before IP completion day] after having been settled in the United Kingdom;
  - (c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
  - (d) has been ordinarily resident in the territory comprising [<sup>F121</sup>the United Kingdom,] the [<sup>F122</sup>European Economic Area, Switzerland and the overseas territories] throughout the three-year period preceding the first day of the first academic year of the course; and
  - (e) in a case where his ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F123</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).
- (2) For the purposes of this paragraph, a person has exercised a right of residence if he is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7

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of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who [<sup>F124</sup>had the right] of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and [<sup>F124</sup>had the right] of permanent residence, if he [<sup>F125</sup>has gone] to the state within the territory comprising the European Economic Area and Switzerland of which he is a national or of which the person in relation to whom he is a family member is a national.

[<sup>F126</sup>(3) For the purposes of sub-paragraph (2), a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.]

### Textual Amendments

- F120** Words in Sch. 1 para. 8(1)(b) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(6)(a)(i)**
- F121** Words in Sch. 1 para. 8(1)(d) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(6)(a)(ii)**
- F122** Words in Sch. 1 para. 8(1)(d) substituted (1.9.2007) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2007 (S.I. 2007/2263), regs. 1, **7(d)**
- F123** Words in Sch. 1 para. 8(1)(e) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(6)(a)(iii)**
- F124** Words in Sch. 1 para. 8(2) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(6)(b)(i)**
- F125** Words in Sch. 1 para. 8(2) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(6)(b)(ii)**
- F126** Sch. 1 para. 8(3) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(6)(c)**

[<sup>F127</sup>**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence before IP completion day after having been settled in the United Kingdom;
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area, Switzerland and the overseas territories; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the overseas territories, and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;
- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and

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- (f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(3) For the purposes of sub-paragraph (2), a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.]

**Textual Amendments**

**F127** Sch. 1 para. 8A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(8)**

[<sup>F128</sup>EU nationals][<sup>F129</sup>etc.]

9.—(1) A person who—

(a) is either—

(i) an [<sup>F130</sup>EU national] on the first day of an academic year of the course; or

(ii) a family member of a such a person;

(b) is undertaking the course in the United Kingdom;

[<sup>F131</sup>(c) [<sup>F132</sup>subject to sub-paragraph (1A),] has been ordinarily resident in the territory comprising [<sup>F133</sup>the United Kingdom,] the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and]

[<sup>F134</sup>(d) . . . . .]

(e) subject to sub-paragraph (2), whose ordinary residence in the relevant territory has not during any part of the period referred to in [<sup>F135</sup>paragraph (c)] been wholly or mainly for the purpose of receiving full-time education.

[<sup>F136</sup>(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

(a) is—

(i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or

(ii) an EU national; and

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.]

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(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with regulation 2(4).

[<sup>F137</sup>(3) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.]

### Textual Amendments

- F128** Words in Sch. 1 para. 9 heading substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(7)(a)**
- F129** Word in Sch. 1 para. 9 heading inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(9)**
- F130** Words in Sch. 1 para. 9(1)(a)(i) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(7)(b)(i)**
- F131** Sch. 1 para. 9(1)(c) substituted (1.9.2007) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2007 (S.I. 2007/2263), regs. 1, **7(e)(i)**
- F132** Words in Sch. 1 para. 9(1)(c) inserted (1.9.2011) by The Education (Fees and Awards) (England) Regulations 2007 (Amendment) Regulations 2011 (S.I. 2011/1987), regs. 1(1), **2(a)** (with reg. 1(3))
- F133** Words in Sch. 1 para. 9(1)(c) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(7)(b)(ii)**
- F134** Sch. 1 para. 9(1)(d) omitted (1.9.2007) by virtue of The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2007 (S.I. 2007/2263), regs. 1, **7(e)(ii)**
- F135** Words in Sch. 1 para. 9(1)(e) substituted (1.9.2007) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2007 (S.I. 2007/2263), regs. 1, **7(e)(iii)**
- F136** Sch. 1 para. 9(1A) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(7)(c)**
- F137** Sch. 1 para. 9(3) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **16(7)(d)**

[<sup>F138</sup>**9A.**—(1) A person with protected rights—

- (a) who is —
- (i) an EU national on the first day of the first academic year of the course;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is undertaking the course in the United Kingdom;
- (c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.
- (2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—
- (a) is an EU national or a relevant person of Northern Ireland; and
  - (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.



