

SCHEDULE 1

Regulation 3

Eligible students

PART 1

Interpretation

Interpretation: categories

1.—(1) In these Regulations—

“the Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020(1);

“EEA EFTA separation agreement” has the meaning given by the European Union (Withdrawal Agreement) Act 2020(2) (see section 39 of that Act);

“immigration rules” has the meaning given in section 33(1) of the Immigration Act 1971(3);

“person granted Calais leave” means 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, and
- (b) has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave to remain;

“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,
- (b) whose leave to remain is extant, or in respect of whose leave to remain an appeal is pending (within the meaning of section 104 of the 2002 Act(4)), 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;

“person granted indefinite leave to remain as a bereaved partner” means a person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules—
 - (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), and

(1) [S.I. 2020/1209](#).

(2) [2020 c. 1](#).

(3) [1971 c. 77](#). There are amendments to section 33 not relevant to these Regulations.

(4) Section 104 was amended by paragraph 20 of Schedule 2, and Schedule 4, to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), section 9 of the Immigration, Asylum and Nationality Act 2006 (c. 13), paragraph 47 of Schedule 9 to the Immigration Act 2014 (c. 22) and [S.I. 2010/21](#).

Status: This is the original version (as it was originally made).

- (b) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave;

“person granted indefinite leave to remain as a victim of domestic violence or domestic abuse” means a person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules—
 - (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), and
- (b) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave;

“person granted leave under one of the Afghan Schemes” means—

- (a) a person granted leave under the Afghan Citizens Resettlement Scheme, or
- (b) a person granted leave under the Afghan Relocations and Assistance Policy Scheme;

“person granted leave under the Afghan Citizens Resettlement Scheme” means a person who—

- (a) has—
 - (i) indefinite leave to enter or remain in the United Kingdom, outside the immigration rules, on the basis of the Afghan Citizens Resettlement Scheme, or
 - (ii) indefinite leave to enter or remain in the United Kingdom, outside those rules, as the spouse, civil partner, or dependent child of such a person or that person’s spouse or civil partner, and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;

“person granted leave under the Afghan Relocations and Assistance Policy Scheme” means a person who—

- (a) has—
 - (i) indefinite leave to enter the United Kingdom under paragraph 276BA2, or indefinite leave to remain under paragraph 276BS2, of the immigration rules, having been relocated to the United Kingdom pursuant to paragraph 276BB1(iii) (a) of the immigration rules,
 - (ii) leave to enter the United Kingdom on the basis of the Afghan Relocations and Assistance Policy Scheme,
 - (iii) indefinite leave to enter or remain in the United Kingdom, outside the immigration rules, on the basis of the Afghan Relocations and Assistance Policy Scheme, or
 - (iv) leave to enter or indefinite leave to enter the United Kingdom as the spouse, civil partner or dependent child of such a person, or dependent child of the spouse or civil partner, having been granted that leave under paragraph 276BJ2 or 276BO2 of those rules, and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;

“person granted section 67 leave” means a person—

- (a) who—

- (i) 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⁽⁵⁾, or
 - (ii) is a dependent child of such a person who has been granted “leave in line” under paragraph 352ZO of the immigration rules, and
 - (b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;
- “person granted stateless leave” means a person who—
- (a) has extant leave to remain as a stateless person under the immigration rules, and
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;
- “person with protected rights” has the meaning given in sub-paragraph (2);
- “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 as extended by the Protocol thereto which entered into force on 4th October 1967;
- “the relevant period” has the meaning given by regulation 4 of the Citizens’ Rights Regulations;
- “relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;
- “residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;
- “Turkish worker” means a Turkish national who—
- (a) is ordinarily resident in the United Kingdom and Islands, and
 - (b) is, or has been, lawfully employed in the United Kingdom.
- (2) “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,
 - (ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971⁽⁶⁾, does not require leave to enter or remain in the United Kingdom,
 - (iii) is an applicant for the purposes of regulation 4 of the Citizens’ Rights Regulations, where the relevant period has not expired, or
 - (iv) otherwise has rights deemed to apply by virtue of any of the citizens’ rights deeming provisions, 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.
- (3) For the purposes of sub-paragraph (2) “citizens’ rights deeming provisions” means—
- (a) Article 18(2) and (3) of the EU withdrawal agreement (issuance of residence documents),

⁽⁵⁾ 2016 c. 19.

⁽⁶⁾ Section 3ZA was inserted by section 2 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20).

Status: This is the original version (as it was originally made).

- (b) Article 17(2) and (3) of the EEA EFTA separation agreement (issuance of residence documents), or
 - (c) Article 16(2) and (3) of the Swiss citizens' rights agreement (issuance of residence documents).
- (4) For the purposes of these Regulations, a person ("P") is within the personal scope of the citizens' rights provisions if P falls within—
- (a) Article 10 of the EU withdrawal agreement (personal scope),
 - (b) Article 9 of the EEA EFTA separation agreement (personal scope), or
 - (c) Article 10 of the Swiss citizens' rights agreement (personal scope).

