

## SCHEDULE 1

Regulations 3 and 8

### ELIGIBLE STUDENTS

## PART 1

### Interpretation

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

<sup>F1</sup>  
...

“EEA frontier self-employed person” (“*person hunangyflogedig trawsffiniol AEE*”) means an EEA national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or the territory of an EEA state <sup>F2</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;

“EEA frontier worker” (“*gweithiwr trawsffiniol AEE*”) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or the territory of an EEA state <sup>F2</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;

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

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

“EEA self-employed person” (“*person hunangyflogedig 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;

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

“family member” (“*aelod o deulu*”) means (unless otherwise indicated)—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person <sup>F3</sup>, an EEA self-employed person or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 7A(3)]—
  - (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 of the person's spouse or civil partner; or
  - (iii) dependent direct relatives in the ascending line of the person 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—

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- (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;
- (c) in relation to an EU national who falls within Article 7(1)(c) of Directive 2004/38 [<sup>F4</sup>or, for the purposes of paragraph 10A, in relation to a relevant person of Northern Ireland who would fall within Article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national]—
  - (i) 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 [<sup>F5</sup>or, for the purposes of paragraph 10A, in relation to a relevant person of Northern Ireland who would fall within Article 7(1)(b) of Directive 2004/38 if that person were an EU national or solely an EU national]—
  - (i) the national's spouse or civil partner;
  - (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; or
    - (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 [<sup>F6</sup>paragraphs 10, 10B, 10C and 10D]—
  - (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;

F1 ...

F1 ...

“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  
M1,

“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 <sup>M2</sup> and which came into force on 1 June 2002;

F1 ...

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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 trawsffiniol Swisaidd*”) 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>F2</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;

“Swiss frontier self-employed person” (“*person hunangyflogedig trawsffiniol Swisaidd*”) 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>F2</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;

“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;

[<sup>F7</sup>“United Kingdom national” (“*gwladolyn o'r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement;]

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

[<sup>F8</sup>(1A) 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.]

(2) 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.

(3) For the purposes of this Schedule, a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the designated course; or
- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the designated course,

is to be considered to be ordinarily resident in the place from which the person moved.

(4) 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 [<sup>F9</sup>, the territory comprising the United Kingdom, Islands and the Republic of Ireland] or in the territory comprising [<sup>F10</sup>the 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) where A is a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,

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is or was temporarily employed outside Wales, the United Kingdom and Islands [<sup>F9</sup>, the territory comprising the United Kingdom, Islands and the Republic of Ireland] or the territory comprising [<sup>F10</sup>the United Kingdom, Gibraltar,] the European Economic Area, Switzerland and Turkey.

(5) For the purposes of sub-paragraph (4), temporary employment outside Wales, the United Kingdom and Islands [<sup>F11</sup>, the territory comprising the United Kingdom, Islands and the Republic of Ireland] or the territory comprising [<sup>F12</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; <sup>F13</sup> ...

[<sup>F14</sup>(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces;]

(b) in the case of members of the regular armed forces of an EEA state or Switzerland, any period which they serve outside the territory comprising [<sup>F12</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>F12</sup>the United Kingdom, Gibraltar,] the European Economic Area, Switzerland and Turkey as members of such forces.

(6) For the purposes of this Schedule an area [<sup>F15</sup>other than the United Kingdom or Gibraltar] which—

(a) was previously not part of the EU or the European Economic Area; but

(b) at any time before or after these Regulations come into force has become part of one or other or both of these areas,

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

(7) For the purposes of this Schedule an eligible prisoner is to be considered ordinarily resident in the part of the United Kingdom where the prisoner resided prior to sentencing.

#### Textual Amendments

- F1** Words in Sch. 1 para. 1(1) omitted (25.4.2021) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(a)(i)** (with reg. 2)
- 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), **37(2)(a)(i)**
- F3** Words in Sch. 1 para. 1(1) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(a)(ii)(aa)** (with reg. 2)
- F4** Words in Sch. 1 para. 1(1) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(a)(ii)(bb)** (with reg. 2)
- F5** Words in Sch. 1 para. 1(1) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(a)(ii)(cc)** (with reg. 2)
- F6** Words in Sch. 1 para. 1(1) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(a)(ii)(dd)** (with reg. 2)
- F7** Words in Sch. 1 para. 1(1) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(a)(iii)** (with reg. 2)

