

## SCHEDULE 1

Regulation 6

### ELIGIBLE STUDENTS

#### 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<sup>(1)</sup>;

[<sup>F1</sup>“EEA EFTA separation agreement” (“*cytundeb gwahanu EFTA yr AEE*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;]

“EEA frontier self-employed person” (“*person hunangyflogedig y ffin o’r AEE*”) has the meaning given by sub-paragraph (2);

“EEA frontier worker” (“*gweithiwr y ffin o’r AEE*”) has the meaning given by sub-paragraph (3);

“EEA migrant worker” (“*gweithiwr mudol o’r AEE*”) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (“*gwladolyn o’r AEE*”) means a national of an EEA State <sup>F2</sup>...;

“EEA self-employed person” (“*person hunangyflogedig o’r AEE*”) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

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

“EU national” (“*gwladolyn o’r UE*”) means a national of a Member State of the European Union;

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”) means the area comprised by the EEA States;

“family member” (“*aelod o deulu*”), unless otherwise indicated, 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) the 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 person’s ascending line or that of the 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—
  - (i) the person’s spouse or civil partner; or
  - (ii) the person’s child or the child of the person’s spouse or civil partner;

(1) OJ L158, 30.04.2004, pp. 77-123.

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- (c) in relation to an EU national who falls within article 7(1)(c) of Directive 2004/38—
  - (i) the national’s spouse or civil partner; or
  - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or of the national’s spouse or civil partner;
- (d) in relation to an EU national who falls within article 7(1)(b) of Directive 2004/38—
  - (i) the national’s spouse or civil partner; or
  - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or of the national’s spouse or civil partner;
  - (iii) dependent direct relatives in the national’s ascending line or that of the national’s spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
  - (i) the national’s spouse or civil partner; or
  - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or of the national’s spouse or civil partner;

[<sup>F1</sup>“residence scheme immigration rules” (“*rheolau mewnfudo’r cynllun preswyllo*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;]

[<sup>F3</sup>“right of permanent residence” (“*hawl i breswyllo’n barhaol*”) means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before implementation period completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before implementation period completion day;]

“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 Swiss Agreement;

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

“Swiss Agreement” (“*Cytundeb y Swistir*”) means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999(3) and which came into force on 1 June 2002;

[<sup>F1</sup>“Swiss citizens’ rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;]

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

(3) Cm. 4904.

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

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

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

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

“Turkish worker” (“*gweithiwr Twrcaidd*”) means a Turkish national who on the relevant date—

- (a) was ordinarily resident in the United Kingdom and Islands; and
- (b) was, or had been, lawfully employed 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 EU 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) “EEA frontier self-employed person” (“*person hunangyflogedig y ffin o’r AEE*”) 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 <sup>F4</sup>... 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.

(3) “EEA frontier worker” (“*gweithiwr y ffin o’r AEE*”) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State <sup>F5</sup>... 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.

(4) “Swiss frontier employed person” (“*person cyflogedig Swisaidd y ffin*”) 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 <sup>F6</sup>... 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.

(5) “Swiss frontier self-employed person” (“*person hunangyflogedig Swisaidd y ffin*”) 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 <sup>F7</sup>... 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.

(6) 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.

(7) For the purposes of this Schedule, a person (“A” in this sub-paragraph) is to be treated as ordinarily resident in Wales, the United Kingdom and Islands, the territory comprising [<sup>F8</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland or the territory comprising [<sup>F8</sup>the

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United Kingdom, Gibraltar,] the European Economic Area, Switzerland and Turkey if A would have been so resident but for the fact that—

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

is or was temporarily employed outside the area in question.

(8) For the purposes of sub-paragraph (7), temporary employment outside of Wales, the United Kingdom and Islands, the territory comprising [<sup>F9</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland or the territory comprising [<sup>F9</sup>the United Kingdom, Gibraltar,] the European Economic Area, Switzerland and Turkey 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;
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising [<sup>F9</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland as members of such forces; and
- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside of the territory comprising [<sup>F9</sup>the United Kingdom, Gibraltar,] the European Economic Area, Switzerland and Turkey as members of such forces.