(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).]

#### Textual Amendments

**F138** Sch. 1 paras. 9A-9E inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(10)**

#### [<sup>F138</sup>United Kingdom nationals

**9B.**—(1) A person—

- (a) who is—
  - (i) a United Kingdom national on the first day of an academic year of the course; or
  - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area, Switzerland and the EU overseas territories; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,  
and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;
- (c) who is undertaking the course in the United Kingdom;
- (d) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

(4) Where a person (“P”) falls within sub-paragraph (1)(a)(ii), the person in relation to whom P is a family member must also meet the requirements of sub-paragraph (1)(b) and (d).



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(5) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.]

#### Textual Amendments

**F138** Sch. 1 paras. 9A-9E inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(10)**

[<sup>F138</sup>**9C.**—(1) A person—

- (a) who is—
  - (i) a United Kingdom national on the first day of the first academic year of the course; or
  - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the specified British overseas territories for at least part of the three year period preceding the first day of the first academic year of the course;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the Islands and the specified British overseas territories has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories in accordance with regulation 2(4).]

#### Textual Amendments

**F138** Sch. 1 paras. 9A-9E inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(10)**

[<sup>F138</sup>**9D.**—(1) A person—

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with regulation 2(4).]

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#### Textual Amendments

**F138** Sch. 1 paras. 9A-9E inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(10)**

#### Textual Amendments

**F138** Sch. 1 paras. 9A-9E inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(10)**

### [<sup>F138</sup>Persons resident in Gibraltar

**9E.**—(1) A person—

(a) who is—

- (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
- (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
- (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
- (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;

(b) who is undertaking the course in the United Kingdom;

(c) who, subject to paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

(a) is an EU national or a relevant person of Northern Ireland; and

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).]

#### Textual Amendments

**F138** Sch. 1 paras. 9A-9E inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **35(10)**

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### [<sup>F139</sup>EU nationals ordinarily resident in the United Kingdom and Islands]

10.—(1) A person who—

- (a) is [<sup>F140</sup>an EU national] on the first day of the first academic year of the course;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where his 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 [<sup>F141</sup>the United Kingdom,] the [<sup>F142</sup>European Economic Area, Switzerland and the overseas territories] immediately prior to the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of subparagraph (1) to be [<sup>F143</sup>an EU national] on the first day of the first academic year of the course is treated as being satisfied.

#### Textual Amendments

- F139** Sch. 1 para. 10 heading inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(11)**
- F140** Words in Sch. 1 para. 10(1)(a) substituted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(8)(a)**
- F141** Words in Sch. 1 para. 10(1)(d) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(8)(b)**
- F142** Words in Sch. 1 para. 10(1)(d) substituted (1.9.2007) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2007 \(S.I. 2007/2263\)](#), regs. 1, **7(f)**
- F143** Words in Sch. 1 para. 10(2) substituted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(8)(a)**

[<sup>F144</sup>10A. A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where the person's 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 United Kingdom, the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in paragraph (c).]

#### Textual Amendments

- F144** Sch. 1 para. 10A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(12)**

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## Children of Swiss nationals

11.—<sup>F145</sup>(1) 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 Swiss Agreement;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising <sup>F146</sup>the United Kingdom,] the <sup>F147</sup>European Economic Area, Switzerland and the overseas territories] throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his 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 <sup>F148</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

<sup>F149</sup>(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.]

### Textual Amendments

**F145** Sch. 1 para. 11(a)-(d) renumbered as Sch. 1 para. 11(1)(a)-(d) (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(9)(a)**

**F146** Words in Sch. 1 para. 11(1)(c) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(9)(b)**

**F147** Words in Sch. 1 para. 11(c) substituted (1.9.2007) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2007 \(S.I. 2007/2263\)](#), regs. 1, **7(g)**

**F148** Words in Sch. 1 para. 11(1)(d) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(9)(c)**

**F149** Sch. 1 para. 11(2) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(9)(d)**

<sup>F150</sup>11A. A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens' rights agreement;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person's 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 United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).]

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#### Textual Amendments

**F150** Sch. 1 para. 11A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(13)**

### Children of Turkish workers

**12.** A person who—

- (a) is the child of a Turkish worker;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising [<sup>F151</sup>the United Kingdom,] the [<sup>F152</sup>European Economic Area, Switzerland, Turkey and the overseas territories] throughout the three-year period preceding the first day of the first academic year of the course.