Interpretation of Schedule 1

2.—(1) In this Schedule—

"Directive 2004/38" means Directive 2004/38 of the European Parliament and of the Council of 29th April 2004 on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

"EEA frontier self-employed person" means an EEA national who—

- (a) is a self-employed person in England, and
- (b) resides in Switzerland or the territory of an EEA state and returns to the national's residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

"EEA frontier worker" means an EEA national who—

- (a) is a worker in England, and
- (b) resides in Switzerland or the territory of an EEA state and returns to the national's residence in Switzerland or that EEA state, as the case may be, 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;

"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 within the meaning of Annex 1 to the Swiss Agreement;

"EU national" means a national of a member State;

"family member", unless otherwise indicated—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person, 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 13(3), means—
 - (i) that person's spouse or civil partner,
 - (ii) direct descendants of the person or of the person's spouse or civil partner who are—
 - (aa) under the age of 21, or
 - (bb) dependants of the person or the person's spouse or civil partner, or
 - (iii) dependent direct relatives in the ascending line of that person or that person's 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, means—
 - (i) that person’s spouse or civil partner, or
 - (ii) that person’s child or the child of that person’s spouse or civil partner;
- (c) in relation to an EU national who falls within Article 7(1)(c) of Directive 2004/38, or, for the purposes of paragraph 16, or 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, means—
 - (i) that person’s spouse or civil partner, or
 - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—
 - (aa) under the age of 21, or
 - (bb) dependants of the person or the person’s spouse or civil partner;
- (d) in relation to an EU national who falls within Article 7(1)(b) of Directive 2004/38, or, for the purposes of paragraph 16, 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, means—
 - (i) that person’s spouse or civil partner,
 - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—
 - (aa) under the age of 21, or
 - (bb) dependants of the person or the person’s spouse or civil partner, or
 - (iii) dependent direct relatives in the ascending line of that person or that person’s spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 17 or 21 or for the purposes of paragraph 20 in relation to a person settled in the United Kingdom, means—
 - (i) that person’s spouse or civil partner, or
 - (ii) direct descendants of the person or of the person’s spouse or civil partner who are dependants of that person or that person’s spouse or civil partner;

“parent” means a parent, guardian or other person having parental responsibility, and child is to be construed accordingly;

“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;
- (b) in relation to a Swiss national, a person who is self-employed within the meaning of Annex 1 to the Swiss Agreement;

“settled” has the meaning given in section 33(2A) of the Immigration Act 1971(7);

“Swiss Agreement” means the Agreement between the EU 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(8) and which came into force on 1st June 2002;

“Swiss citizens’ rights agreement” has the meaning given by the European Union (Withdrawal Agreement) Act 2020 (see section 39 of that Act);

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

(7) Section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

(8) Cm. 4904.

Status: This is the original version (as it was originally made).

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

- (a) is an employed person in England, and
- (b) resides in Switzerland or the territory of an EEA state and returns to the national’s residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

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

- (a) is a self-employed person in England, and
- (b) resides in Switzerland or the territory of an EEA state and returns to the national’s residence in Switzerland or that EEA state, as the case may be, 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;

“United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;

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

(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.

PART 2

Categories

Persons who are settled in the United Kingdom

3.—(1) A person—

- (a) who on the first day of the HE short course—
 - (i) is settled in the United Kingdom and does not fall within paragraph 5, and
 - (ii) is ordinarily resident in England,
- (b) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the HE short course, and
- (c) 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 (b) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) 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(6).

4.—(1) A person—

- (a) who on the first day of the HE short course is settled in the United Kingdom and does not fall within paragraph 5,
- (b) who is undertaking the HE short course in England,
- (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 HE short course, and has been ordinarily resident in the Republic of Ireland for at least part of that period,

- (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, and
- (e) who did not move to England from the Islands for the purpose of undertaking the current course, or a course which, disregarding any intervening vacation, the person undertook immediately before the current course.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom, the Islands and the Republic of Ireland in accordance with regulation 2(6).

5.—(1) A person who—

- (a) meets one of the following conditions—
 - (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 an applicant for the purpose of regulation 4 of the Citizens' Rights Regulations, or otherwise has rights deemed to apply by virtue of any of the provisions specified in sub-paragraph (3), and
 - (cc) has, or is treated as having a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016⁽⁹⁾, as those Regulations continue to have effect by virtue of the Citizens' Rights Regulations in relation to that person during the relevant period or otherwise has a deemed right of permanent residence by virtue of any of the provisions specified in sub-paragraph (3);
 - (iv) 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 England on the first day of the HE short course,
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the HE short course, and
- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and

(9) [S.I. 2016/1052](#).