#### Textual Amendments

- F1** Words in Sch. 1 para. 1(1) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(a)(i)**
- F2** Words in Sch. 1 para. 1(1) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(a)(ii)**
- F3** Words in Sch. 1 para. 1(1) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(a)(iii)**
- F4** Words in Sch. 1 para. 1(2)(b) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(b)(i)**
- F5** Words in Sch. 1 para. 1(3)(b) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(b)(ii)**
- F6** Words in Sch. 1 para. 1(4)(b) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(b)(iii)**
- F7** Words in Sch. 1 para. 1(5)(b) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(b)(iv)**
- F8** Words in Sch. 1 para. 1(7) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(c)**
- F9** Words in Sch. 1 para. 1(8) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(2)(c)**

#### Commencement Information

**I1** Sch. 1 para. 1 in force at 5.12.2014, see [reg. 1](#)

## PART 2

### Categories

#### Persons who are settled in the United Kingdom

2.—(1) A person who—

- (a) is settled in the United Kingdom on the relevant date other than by reason of having acquired a right of permanent residence;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) had been ordinarily resident throughout the three-year period preceding the relevant date in the United Kingdom and Islands; and
- (d) subject to sub-paragraph (2), 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(7).

#### Commencement Information

**I2** Sch. 1 para. 2 in force at 5.12.2014, see [reg. 1](#)

3. A person—

[<sup>F10</sup>(a) who, on the relevant date, either—

- (i) is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
  - (ii) falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement or Article 16(2) or (3) of the Swiss citizens' rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before implementation period completion day had the facts pertaining to that person's right to reside fallen to be considered immediately before implementation period completion day;]
- (b) who is ordinarily resident in Wales on the relevant date;
  - (c) who had been ordinarily resident in the United Kingdom throughout the three-year period preceding the relevant date; and
  - (d) who, in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F11</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in sub-paragraph (c).

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#### Textual Amendments

- F10** Sch. 1 para. 3(a) substituted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **7(3)(a)(i)**
- F11** Words in Sch. 1 para. 3(d) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **7(3)(a)(ii)**

#### Commencement Information

- I3** Sch. 1 para. 3 in force at 5.12.2014, see [reg. 1](#)

#### Textual Amendments

- F10** Sch. 1 para. 3(a) substituted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **7(3)(a)(i)**
- F11** Words in Sch. 1 para. 3(d) inserted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **7(3)(a)(ii)**

#### Commencement Information

- I2** Sch. 1 para. 2 in force at 5.12.2014, see [reg. 1](#)
- I3** Sch. 1 para. 3 in force at 5.12.2014, see [reg. 1](#)

## Refugees

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 being recognised as a refugee; and
- (c) who is ordinarily resident in Wales on the relevant date.

(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 the application for asylum;
- (c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom; and
- (d) who is ordinarily resident in Wales on the relevant date.

(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 the application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
- (c) who was under 18 on the date on which the refugee made the application for asylum;
- (d) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom; and
- (e) who is ordinarily resident in Wales on the relevant date.

### Commencement Information

**I4** Sch. 1 para. 4 in force at 5.12.2014, see **reg. 1**

## [<sup>F12</sup>Protected persons and their family members

**4ZA.**—(1) A person—

- (a) granted leave to enter or remain as a protected person;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the person was granted such leave; and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is the spouse or civil partner of a person granted leave to enter or remain as a protected person;
- (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person; and
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) A person—

- (a) who—
  - (i) is the child of a person granted leave to enter or remain as a protected person, or the child of the spouse or civil partner of a person granted leave to enter or remain as a protected person; and
  - (ii) on the leave application date, was the child of a person granted leave to enter or remain as a protected person or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person;
- (b) who was under 18 on the leave application date; and
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.