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- F8** Sch. 1 para. 1(1A) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(b)** (with reg. 2)
- F9** Words in Sch. 1 para. 1(4) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(c)** (with reg. 2)
- F10** Words in Sch. 1 para. 1(4) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(2)(b)**
- F11** Words in Sch. 1 para. 1(5) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(d)(i)** (with reg. 2)
- F12** Words in Sch. 1 para. 1(5) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(2)(b)**
- F13** Word in Sch. 1 para. 1(5) omitted (25.4.2021) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(d)(ii)(aa)** (with reg. 2)
- F14** Sch. 1 para. 1(5)(aa) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **157(d)(ii)(bb)** (with reg. 2)
- F15** Words in Sch. 1 para. 1(6) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(2)(c)**

#### Marginal Citations

- M1** 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).
- M2** Cm. 4904 and OJ No L114, 30.04.02, p. 6.

## PART 2

### Categories

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

2.—(1) A person who on the first day of the first academic year of the course—

[<sup>F16</sup>(a) is settled in the United Kingdom and does not fall within paragraph 3;]

(b) is ordinarily resident in Wales;

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

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

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

#### Textual Amendments

- F16** Sch. 1 para. 2(1)(a) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **158** (with reg. 2)

[<sup>F17</sup>2A.—(1) A person—

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- (a) who is settled in the United Kingdom [<sup>F18</sup>on the day on which the first term of the first academic year actually begins] and does not fall within paragraph 3;
  - (b) who is attending or undertaking a designated course in Wales;
  - (c) who has been ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course [<sup>F19</sup>and who 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, 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; [<sup>F20</sup>and]
    - [ who did not move to Wales from the Islands for the purpose of undertaking the designated <sup>F21</sup>(e) course, or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course.]
- (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, Islands and the Republic of Ireland in accordance with paragraph 1(4).]

#### Textual Amendments

- F17** Sch. 1 para. 2A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **159** (with reg. 2)
- F18** Words in Sch. 1 para. 2A(1)(a) substituted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(a)(i)**
- F19** Words in Sch. 1 para. 2A(1)(c) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(a)(ii)**
- F20** Word in Sch. 1 para. 2A(1)(d) moved (31.12.2021) by virtue of The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(a)(ii)**
- F21** Sch. 1 para. 2A(1)(e) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(a)(iii)**

3.—<sup>F22</sup>(1)] A person who—

<sup>F23</sup>(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;

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- (bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens' Rights Regulations; and
- (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the grace period;
- (iv) the person—
  - (aa) is within the personal scope of the citizens' rights provisions;
  - (bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations [<sup>F24</sup>or otherwise has rights deemed to apply by virtue of any of the citizens' rights 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, as those Regulations continue to have effect by virtue of the 2020 Citizens' Rights Regulations in relation to that person during the relevant period [<sup>F25</sup>or otherwise has a deemed right of permanent residence by virtue of any of the citizens' rights provisions specified in sub-paragraph (3)] ; or
- (v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;]
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where 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>F26</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in sub-paragraph (c).

[<sup>F27</sup>(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.]

[<sup>F28</sup>(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens' rights provisions referred to are—

- (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(3) (issuance of residence documents) of the Swiss citizens' rights agreement.]

#### Textual Amendments

**F22** Sch. 1 para. 3 renumbered as Sch. 1 para. 3(1) (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **160(a)** (with reg. 2)

**F23** Sch. 1 para. 3(1)(a) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **160(b)** (with reg. 2)

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- F24** Words in Sch. 1 para. 3(1)(a)(iv)(bb) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(b)(i)**
- F25** Words in Sch. 1 para. 3(1)(a)(iv)(cc) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(b)(ii)**
- F26** 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), **37(3)(a)(ii)**
- F27** Sch. 1 para. 3(2) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **160(c)** (with reg. 2)
- F28** Sch. 1 para. 3(3) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(b)(iii)**

## Refugees and their family members

- 4.—(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 the person was recognised as a refugee; and
  - (c) 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 refugee;
  - (b) was the spouse or civil partner of the refugee on the date on which the refugee made the application for asylum;
  - (c) 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) is ordinarily resident in Wales on the first day of the first academic year of the 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 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) was under 18 on the date on which the refugee made the application for asylum;
  - (d) 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) is ordinarily resident in Wales on the first day of the first academic year of the course.