#### Textual Amendments

**F151** Words in Sch. 1 para. 12(c) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **16(10)**

**F152** Words in Sch. 1 para. 12(c) substituted (1.9.2007) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2007 \(S.I. 2007/2263\)](#), regs. 1, **7(h)**

[<sup>F153</sup>**12A.** A person who—

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
  - (i) was the child of T; and
  - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.]

#### Textual Amendments

**F153** Sch. 1 para. 12A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **35(14)**

### [<sup>F154</sup>Long Residence

**13.—(1)** A person—

- (a) who on the first day of the first academic year of the course either—
  - (i) is under the age of 18 and has lived in the United Kingdom throughout the seven-year period preceding the first day of the first academic year of the course; or

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- (ii) is aged 18 or above and, preceding the first day of the first academic year of the course, has lived in the United Kingdom throughout either—
- (aa) half their life; or
  - (bb) a period of twenty years;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.
- (2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with regulation 2(4).]

#### Textual Amendments

**F154** Sch. 1 para. 13 substituted (3.3.2017) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2017 \(S.I. 2017/114\)](#), regs. 1(2), **31(b)**

## SCHEDULE 2

### Regulation 6

#### PART 1

##### Research Councils

1. The Arts and Humanities Research Council.
  2. The Biotechnology and Biological Sciences Research Council.
  3. The Council for the Central Laboratory of the Research Councils.
  4. The Economic and Social Research Council.
  5. The Engineering and Physical Sciences Research Council.
  6. The Medical Research Council.
  7. The Natural Environment Research Council.
  8. The Particle Physics and Astronomy Research Council.
- Regulation 6

#### PART 2

##### Institutions

9. The British Academy.

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10. The British Museum (Natural History).
11. The Council for the Central Laboratory of the Research Councils.
12. The Royal Academy of Engineering.
13. The Royal Society.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1<sup>st</sup> September 2007, replace the Regulations listed in regulation 10.

The Regulations provide that, in the circumstances described in the Regulations, it shall be lawful to discriminate between some or all of those persons mentioned in Schedule 1, and any other person. Such discrimination might otherwise be unlawful under the Race Relations Act 1976. Nothing in the Regulations is to be construed as rendering unlawful anything done which would have been lawful had the Regulations not been made (*regulation 3*).

Regulation 4 provides that it shall be lawful for the institutions in paragraph (3) to charge higher fees to those people not mentioned in Schedule 1, than those fees charged to people mentioned in that Schedule. Regulation 4(4) refers to section 24 of the Higher Education Act 2004. This section sets out the funding conditions imposed on higher education institutions in relation to fees. Fees for qualifying courses must not exceed certain limits. Regulation 4(4) provides that if an institution breaches the funding condition under section 24, these Regulations will not provide a defence.

Regulation 5 concerns rules of eligibility for discretionary awards made by local education authorities under sections 1(6) or 2 of the Education Act 1962. In the case of awards for fees, eligibility may be confined to everyone in Schedule 1 save for persons with leave to enter or remain. In the case of maintenance awards, rules of eligibility may exclude persons with leave to enter or remain and EC nationals. Local education authorities may confine eligibility further, by excluding anyone who has not been ordinarily resident in a relevant geographical area temporarily because of work.

Regulation 6 concerns for awards by research councils. Again, rules of eligibility for these awards maybe confined by reference to certain categories of person mentioned in Schedule 1, and those rules may be further refined.

Regulations 7, 8 and 9 concern teacher training and certain bodies which fund the provision of education and training. They provide that it shall be lawful for each of the Training and Development Agency for Schools, the Higher Education Funding Council for England and the Learning and Skills Council for England, and institutions funded by them, to adopt rules of eligibility for awards which limit eligibility to those mentioned in Schedule 1.

Regulation 10 revokes, in relation to England, the existing Regulations governing fees and awards and amending Regulations.

The persons mentioned in Schedule 1 include those who are settled in the United Kingdom, refugees, persons with leave to enter or remain in the United Kingdom, migrant workers from the European Economic Area or Switzerland, nationals of Member States of the European Community and children of Swiss nationals and Turkish workers. To be settled in the United Kingdom, you must be ordinarily resident there without being subject under immigration law to any restriction on the period for which you may remain.



**Status:**

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