

[^{F1}SCHEDULE 1

Regulation 11

ELIGIBLE STUDENTS

Textual Amendments

- F1** Regulations revoked (with application in accordance with reg. 8 of the amending S.I.) by [The Assembly Learning Grants \(European Institutions\) \(Wales\) Regulations 2007 \(S.I. 2007/2313\)](#), **reg. 5** (with regs. 6, 7)

PART 1

Interpretation

1.—(1) For the purposes of this Schedule—

“Directive 2004/38” (“*Cyfarwyddeb 2004/38*”) means Directive [2004/38/EC](#) of the European Parliament and of the Council of 29 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;

“EC national” (“*gwladolyn o'r GE*”) means a national of a Member State of the European Community;

“EEA frontier self-employed person” (“*person hunangyflogedig ffin yr EEA*”) has the meaning given by sub-paragraph (2);

“EEA frontier worker” (“*gweithiwr ffin yr EEA*”) has the meaning given by sub-paragraph (3);

“EEA migrant worker” (“*gweithiwr mudol o'r EEA*”) means an EEA national who is or, in the case of an EEA national who applies for support after the moving date, was a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (“*gwladolyn o'r EEA*”) means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” (“*person hunangyflogedig o'r EEA*”) means an EEA national who is or, in the case of an EEA national who has applied for support after the moving date, was a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” (“*Gwladwriaeth EEA*”) means a Member State of the European Economic Area;

“employed person” (“*person cyflogedig*”) means an employed person within the meaning of Annex 1 to the Switzerland Agreement;

unless otherwise indicated, “family member” (“*aelod o'r teulu*”) 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 or her spouse or civil partner;
 - (ii) his or her child or the child of his or her spouse or civil partner; or
 - (iii) dependent direct relatives in his or her ascending line or that of his or her 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 or her spouse or civil partner; or

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- (ii) his or her child or the child of his or her spouse or civil partner;
- (c) in relation to an EC national who is not self-sufficient—
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21;
 - (bb) dependants of his or her or of his or her spouse or civil partner;
- (d) in relation to an EC national who is self-sufficient—
 - (i) his or her spouse or civil partner;
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;
 - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;

“person with leave to enter or remain” (*“person â chaniatâd i ddod i mewn neu aros”*) means a person who—

- (a) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although the person is considered not to qualify for recognition as a refugee, it is thought right to allow him or her to enter or remain in the United Kingdom;
- (b) has been granted leave to enter or to remain accordingly; and
- (c) has been ordinarily resident in the British Islands throughout the period since he or she was granted leave to enter or remain;

“right of permanent residence” (*“hawl i breswyllo'n barhaol”*) means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” (*“person hunangyflogedig”*) 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 Switzerland Agreement;

“self-sufficient” (*“hunangynhaliol”*) means self-sufficient within the meaning of Article 7(1)(b) of Directive 2004/38;

“settled” (*“wedi setlo”*) has the meaning given by section 33(2A) of the Immigration Act 1971(1);

“Swiss employed person” (*“person cyflogedig o'r Swistir”*) means a Swiss national who is or, in the case of a person who applies for support after the moving date, was an employed person, other than a Swiss frontier employed person, in the United Kingdom;

(1) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

“Swiss frontier employed person” (“*person cyflogedig ffin y Swistir*”) has the meaning given in sub-paragraph (4);

“Swiss frontier self-employed person” (“*person hunangyflogedig ffin y Swistir*”) has the meaning given in sub-paragraph (5);

“Swiss self-employed person” (“*person hunangyflogedig o'r Swistir*”) means a Swiss national who is or, in the case of a person who applies for support after the moving date, was a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“United Kingdom national” (“*gwladolyn o'r Deyrnas Unedig*”) means a person who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties;

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

(2) Subject to sub-paragraph (6), “EEA frontier self-employed person” (“*person hunangyflogedig ffin yr EEA*”) means an EEA national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.

(3) Subject to sub-paragraph (6), “EEA frontier worker” (“*gweithiwr ffin yr EEA*”) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.

(4) Subject to sub-paragraph (6), “Swiss frontier employed person” (“*person cyflogedig ffin y Swistir*”) means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week

(5) Subject to sub-paragraph (6), “Swiss frontier self-employed person” (“*person hunangyflogedig ffin y Swistir*”) means a Swiss national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week

(6) Where an EEA national or a Swiss national applies for support after the moving date—

- (a) he or she may be treated as an EEA frontier self-employed person or a [F²Swiss frontier employed person], as the case may be, if the National Assembly is satisfied that immediately before the moving date he or she was—
 - (i) a self-employed person in Wales; and
 - (ii) residing in Switzerland or in the territory of an EEA State other than the United Kingdom and returning to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;
- (b) he or she may be treated as an EEA frontier worker or a Swiss frontier employed person, as the case may be, if the National Assembly is satisfied that immediately before the moving date he or she was—

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- (i) a worker or an employed person in Wales; and
- (ii) residing in Switzerland or in the territory of an EEA State other than the United Kingdom and returning to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.