## [<sup>F29</sup>Protected persons and their family members

- 4A.—(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 being 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 a protected spouse or civil partner;



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- (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 (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
  - (d) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (3) A person who—
- (a) is a protected child;
  - (b) on the leave application date was—
    - (i) under 18 years old; and
    - (ii) was the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom;
  - (d) 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 (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person;
  - (b) “leave to enter or remain as a protected person” means—
    - (i) a person granted leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
    - (ii) a person granted stateless leave;
    - (iii) a person with section 67 leave to remain; or
    - (iv) a person with Calais leave;
  - (c) “protected child” means—
    - (i) a child of—
      - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
      - (ab) a person granted stateless leave; or
      - (ac) a person with section 67 leave to remain;
    - (ii) a child of the spouse or civil partner of—
      - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
      - (ab) a person granted stateless leave;
  - (d) “protected spouse or civil partner” means a spouse or civil partner of—
    - (i) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
    - (ii) a person granted stateless leave.]

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**  
**F29** Sch. 1 para. 4A substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **161** (with reg. 2)

**[<sup>F30</sup>Persons granted leave to remain as a protected partner and their children**

**4B.**—(1) A person—

- (a) granted leave to remain as a protected partner;
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being 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 child of a person granted leave to remain as a protected partner;
- (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.]

**Textual Amendments**  
**F30** Sch. 1 para. 4B inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **162** (with reg. 2)

**Persons granted stateless leave and their family members**

**<sup>F31</sup>5.** .....

**Textual Amendments**  
**F31** Sch. 1 para. 5 omitted (25.4.2021) by virtue of The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **163** (with reg. 2)

**Persons with leave to enter or remain and their family members**

**6.**—(1) A person—

- (a) with leave to enter or remain;
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(2) A person—

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) who is the spouse or civil partner of a person with leave to enter or remain;
  - [<sup>F32</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 first day of the first academic year of the course; and
  - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (3) A person—
- (a) who 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>F33</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>F34</sup>(c) who was under 18 on the leave application date;]
  - (d) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
  - (e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

[<sup>F35</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

- F32** Sch. 1 para. 6(2)(b) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **56(a)**
- F33** Sch. 1 para. 6(3)(b) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **56(b)**
- F34** Sch. 1 para. 6(3)(c) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **56(c)**
- F35** Sch. 1 para. 6(4) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **56(d)**

#### Persons with section 67 leave to remain

<sup>F36</sup>**6A.** . . . . .

#### Textual Amendments

- F36** Sch. 1 para. 6A omitted (25.4.2021) by virtue of [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **163** (with reg. 2)

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

- 7.—(1) A person who—
- (a) is—
    - (i) an EEA migrant worker or an EEA self-employed person;

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 Wales on the first day of the first academic year of the course; and
- (c) 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 first day of the first academic year of the course.

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

#### Textual Amendments

**F37** Words in Sch. 1 para. 7(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), **37(3)(b)**

[<sup>F38</sup>7A.—(1) A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020, who—

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

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

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

#### Textual Amendments

**F38** Sch. 1 para. 7A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **164** (with reg. 2)

**8.**—[<sup>F39</sup>(1)] A person who—

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;
  - (b) has been ordinarily resident in the territory comprising [<sup>F40</sup>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
  - (c) is entitled to support by virtue of [<sup>F41</sup>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;]
  - [<sup>F42</sup>(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.]
- [<sup>F43</sup>(2) Any description of person who would have been eligible under this paragraph immediately before [<sup>F44</sup>IP] completion day is to be eligible on and after [<sup>F44</sup>IP] completion day.]

#### Textual Amendments

- F39** Sch. 1 para. 8(a)(b)(c) renumbered as Sch. 1 para. 8(1)(a)(b)(c) (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(c)(i)**
- F40** 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), **37(3)(c)(ii)**
- F41** Words in Sch. 1 para. 8(1)(c) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **165(a)(i)** (with reg. 2)
- F42** Sch. 1 para. 8(1)(d) inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **165(a)(ii)** (with reg. 2)
- F43** Sch. 1 para. 8(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(c)(iii)**
- F44** Word in Sch. 1 para. 8(2) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **165(b)** (with reg. 2)

- [<sup>F45</sup>8A.—(1) A person with protected rights who—
- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;
  - (b) 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
  - (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 of workers within the Union (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.
- (2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—
- (a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and
  - (b) the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.]

