

SCHEDULE 1
ELIGIBLE STUDENTS

PART 1

Interpretation

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

“EEA frontier self-employed person” means an EEA national who—

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

“EEA frontier worker” means an EEA national who—

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

“EEA migrant worker” means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” means a national of an EEA State other than the United Kingdom;

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

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

“European Economic Area” means the area comprised by the EEA States;

unless otherwise indicated, “family member” 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) that person’s spouse or civil partner;
 - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—
 - (aa) under the age of 21, or
 - (bb) dependants of the person or the person’s spouse or civil partner; or
 - (iii) dependent direct relatives in the ascending line of that person or that 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) that person’s spouse or civil partner; or
 - (ii) that person’s child or the child of that person’s spouse or civil partner;
- (c) in relation to an EU national who falls within article 7(1)(c) of Directive 2004/38—
 - (i) that person’s spouse or civil partner; or
 - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—

Status: This is the original version (as it was originally made).

- (aa) under the age of 21; or
- (bb) dependants of the person or the person's spouse or civil partner;
- (d) in relation to an EU national who falls within article 7(1)(b) of Directive 2004/38—
 - (i) that person's spouse or civil partner;
 - (ii) direct descendants of the person or of the person's spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the person or the person's spouse or civil partner; or
 - (iii) dependent direct relatives in the person's ascending line or that of the person's spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 10—
 - (i) the person's spouse or civil partner; or
 - (ii) direct descendants of the person or 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;

“self-employed person” means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; 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” has the meaning given by section 33(2A) of the Immigration Act 1971⁽¹⁾ ;

“Swiss Agreement” means the Agreement between the EU and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999⁽²⁾ and which came into force on 1st June 2002;

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

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

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

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

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

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

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

(2) For the purposes of this Schedule, “parent” means a parent, guardian or any other person having parental responsibility and “child” is to be construed accordingly.

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

(2) Cm. 4904.

(3) For the purposes of this Schedule, a person is not to be treated as ordinarily resident in a place unless that person lawfully resides in that place.

(4) For the purposes of this Schedule, a person who is ordinarily resident in England, Wales, 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 person undertook immediately before undertaking the designated course,

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

(5) For the purposes of this Schedule, a person (“A”) is to be treated as ordinarily resident in England, the United Kingdom and Islands, the territory comprising the European Economic Area and Switzerland or the territory comprising 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; or
- (c) 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.

(6) For the purposes of sub-paragraph (5), temporary employment outside of England, the United Kingdom and Islands, the territory comprising the European Economic Area and Switzerland or the territory comprising 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; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside of the territory comprising 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 the European Economic Area, Switzerland and Turkey as members of such forces.

(7) For the purposes of this Schedule an area 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.

(8) 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.