SCHEDULE 2

ORDINARY RESIDENCE

1.—(1) For the purposes of paragraph 1(a) and paragraph 8(b) of Schedule 1 a person shall be treated as being ordinarily resident in the United Kingdom and Islands on the qualifying date if the Scottish Ministers are satisfied that that person was not so resident only because that person, or their spouse or civil partner, or either of their parents was for the time being–

(a) employed outside the United Kingdom and Islands; or

(b) attending a course of study or undertaking postgraduate research outside the United Kingdom and Islands.

(2) For the purposes of paragraph 1(a) of Schedule 1 and subject to sub paragraph (3), a person shall not be treated as being ordinarily resident in the United Kingdom and Islands on the qualifying date if the Scottish Ministers are satisfied that their residence there on that date is in any sense attributable to, or connected with, any period of residence in the United Kingdom and Islands within 3 years immediately preceding the qualifying date as respects any part of which its purpose was wholly or mainly that of receiving full time education.

(3) Sub paragraph (2) shall not apply to a person who has acquired settled status in the United Kingdom under the Immigration Act 1971 as a result of residence for full time education which has led to a right of permanent residence arising under Directive 2004/38.