(7) For the purposes of this Schedule, “parent” (“*rhiant*”) includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” (“*plentyn*”) is to be construed accordingly.

(8) For the purposes of this Schedule, a person is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or in the territory comprising the European Economic Area and Switzerland if he or she would have been so resident but for the fact that—

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

is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(9) For the purposes of sub-paragraph (8), temporary employment outside of Wales, the United Kingdom or the territory comprising the European Economic Area and Switzerland 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; and
- (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 the European Economic Area and Switzerland as members of such forces.

(10) For the purposes of this Schedule—

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

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

- (b) a person who acquires the right of permanent residence after the beginning of the first year of the course is to be considered to have had that status as of the beginning of the first year of the course;
- (c) a person who becomes the child of a Swiss national after the beginning of the first year of the course is to be considered to have been such a child as of the beginning of the first year of the course.

Textual Amendments

- F2** Words in [Sch. 1 para. 1\(6\)\(a\)](#) substituted (with application in accordance with reg. 8 of the amending S.I.) by [The Assembly Learning Grants \(European Institutions\) \(Wales\) Regulations 2007 \(S.I. 2007/2313\)](#), reg. 1, [Sch. 1 para. 4](#)

Commencement Information

- I1** [Sch. 1 para. 1](#) in force at 7.7.2006, see [reg. 1](#)

PART 2

Categories

Persons who are settled in the United Kingdom

2.—(1) A person—

- (a) who, immediately before the moving date, is settled in the United Kingdom other than by reason of having acquired a right of permanent residence;
- (b) either—
 - (i) in the case of a person who applies for support before the moving date, who—
 - (aa) is ordinarily resident in Wales on the date on which he or she makes that application; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; and
 - (ii) in any other case, who satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date;
- (c) had been ordinarily resident throughout the three-year period preceding the moving date in the United Kingdom and Islands; and
- (d) had not during any part of the period referred to in paragraph (c) been ordinarily resident in the United Kingdom and Islands 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 paragraph 1(8).

Commencement Information

I2 Sch. 1 para. 2 in force at 7.7.2006, see [reg. 1](#)

3. A person—

- (a) who, immediately before the moving date, is settled in the United Kingdom by reason of having acquired the right of permanent residence;
- (b) either—
 - (i) in the case of a person who applies for support before the moving date, who—
 - (aa) is ordinarily in Wales on the date on which he or she makes that application; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; and
 - (ii) in any other case, who satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date;
- (c) who had been ordinarily resident in the United Kingdom throughout the three-year period preceding the moving date; and
- (d) in a case where his or her 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).

Changes to legislation: There are currently no known outstanding effects for the The Assembly Learning Grants (European Institutions) (Wales) Regulations 2006, SCHEDULE 1. (See end of Document for details)

Commencement Information

I3 Sch. 1 para. 3 in force at 7.7.2006, see [reg. 1](#)

Commencement Information

I2 Sch. 1 para. 2 in force at 7.7.2006, see [reg. 1](#)

I3 Sch. 1 para. 3 in force at 7.7.2006, see [reg. 1](#)

Refugees and persons with leave to enter or remain

4. A person who—
- (a) is either—
 - (i) a refugee who is ordinarily resident in the United Kingdom and Islands who has not ceased to be so resident since he or she was recognised as a refugee; or
 - (ii) the spouse, civil partner, child or step-child of a person mentioned in paragraph (i); and
 - (b) either—
 - (i) in the case of a person who applies for support before the moving date—
 - (aa) is ordinarily resident in Wales on the date he or she applies for support; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; or
 - (ii) in the case of a person who applies for support after the moving date, satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date.

Commencement Information

I4 Sch. 1 para. 4 in force at 7.7.2006, see [reg. 1](#)

5. A person who—
- (a) is either—
 - (i) a person with leave to enter or remain; or
 - (ii) the spouse, civil partner, child or step-child of a person with leave to enter or remain;
 - (b) either—
 - (i) in the case of a person who applies for support before the moving date—
 - (aa) is ordinarily resident in Wales on the date he or she applies for support; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; or
 - (iii) in any other case, satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date; and
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the moving date.