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

- F45** Sch. 1 para. 8A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **166** (with reg. 2)

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

9.—(1) A person who—

- (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>F46</sup>before [<sup>F47</sup>IP completion day];
- (c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising [<sup>F48</sup>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
- (e) in a case where the person's ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full time education, was ordinarily resident in the territory comprising [<sup>F49</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>F50</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>F50</sup>had the right] of permanent residence, if that person [<sup>F51</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>F52</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

- F46** Words in Sch. 1 para. 9(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), **37(3)(d)(i)**
- F47** Word in Sch. 1 para. 9(1)(b) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **167** (with reg. 2)
- F48** 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), **37(3)(d)(ii)**
- F49** Words in Sch. 1 para. 9(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), **37(3)(d)(ii)**

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F50** Words in Sch. 1 para. 9(2) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(d)(iii)(aa)**
- F51** Words in Sch. 1 para. 9(2) substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(d)(iii)(bb)**
- F52** Sch. 1 para. 9(3) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(d)(iv)**

[<sup>F53</sup>**9A.**—(1) A person who—

- (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 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;  
or
  - (ii) in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, 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 first academic year of the course;
- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) has been ordinarily resident in the territory comprising the United Kingdom, 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
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) 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 (e).

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

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

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

**F53** Sch. 1 para. 9A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **168** (with reg. 2)

### EU nationals [<sup>F54</sup>etc.]

**10.**—(1) A person—

[<sup>F55</sup>(a) who, on the first day of the first academic year of the course, 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) who is attending or undertaking a designated course in Wales;

(c) who has been ordinarily resident in the territory comprising [<sup>F56</sup>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) subject to sub-paragraph (2), whose ordinary residence in the territory comprising [<sup>F57</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>F58</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland in accordance with paragraph 1(4).

(3) Where a state accedes to the EU after the first day of the first academic year of the course 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 first day of the first academic year of the course 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>F59</sup>has resided in Gibraltar or] 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.

[<sup>F60</sup>(5) Any description of person who would have been eligible under this paragraph immediately before [<sup>F61</sup>IP] completion day is to be eligible on and after [<sup>F61</sup>IP] completion day.]

### Textual Amendments

**F54** Word in Sch. 1 para. 10 heading inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **169(a)** (with reg. 2)

**F55** Sch. 1 para. 10(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), **37(3)(e)(i)**

**F56** Words in Sch. 1 para. 10(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), **37(3)(e)(ii)**

**F57** Words in Sch. 1 para. 10(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), **37(3)(e)(ii)**

**F58** Words in Sch. 1 para. 10(2) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(e)(ii)**



**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F59** Words in Sch. 1 para. 10(4) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(e)(iii)**
- F60** Sch. 1 para. 10(5) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(e)(iv)**
- F61** Word in Sch. 1 para. 10(5) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **169(b)** (with reg. 2)

**[<sup>F62</sup>10A.—**(1) A person with protected rights—

- (a) who is—
- (i) an EU national on the first day of the first academic year of the course;
  - (ii) a family member of a person mentioned in sub-paragraph (i); or
  - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is attending or undertaking a designated course in Wales;
- (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 first academic year of the 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 who is treated as being ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(4).

#### Textual Amendments

- F62** Sch. 1 paras. 10A-10D inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **170** (with reg. 2)

#### United Kingdom nationals

**10B.—**(1) A person—

- (a) who is—
- (i) a United Kingdom national on the first day of the first academic year of the course; or
  - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who 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 31 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 first academic year of the course;

- (c) who is attending or undertaking a designated course in Wales;

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- (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 of the first academic year of the course; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, 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 paragraph 1(4).

(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 sub-paragraph (1)(b) and (d).

#### Textual Amendments

**F62** Sch. 1 paras. 10A-10D inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **170** (with reg. 2)

**F63** **10BA.**—(1) A person—

- (a) who is an Irish citizen on the first day of the first academic year;
- (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 31 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 first academic year of the course;
- (c) who is undertaking a designated course in Wales;
- (d) 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
- (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 paragraph 1(4).]

#### Textual Amendments

**F62** Sch. 1 paras. 10A-10D inserted (25.4.2021) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/481\)](#), regs. 1(2), **170** (with reg. 2)

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F63** Sch. 1 para. 10BA inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **48**

**10C.—(1)** A person—

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is attending or undertaking a designated course in Wales;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course;
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education [<sup>F64</sup>and]

[ who did not move to Wales from the Islands for the purpose of undertaking the designated <sup>F65</sup>(e) course, or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated 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 and Islands in accordance with paragraph 1(4).