(4) In this paragraph—

- (a) “leave application date” means the date on which a person made an application for leave to enter or remain in the United Kingdom that results in a person becoming a person granted leave to enter or remain as a protected person;
- (b) “person granted leave to enter or remain as a protected person” means a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules.]

### Textual Amendments

**F12** Sch. 1 para. 4ZA inserted (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), 9

## [<sup>F13</sup>Persons granted stateless leave and their family members

**4A.**—[<sup>F14</sup>(1) A person granted stateless leave who is ordinarily resident in Wales on the first day of the first academic year of the course.]

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- (2) A person—
  - (a) who—
    - (i) is the spouse or civil partner of a person granted stateless leave; and
    - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave; [<sup>F15</sup>and]
  - (b) who is ordinarily resident in Wales on the first day of the first academic year of the course[<sup>F16</sup>.]

<sup>F17</sup>(c) .....

- (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) who was under 18 on the leave application date; [<sup>F18</sup>and]
  - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course[<sup>F19</sup>.]

<sup>F20</sup>(d) .....

(4) In this paragraph, “leave application date” means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules.]

Textual Amendments	
<b>F13</b>	Sch. 1 para. 4A inserted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), <b>45(a)</b>
<b>F14</b>	Sch. 1 para. 4A(1) substituted (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), <b>10(a)</b>
<b>F15</b>	Word in Sch. 1 para. 4A(2)(a)(ii) inserted (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), <b>10(b)</b>
<b>F16</b>	Sch. 1 para. 4A(2)(b): full stop substituted for word (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), <b>10(c)</b>
<b>F17</b>	Sch. 1 para. 4A(2)(c) omitted (28.1.2021) by virtue of The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), <b>10(d)</b>
<b>F18</b>	Word in Sch. 1 para. 4A(3)(b) inserted (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), <b>10(e)</b>
<b>F19</b>	Sch. 1 para. 4A(3)(c): full stop substituted for word (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), <b>10(f)</b>
<b>F20</b>	Sch. 1 para. 4A(3)(d) omitted (28.1.2021) by virtue of The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), <b>10(g)</b>

- 5.—(1) A person—
  - (a) with leave to enter or remain;
  - (b) who is ordinarily resident in Wales on the relevant date; and



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(c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.

(2) A person—

(a) who is the spouse or civil partner of a person with leave to enter or remain;

[<sup>F21</sup>(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date;]

(c) who is ordinarily resident in Wales on the relevant date; and

(d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.

(3) A person—

(a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;

[<sup>F22</sup>(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;]

[<sup>F23</sup>(c) who was under 18 on the leave application date;]

(d) who is ordinarily resident in Wales on the relevant date; and

(e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.

[<sup>F24</sup>(4) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.]

**Textual Amendments**

**F21** Sch. 1 para. 5(2)(b) substituted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **45(b)(i)**

**F22** Sch. 1 para. 5(3)(b) substituted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **45(b)(ii)**

**F23** Sch. 1 para. 5(3)(c) substituted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **45(b)(iii)**

**F24** Sch. 1 para. 5(4) inserted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **45(b)(iv)**

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 5.12.2014, see **reg. 1**

[<sup>F25</sup>**Persons with section 67 leave to remain**

**5A.**—(1) A person who—

(a) is a person with section 67 leave to remain; [<sup>F26</sup>and]

(b) is ordinarily resident in Wales on the first day of the first academic year of the course[<sup>F27</sup>.]

[<sup>F28</sup>(c) . . . . .]

(2) A person who—

(a) is the child of a person with section 67 leave to remain;

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(b) on the leave application date was under 18 years old and was the child of the person with section 67 leave to remain; [<sup>F29</sup>and]

(c) is ordinarily resident in Wales on the first day of the first academic year of the course[<sup>F30</sup>.]

<sup>F31</sup>(d) . . . . .

(3) In this paragraph—

“leave application date” means the date on which the person with section 67 leave to remain made the application that led to that person being granted leave to remain in the United Kingdom.]