Status: This is the original version (as it was originally made).

the overseas territories immediately before the period of ordinary residence referred to in paragraph (c).

(2) For the purposes of sub-paragraph (1)(a)(ii)(cc) “the 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 indefinite leave to enter or remain in the United Kingdom in accordance with paragraph EU11 of Appendix EU to the immigration rules.

(3) The provisions mentioned in sub-paragraph (1)(a)(iii)(bb) and (cc) are—

- (a) Article 18(3) of the EU withdrawal agreement (issuance of residence documents);
- (b) Article 17(3) of the EEA EFTA separation agreement (issuance of residence documents);
- (c) Article 16(3) of the Swiss citizens’ rights agreement (issuance of residence documents).

Refugees and their family members

6.—(1) A person who—

- (a) is a refugee,
- (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since they were recognised as a refugee, and
- (c) is ordinarily resident in England on the first day of the HE short course.

(2) A person who—

- (a) is the spouse or civil partner of a refugee,
- (b) on the asylum application date, was the spouse or civil partner of the refugee,
- (c) 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) is ordinarily resident in England on the first day of the HE short course.

(3) A person who—

- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee,
- (b) on the asylum application date—
 - (i) was under the age of 18, and
 - (ii) 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) 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) is ordinarily resident in England on the first day of the HE short course.

(4) In this paragraph “the asylum application date” means the date on which the refugee made the application for asylum.

Persons granted stateless leave and their family members

7.—(1) A person granted stateless leave, who is ordinarily resident in England on the first day of the HE short course.

(2) A person who—

- (a) is the spouse or civil partner of a person granted stateless leave,
- (b) on the leave application date, was the spouse or civil partner of a person granted stateless leave,

(c) 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) is ordinarily resident in England on the first day of the HE short course.

(3) A person who—

(a) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave,

(b) on the leave application date, was—

(i) the child of a person granted stateless leave or the child of a person who, on that date, was the spouse or civil partner of a person granted stateless leave, and

(ii) under the age of 18,

(c) 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) is ordinarily resident in England on the first day of the HE short 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.

Persons granted section 67 leave

8. A person granted section 67 leave, who is ordinarily resident in England on the first day of the HE short course.

Persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse

9. A person granted indefinite leave to remain as a victim of domestic violence or domestic abuse, who is ordinarily resident in England on the first day of the HE short course.

Persons granted Calais leave

10. A person granted Calais leave, who is ordinarily resident in England on the first day of the HE short course.

Persons granted indefinite leave to remain as a bereaved partner

11. A person granted indefinite leave to remain as a bereaved partner, who is ordinarily resident in England on the first day of the HE short course.

Persons granted humanitarian protection and their family members

12.—(1) A person granted humanitarian protection, who is ordinarily resident in England on the first day of the HE short course.

(2) A person who—

(a) is the spouse or civil partner of a person granted humanitarian protection,

(b) on the asylum application date, was the spouse or civil partner of the person granted humanitarian protection,

(c) 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) is ordinarily resident in England on the first day of the HE short course.

(3) A person who—

Status: This is the original version (as it was originally made).

- (a) 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) on the asylum application date, was—
 - (i) the child of a person granted humanitarian protection or the child of a person who was the spouse or civil partner of a person granted humanitarian protection on that date, and
 - (ii) under the age of 18,
 - (c) 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) is ordinarily resident in England on the first day of the HE short course.
- (4) In this paragraph “asylum application date” means the date on which the person granted humanitarian protection made the application for asylum.

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

13.—(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⁽¹⁰⁾, 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 England on the first day of the HE short course, and
- (c) has been ordinarily resident throughout the three-year period preceding the first day of the HE short course either—
 - (i) in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland, or
 - (ii) in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories, where at least part of that ordinary residence was in the overseas territories.

(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 that sub-paragraph.

(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.

14.—(1) A person with protected rights who—

- (a) is ordinarily resident in England on the first day of the HE short course,
- (b) has been ordinarily resident throughout the three-year period preceding the first day of the HE short course either—

⁽¹⁰⁾ S.I. 2020/1213.

- (i) in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland, or
 - (ii) in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories where at least part of that ordinary residence was in the overseas territories, 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;
 - (b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” are to be construed accordingly.

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

- 15.—(1) A person who—
- (a) is settled in the United Kingdom,
 - (b) was ordinarily resident in England and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day,
 - (c) was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising Gibraltar, the European Economic Area and Switzerland (“the relevant territory”), or
 - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the relevant territory, and has remained ordinarily resident in the territory comprising the United Kingdom and the relevant territory throughout the period beginning on IP completion day and ending immediately before the first day of the HE short course,
 - (d) is ordinarily resident in the United Kingdom on the first day on the HE short course,
 - (e) has been ordinarily resident in the territory comprising the United Kingdom and the relevant territory throughout the three-year period preceding the first day of the HE short course, and
 - (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 and the relevant territory 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 who—
- (a) is—
 - (i) a United Kingdom national,
 - (ii) 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

- (iii) a person who had the right of permanent residence, and
- (b) either—
 - (i) 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
 - (ii) in the case of a person who is settled in the United Kingdom and had the right of permanent residence, 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.