#### Textual Amendments

- F62** Sch. 1 paras. 10A-10D inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **170** (with reg. 2)
- F64** Word in Sch. 1 para. 10C(1)(d) moved (31.12.2021) by virtue of The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(c)**
- F65** Sch. 1 para. 10C(1)(e) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(c)**

#### Textual Amendments

- F62** Sch. 1 paras. 10A-10D inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **170** (with reg. 2)
- F63** Sch. 1 para. 10BA inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **48**
- F64** Word in Sch. 1 para. 10C(1)(d) moved (31.12.2021) by virtue of The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(c)**
- F65** Sch. 1 para. 10C(1)(e) inserted (31.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021 (S.I. 2021/1365), regs. 1(2), **46(c)**

#### Persons resident in Gibraltar

**10D.—(1)** A person—

- (a) who is—
  - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
  - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;

**Status:** Point in time view as at 31/12/2021.

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- (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
- (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is attending or undertaking a designated course in Wales;
- (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 first academic year of the course;
- (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 [and]

(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, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(4).]

#### Textual Amendments

**F62** Sch. 1 paras. 10A-10D inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **170** (with reg. 2)

#### [<sup>F66</sup>EU nationals ordinarily resident in the United Kingdom and Islands]

11.—(1) A person who—

- (a) is an EU national <sup>F67</sup>... on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F68</sup>the United Kingdom, Gibraltar,] 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 EU after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EU national <sup>F69</sup>... on the first day of the first academic year of the course is treated as being satisfied.

#### Textual Amendments

**F66** Sch. 1 para. 11 heading inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **171** (with reg. 2)

**F67** Words in Sch. 1 para. 11(1)(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), **37(3)(f)(i)**

**F68** Words in Sch. 1 para. 11(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), **37(3)(f)(ii)**

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F69** Words in Sch. 1 para. 11(2) 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), **37(3)(f)(iii)**

[<sup>F70</sup>**11A.** A person with protected rights who—

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

#### Textual Amendments

**F70** Sch. 1 para. 11A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **172** (with reg. 2)

#### Children of Swiss nationals

[<sup>F71</sup>**12.**—(1) A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (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;
- (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 [<sup>F72</sup>IP] completion day is to be eligible on and after [<sup>F72</sup>IP] completion day.]

#### Textual Amendments

**F71** Sch. 1 para. 12 substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(g)**

**F72** Word in Sch. 1 para. 12(2) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **173** (with reg. 2)

[<sup>F73</sup>**12A.** 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;

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (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 sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).]

#### Textual Amendments

**F73** Sch. 1 para. 12A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **174** (with reg. 2)

#### Textual Amendments

**F71** Sch. 1 para. 12 substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(g)**

**F72** Word in Sch. 1 para. 12(2) substituted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **173** (with reg. 2)

**F73** Sch. 1 para. 12A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **174** (with reg. 2)

### Children of Turkish workers

**13.** A person who—

- (a) is the child of a Turkish worker;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising [<sup>F74</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

**F74** Words in Sch. 1 para. 13(c) inserted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **37(3)(h)**

[<sup>F75</sup>**13A.** A person who—

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
  - (i) was the child of T; and
  - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course; and

**Status:** Point in time view as at 31/12/2021.

**Changes to legislation:** The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) has been ordinarily resident in the territory comprising 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

**F75** Sch. 1 para. 13A inserted (25.4.2021) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021 (S.I. 2021/481), regs. 1(2), **175** (with reg. 2)

## SCHEDULE 2

Regulations 16 and 19

### INFORMATION

1. Every applicant and eligible student must, as soon as reasonably practicable after being requested to do so, provide the Welsh Ministers with such information as the Welsh Ministers consider the Welsh Ministers require for the purposes of these Regulations.
2. Every applicant and eligible student must forthwith notify the Welsh Ministers and provide the Welsh Ministers with particulars if any of the following occurs—
  - (a) the applicant or student withdraws from, is suspended, abandons or is expelled from their course;
  - (b) the applicant or student transfers to any other course at the same or at a different institution;
  - (c) the applicant or student is absent from the course;
  - (d) the month for the start or completion of the course changes;
  - (e) the applicant or student's home or term-time address or telephone number changes;
  - (f) the applicant or student becomes, or ceases to be, a prisoner or eligible prisoner.
3. Information provided to the Welsh Ministers under these Regulations must be in the format that the Welsh Ministers require and, if they require the information to be signed by the person providing it, an electronic signature in such form as the Welsh Ministers may specify satisfies such a requirement.

**Status:**

Point in time view as at 31/12/2021.

**Changes to legislation:**

The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.