**Textual Amendments**

- F25** Sch. 1 para. 5A inserted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2019 (S.I. 2019/235), regs. 1(3)(a), **10**
- F26** Word in Sch. 1 para. 5A(1)(a) inserted (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), **11(a)**
- F27** Sch. 1 para. 5A(1)(b): full stop substituted for word (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), **11(b)**
- F28** Sch. 1 para. 5A(1)(c) omitted (28.1.2021) by virtue of The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), **11(c)**
- F29** Word in Sch. 1 para. 5A(2)(b) inserted (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), **11(d)**
- F30** Sch. 1 para. 5A(2)(c): full stop substituted for word (28.1.2021) by The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), **11(e)**
- F31** Sch. 1 para. 5A(2)(d) omitted (28.1.2021) by virtue of The Education (Student Fees, Awards and Support) (Ordinary Residence) (Wales) Regulations 2021 (S.I. 2021/9), regs. 1(2), **11(f)**

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

6.—(1) A person who—

(a) on the relevant date, 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 in sub-paragraph (iv) or (v);

(b) subject to sub-paragraph (2), is ordinarily resident in Wales on the relevant date;

(c) has been ordinarily resident in the territory comprising [<sup>F32</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland throughout the three-year period preceding the relevant 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).

**Textual Amendments**

- F32** Words in Sch. 1 para. 6(1)(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(b)**

**Status:** Point in time view as at 28/01/2021.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (European University Institute) (Wales) Regulations 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 5.12.2014, see **reg. 1**

7.—<sup>[F33]</sup>(1) A person who—

- (a) is ordinarily resident in Wales on the relevant date;
- (b) has been ordinarily resident in the territory comprising <sup>[F34]</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; 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 the freedom of movement for workers within the Union<sup>(4)</sup>, as extended by the EEA Agreement.

<sup>[F35]</sup>(2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.]

#### Textual Amendments

- F33** Sch. 1 para. 7 renumbered as Sch. 1 para. 7(1) (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(c)(i)**
- F34** Words in Sch. 1 para. 7(1)(b) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(c)(ii)**
- F35** Sch. 1 para. 7(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(c)(iii)**

#### Commencement Information

**I7** Sch. 1 para. 7 in force at 5.12.2014, see **reg. 1**

#### Textual Amendments

- F32** Words in Sch. 1 para. 6(1)(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(b)**
- F33** Sch. 1 para. 7 renumbered as Sch. 1 para. 7(1) (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(c)(i)**
- F34** Words in Sch. 1 para. 7(1)(b) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(c)(ii)**
- F35** Sch. 1 para. 7(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(c)(iii)**

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 5.12.2014, see **reg. 1**

**I7** Sch. 1 para. 7 in force at 5.12.2014, see **reg. 1**

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

8.—(1) A person who—

(4) OJ No L141, 27.05.2011, p. 1.

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- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence [<sup>F36</sup>before implementation period completion day];
- (c) is ordinarily resident in the United Kingdom on the relevant date;
- (d) has been ordinarily resident in the territory comprising [<sup>F37</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) in a case where the person's ordinary residence referred to in paragraph (b) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F38</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who [<sup>F39</sup>had the right] of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and [<sup>F40</sup>had the right] of permanent residence, if that person [<sup>F41</sup>has gone] to the state within the territory comprising the European Economic Area and Switzerland of which that person is a national or of which the person in relation to whom that person is a family member is a national.

[<sup>F42</sup>(3) For the purposes of this paragraph, a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.]

#### Textual Amendments

- F36** Words in Sch. 1 para. 8(1)(b) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(d)(i)**
- F37** Words in Sch. 1 para. 8(1)(d) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(d)(ii)**
- F38** Words in Sch. 1 para. 8(1)(e) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(d)(ii)**
- F39** Words in Sch. 1 para. 8(2) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(d)(iii)(aa)**
- F40** Words in Sch. 1 para. 8(2) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(d)(iii)(bb)**
- F41** Words in Sch. 1 para. 8(2) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(d)(iii)(cc)**
- F42** Sch. 1 para. 8(3) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(d)(iv)**