Commencement Information

I4 Sch. 1 para. 4 in force at 7.7.2006, see [reg. 1](#)

Commencement Information

I4 Sch. 1 para. 4 in force at 7.7.2006, see [reg. 1](#)

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

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 in (iv) or (v);
- (b) subject to sub-paragraph (2)—
 - (i) in the case of a person who applies for support before the moving date—
 - (aa) is ordinarily resident in Wales on the date he or she applies for support; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; or
 - (ii) in any other case, satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the moving date.

(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).

Commencement Information

I5 Sch. 1 para. 6 in force at 7.7.2006, see [reg. 1](#)

7. A person who—

- (a) either—
 - (i) in the case of a person applying for support before the moving date—
 - (aa) is ordinarily resident in Wales on the date he or she applies for support; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; or
 - (ii) in any other case, who satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the moving date; 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⁽²⁾, as extended by the EEA Agreement.

Commencement Information

I6 Sch. 1 para. 7 in force at 7.7.2006, see **reg. 1**

Commencement Information

I5 Sch. 1 para. 6 in force at 7.7.2006, see **reg. 1**

I6 Sch. 1 para. 7 in force at 7.7.2006, see **reg. 1**

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) either—
 - (i) in the case of a person applying for support before the moving date and subject to paragraph (2)—
 - (aa) is ordinarily resident in Wales on the date he or she applies for support; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; or
 - (ii) in the case of a person applying for support after the moving date, satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the moving date; and
- (e) in a case where his or her 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 or she 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 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 has a right of permanent residence, if he or she goes to the state within the territory comprising the European Economic Area and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national.

(3) A person who applies for support before the moving date and who is not ordinarily resident in Wales on the date he or she applies for support, may be treated as satisfying paragraphs (c)(i)(aa) and (bb) of sub-paragraph (1) if the National Assembly is satisfied that—

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

- (a) he or she is not so resident for a reason connected with the exercise of the right of residence referred to in paragraph (b) of sub-paragraph (1); and
- (b) he or she will be ordinarily resident in Wales immediately before the moving date.

Commencement Information

17 Sch. 1 para. 8 in force at 7.7.2006, see [reg. 1](#)

EC nationals

9.—(1) A person who—

- (a) is either—
 - (i) an EC national on the moving date ; or
 - (ii) a family member of such a person;
- (b) either—
 - (i) in the case of a person applying for support before the moving date—
 - (aa) is ordinarily resident in Wales on the date he or she applies for support; and
 - (bb) satisfies the National Assembly that he or she will be so resident immediately before the moving date; or
 - (ii) in the case of a person applying for support after the moving date, satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the moving date; and
- (d) subject of sub-paragraph (2), whose ordinary residence in the territory comprising 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 who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(8).

(3) Where a state accedes to the European Community after the moving date and a person is a national of that state or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national on the moving date is treated as being satisfied.

Commencement Information

18 Sch. 1 para. 9 in force at 7.7.2006, see [reg. 1](#)

10.—(1) A person who—

- (a) is an EC national other than a United Kingdom national on the moving date;
- (b) either—
 - (i) in the case of a person applying for support before the moving date—
 - (aa) is ordinarily resident in Wales on the date he or she applies for support;
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; or

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- (ii) in any other case, satisfies the National Assembly that he or she was ordinarily resident in England immediately before the moving date;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the moving date; and
- (d) in a case whose 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).

(2) Where a state accedes to the European Community after the moving date and a person is a national of that state, the person is treated as satisfying the requirement in paragraph (a) of subparagraph (1) to be an EC national other than a United Kingdom national on the moving date.

Commencement Information

I9 Sch. 1 para. 10 in force at 7.7.2006, see **reg. 1**

Commencement Information

I8 Sch. 1 para. 9 in force at 7.7.2006, see **reg. 1**

I9 Sch. 1 para. 10 in force at 7.7.2006, see **reg. 1**

Children of Swiss nationals

11. A person who—

- (a) is the child of a Swiss national who is entitled to support from the National Assembly by virtue of article 3(6) of Annex 1 to the Swiss Agreement immediately before the moving date;
- (b) either—
 - (i) in the case of a person applying for support before the moving date—
 - (aa) is ordinarily resident in Wales; and
 - (bb) satisfies the National Assembly that he or she will be ordinarily resident in Wales immediately before the moving date; or
 - (ii) in any other case, satisfies the National Assembly that he or she was ordinarily resident in Wales immediately before the moving date;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case whose 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).]

Commencement Information

I10 Sch. 1 para. 11 in force at 7.7.2006, see **reg. 1**

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Changes to legislation:

There are currently no known outstanding effects for the The Assembly Learning Grants (European Institutions) (Wales) Regulations 2006, SCHEDULE 1.