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SCHEDULE 1

1. For the purposes of this Schedule—

“Directive 2004/38” means Directive [2004/38/EC](#) of the European Parliament and of the Council of 29th April 2004 ^{M1} on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EC national” means a national of a Member State of the European Community;

“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 other than the United Kingdom 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 other than the United Kingdom 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 other than the United Kingdom;

“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;

“family member” means—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
 - (i) his spouse or civil partner;
 - (ii) [^{F1}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;
- (c) in relation to an EC national who falls within article 7(1)(c) of Directive 2004/38—
 - (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 EC national who falls within article 7(1)(b) of Directive 2004/38—
 - (i) his spouse or civil partner;

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- (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 paragraph 9—
 - (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;

[^{F2}“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;]

[^{F3}“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;]

^{F4} ...

“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 ^{M2} as extended by the Protocol thereto which entered into force on 4th October 1967 ^{M3};

“right of permanent residence” means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“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 ^{M4};

“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 21st June 1999 ^{M5} and which came into force on 1st June 2002;

“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

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(b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom 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 other than the United Kingdom and returns to his residence in Switzerland or that EEA State daily or at least once a week;

“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;

“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.

Textual Amendments

- F1** 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))
- F2** 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))
- F3** 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)**
- F4** 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))

Marginal Citations

- M1** OJ L158, 30.4.2004, p77-123
- M2** Cmnd. 9171.
- M3** 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).
- M4** [1971 c.77](#); section 33(2A) was inserted by paragraph 7 of Schedule 4 to the [British Nationality Act 1981 \(c.61\)](#).
- M5** Cm. 4904.

[^{F5}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) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;

(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.

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(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

F5 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)**

3. A person who—

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence on the first day of an 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 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 the [^{F6}European Economic Area, Switzerland and the overseas territories] immediately before the period of residence referred to in paragraph (c).

Textual Amendments

F6 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)**

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;
- (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;

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- (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.

[^{F7} **Persons granted stateless leave and their family members**

4A.—(1) A person granted stateless leave who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (b) 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.

(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;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (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.

(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) was under 18 on the leave application date;
- (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 United Kingdom and Islands throughout the three-year period preceding 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.)

Textual Amendments

- F7** [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)**

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[^{F8}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”); 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 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;
- (c) who was under 18 on the asylum application date; and
- (d) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]

Textual Amendments

F8 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))

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

[^{F9}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 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.]

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Textual Amendments

F9 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)**

7. 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 the [^{F10}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 ^{M6}, as extended by the EEA Agreement.

Textual Amendments

F10 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(c)**

Marginal Citations

M6 OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

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 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 the [^{F11}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 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 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a 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 has a right of permanent residence, if he goes 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.

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Textual Amendments

F11 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)**

EC nationals

9.—(1) A person who—

(a) is either—

- (i) an EC 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;

^{F12}(c) [^{F13}subject to sub-paragraph (1A),] has been ordinarily resident in the territory comprising 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]

^{F14}(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 [^{F15}paragraph (c)] been wholly or mainly for the purpose of receiving full-time education.

^{F16}(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of an EC national where that EC national—

(a) is—

- (i) a United Kingdom national who has exercised a right to reside on the territory of another Member State under article 7(1) of Directive 2004/38; or
- (ii) not a United Kingdom national;

and

(b) has been ordinarily resident in the territory comprising 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 (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).

Textual Amendments

F12 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)**

F13 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))

F14 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)**

F15 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)**

F16 Sch. 1 para. 9(1A) inserted (1.9.2011) by [The Education \(Fees and Awards\) \(England\) Regulations 2007 \(Amendment\) Regulations 2011 \(S.I. 2011/1987\)](#), regs. 1(1), **2(b)** (with reg. 1(3))

10.—(1) A person who—

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- (a) is an EC national other than a United Kingdom 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 the [^{F17}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 an EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

Textual Amendments

F17 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)**

Children of Swiss nationals

11. 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 the [^{F18}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 the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

Textual Amendments

F18 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)**

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

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- (c) has been ordinarily resident in the territory comprising the [^{F19}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

F19 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)**

[^{F20}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
 - (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

F20 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)**

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