EU nationals etc

- 16.—**(1) A person with protected rights—
- (a) who is—
 - (i) an EU national on the first day of the HE short 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 an HE short course in England,
 - (c) who 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 HE short course, and
 - (d) subject to paragraph (2), 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 purposes 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 European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(6).

United Kingdom nationals

- 17.—**(1) A person—
- (a) who is—
 - (i) a United Kingdom national on the first day of the HE short 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 and Switzerland, 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 and Switzerland,and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the first day of the HE short course,

- (c) who is undertaking an HE short course in England,
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day HE short course, and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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, Gibraltar, the European Economic Area and Switzerland in accordance with regulation 2(6).

(3) 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 paragraphs (b) and (d) of sub-paragraph (1).

18.—(1) A person—

- (a) who is an Irish citizen on the first day of the HE short course,
- (b) who was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area and Switzerland, 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 and Switzerland,and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the period beginning on IP completion day and ending immediately before the first day of the HE short course,
- (c) who is undertaking an HE short course in England,
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day HE short course, and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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, Gibraltar, the European Economic Area and Switzerland in accordance with regulation 2(6).

19.—(1) A person—

- (a) who is settled in the United Kingdom on the first day of the HE short course,
- (b) who is undertaking an HE short course in England,
- (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 HE short 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 HE short course,
- (e) who did not move to England from the Islands for the purpose of undertaking the current course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the current course, and

Status: This is the original version (as it was originally made).

- (f) 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 (f) 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(6).

20.—(1) A person—

- (a) who is a family member of a person who is settled in the United Kingdom on the first day of the HE short course,
- (b) who is undertaking an HE short course in England,
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the HE short course,
- (d) who did not move to England from the Islands for the purpose of undertaking the current course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the current course, and
- (e) 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 (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(6).

Persons resident in Gibraltar

21.—(1) A person—

- (a) who is—
 - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar; or
 - (ii) a family member of a United Kingdom national where that family member has resident status in Gibraltar granted by the Government of Gibraltar,
- (b) who is undertaking an HE short course in England,
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the HE short course, and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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 treated as being ordinarily resident in the territory referred to in paragraph (c) of that sub-paragraph in accordance with regulation 2(6).

(3) A person—

- (a) who is—
 - (i) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement, or

- (ii) 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 an HE short course in England,
 - (c) who 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 HE short course, and
 - (d) subject to sub-paragraph (4), 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.
- (4) Paragraph (d) of sub-paragraph (3) does not apply to a person treated as being ordinarily resident in the territory referred to in paragraph (c) of that sub-paragraph in accordance with regulation 2(6).

EU nationals ordinarily resident in the United Kingdom and Islands

22.—(1) A person who—

- (a) is an EU national on the first day of the HE short course,
- (b) is ordinarily resident in England on the first day of the HE short course,
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the HE short 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 immediately before the period of ordinary residence referred to in that paragraph in the territory comprising—
 - (i) the United Kingdom, Gibraltar, the European Economic Area and Switzerland, or
 - (ii) the overseas territories.

Children of Swiss nationals

23. 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 England on the first day of the HE short course,
- (c) has been ordinarily resident throughout the three-year period preceding the first day of the course in either—
 - (i) the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland, or
 - (ii) the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories, where at least part of that ordinary residence was in the overseas territories, 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 immediately before the period of ordinary residence referred to in that paragraph in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland.

Children of Turkish workers

24. 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, was the child of T and ordinarily resident in the United Kingdom,
- (c) is ordinarily resident in England on the first day of the HE short course, and
- (d) has been ordinarily resident throughout the three-year period preceding the first day of the HE short course in either—
 - (i) the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey, or
 - (ii) the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories where at least part of that ordinary residence was in the overseas territories.

Long residence

25.—(1) A person—

- (a) who on the first day of the HE short 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 HE short course, or
 - (ii) is aged 18 or above and, preceding the first day of the HE short course, has lived in the United Kingdom throughout either—
 - (aa) half their life, or
 - (bb) a period of 20 years,
- (b) who is ordinarily resident in England,
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the HE short 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 or receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as ordinarily resident in the United Kingdom and Islands in accordance with regulation 2(6).

Persons granted leave under one of the Afghan Schemes

26. A person granted leave under one of the Afghan Schemes, who is ordinarily resident in England on the first day of the HE short course.