#### Commencement Information

- I8** Sch. 1 para. 8 in force at 5.12.2014, see **reg. 1**

## EU nationals

9.—(1) A person who—

<sup>F43</sup>(a) on the relevant date is—

- (i) an EU national;
  - (ii) a United Kingdom national who has exercised a right of residence; or
  - (iii) the family member of a person in sub-paragraph (i) or (ii);]
- (b) is ordinarily resident in Wales on the relevant date;
- (c) has been ordinarily resident in the territory comprising <sup>F44</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising <sup>F45</sup>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 who is treated as being ordinarily resident in the territory comprising <sup>F46</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland in accordance with paragraph 1(7).

(3) Where a state accedes to the European Union after the relevant 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 EU national on the relevant date is treated as being satisfied.

(4) For the purposes of this paragraph, a United Kingdom national has exercised a right of residence if that person <sup>F47</sup>resided in Gibraltar or] has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or the Swiss Agreement in a state other than the United Kingdom.

<sup>F48</sup>(5) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.]

### Textual Amendments

- F43** Sch. 1 para. 9(1)(a) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(i)**
- F44** Words in Sch. 1 para. 9(1)(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(ii)**
- F45** Words in Sch. 1 para. 9(1)(d) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(ii)**
- F46** Words in Sch. 1 para. 9(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(ii)**
- F47** Words in Sch. 1 para. 9(4) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(iii)**
- F48** Sch. 1 para. 9(5) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(iv)**

### Commencement Information

- I9** Sch. 1 para. 9 in force at 5.12.2014, see **reg. 1**

10. A person who—

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- (a) on the relevant date, is an EU national <sup>F49</sup> ...;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the relevant date; and
- (d) in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F50</sup>the United Kingdom, Gibraltar] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in sub-paragraph (c).

#### Textual Amendments

- F49** Words in Sch. 1 para. 10(a) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(f)(i)**
- F50** Words in Sch. 1 para. 10(d) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(f)(ii)**

#### Commencement Information

- I10** Sch. 1 para. 10 in force at 5.12.2014, see **reg. 1**

#### Textual Amendments

- F43** Sch. 1 para. 9(1)(a) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(i)**
- F44** Words in Sch. 1 para. 9(1)(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(ii)**
- F45** Words in Sch. 1 para. 9(1)(d) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(ii)**
- F46** Words in Sch. 1 para. 9(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(ii)**
- F47** Words in Sch. 1 para. 9(4) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(iii)**
- F48** Sch. 1 para. 9(5) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(e)(iv)**
- F49** Words in Sch. 1 para. 10(a) omitted (31.12.2020) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(f)(i)**
- F50** Words in Sch. 1 para. 10(d) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(f)(ii)**

#### Commencement Information

- I9** Sch. 1 para. 9 in force at 5.12.2014, see **reg. 1**
- I10** Sch. 1 para. 10 in force at 5.12.2014, see **reg. 1**

### Children of Swiss nationals

<sup>F51</sup>11.—(1) A person who—

- (a) on the relevant date, is the child of a Swiss national who is entitled to support from the Secretary of State by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the relevant date;

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- (c) 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 first academic year of the course; and
  - (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).
- (2) Any description of person who would have been eligible under this paragraph immediately before implementation period completion day is to be eligible on and after implementation period completion day.]

#### Textual Amendments

**F51** Sch. 1 para. 11 substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(g)**

### Children of Turkish workers

12. A person who—

- (a) on the relevant date, was the child of a Turkish worker;
- (b) is ordinarily resident in Wales on the relevant date; and
- (c) has been ordinarily resident in the territory comprising [<sup>F52</sup>the United Kingdom, Gibraltar,] the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

#### Textual Amendments

**F52** Words in Sch. 1 para. 12(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **7(3)(h)**

#### Commencement Information

**I11** Sch. 1 para. 12 in force at 5.12.2014, see **reg. 1**

**Status:**

Point in time view as at 28/01/2021.

**Changes to legislation:**

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