
STATUTORY INSTRUMENTS

2021 No. 127

The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021

PART 3

Amendment of the Education (Fees and Awards) (England) Regulations 2007

Amendment of the Education (Fees and Awards) (England) Regulations 2007

26. The Education (Fees and Awards) (England) Regulations 2007⁽¹⁾ are amended as follows.

Amendment of regulation 2

27. In regulation 2⁽²⁾ (interpretation)—

(a) after the definition of “post-compulsory education award”, insert—

““specified British overseas territories” means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan da Cunha); and Turks and Caicos Islands;”;

(b) in paragraph (4)—

(i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after “overseas territories”, the first time it appears, insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”;

(c) in paragraph (5), after sub-paragraph (a), insert—

“(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, the Islands and the Republic of Ireland as members of such forces;”;

(d) in paragraph (6)—

(i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after “overseas territories”, insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”;

(e) omit paragraph (8).

⁽¹⁾ S.I. 2007/779, amended by S.I. 2007/2263, 2010/1172, 1941, 2011/87, 1043, 1987, 2012/765, 956, 1653, 2015/971, 2016/584, 2017/114, 2018/137, 1141, 2019/142, 1027, 2020/48, 1183, 1203.

⁽²⁾ Paragraphs (4), (5) and (6) were amended by S.I. 2020/1181. Paragraph (8) was inserted by S.I. 2007/2263.

Amendment of regulation 4

28. In regulation 4(3) (fee charging)—

(a) for paragraph (1) substitute—

“(1) Subject to paragraph (1B), it shall be lawful for the institutions mentioned in paragraph (3) to charge higher fees in the case of a person who does not fall within any of—

(a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or

(b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (1A) applies, than in the case of a person who does fall within any of those paragraphs.

(1A) This paragraph applies where—

(a) in connection with a course beginning before 1st August 2021, a person (“A”) fell within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; and

(b) A is liable for fees in connection with—

(i) that course; or

(ii) a course provided by an institution mentioned in paragraph (3) to which A transfers from that course.

(1B) In relation to a course beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.”;

(b) in paragraph (2), after “within”, insert “a paragraph of”.

Amendment of regulation 5

29. In regulation 5(1)(4) (awards by local authorities)—

(a) in paragraph (1)—

(i) at the beginning, insert “Subject to paragraph (2),”;

(ii) for sub-paragraphs (b) and (c) substitute—

“(b) confine eligibility in the case of fees awards to those persons who fall within any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or

(c) confine eligibility in the case of maintenance awards to those persons who fall within any of paragraphs 2, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9B, 10A, 11A, 12A and 13 of Schedule 1.”;

(b) after paragraph (1), insert—

“(2) In relation to a course beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraphs (b) and (c), in each case, did not mention paragraphs 8A and 9B of Schedule 1.”.

Amendment of regulation 6

30. In regulation 6(5) (awards by research councils, UKRI and others)—

(a) in paragraph (1)—

(3) Regulation 4 was amended by [S.I. 2012/765](#) and [2019/1027](#).

(4) Regulation 5 was amended by [S.I. 2010/1172](#).

(5) Regulation 6 was amended by [S.I. 2019/1027](#).

- (i) at the beginning, insert “Subject to paragraph (1C),”
- (ii) for sub-paragraphs (b) and (c) substitute—
 - “(b) confine eligibility in the case of fees awards in connection with courses of education or training or the undertaking of research to those persons who fall within any of—
 - (i) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
 - (ii) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (1A) applies; or
 - (c) confine eligibility in the case of maintenance awards in connection with courses of education or training or the undertaking of research to those persons who fall within any of—
 - (i) paragraphs 2, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9B, 10A, 11A, 12A and 13 of Schedule 1; or
 - (ii) paragraphs 6, 7, 8, 10, 11 and 12 of Schedule 1, where paragraph (1B) applies.”;
- (iii) after paragraph (1), insert—
 - “(1A) This paragraph applies where—
 - (a) in connection with courses of education or training, or the undertaking of research, beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year of that course or research beginning before 1st August 2021; and
 - (b) A’s eligibility for an award is being assessed in relation to that course or research.
 - (1B) This paragraph applies where—
 - (a) in connection with courses of education or training, or the undertaking of research, beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 10, 11 and 12 of Schedule 1, in relation to an academic year of that course or research beginning before 1st August 2021; and
 - (b) A’s eligibility for an award is being assessed in relation to that course or research.
 - (1C) In relation to a course of education or training or the undertaking of research beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraphs (b) and (c), in each case, did not mention paragraphs 8A and 9B of Schedule 1.”;
- (b) in sub-paragraph (3), for “paragraph 9”, insert “paragraph 2A, paragraph 9, paragraph 9A, paragraph 9B, paragraph 9C, paragraph 9D or paragraph 9E”.

Amendment of regulation 7

31. In regulation 7 (headed “payments by the Training and Development Agency for Schools”, but now relating to payments by the Secretary of State)(6)—

- (a) in paragraphs (1) and (2), in each case—
 - (i) at the beginning, insert “Subject to paragraph (3),”;

- (ii) after the words “who fall within”, insert “any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of”;
- (b) after paragraph (2), insert—
 - “(3) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, they did not mention paragraphs 8A and 9B of Schedule 1.”.

Amendment of regulation 8

- 32.** In regulation 8(7) (payments by the OfS)—
 - (a) in paragraphs (1) and (2), in each case—
 - (i) at the beginning, insert “Subject to paragraph (4),”;
 - (ii) for “within Schedule 1” substitute—
 - “within any of—
 - (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
 - (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.”;
 - (b) after paragraph (2), insert—
 - “(3) This paragraph applies where—
 - (a) in connection with training beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year beginning before 1st August 2021; and
 - (b) A’s eligibility for an award is being assessed in relation to that training.
 - (4) In relation to training beginning on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.”.

Amendment of regulation 9

- 33.** In regulation 9(8) (payments by the Secretary of State)—
 - (a) in paragraphs (1) and (2), in each case—
 - (i) at the beginning, insert “Subject to paragraph (4),”;
 - (ii) for “within Schedule 1” substitute—
 - “within any of—
 - (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
 - (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.”;
 - (b) after paragraph (2), insert—
 - “(3) This paragraph applies where—

(7) Regulation 8 was amended by [S.I. 2019/1027](#).

(8) Regulation 9 was amended by [S.I. 2012/956](#), [2015/971](#).

- (a) a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year beginning before 1st August 2021; and
 - (b) A’s eligibility for a further award is being assessed in connection with that award.
- (4) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.”.

Amendment of regulation 9A

- 34.** In regulation 9A(9) (payments by a combined authority)—
- (a) in paragraphs (1) and (2), in each case—
 - (i) at the beginning, insert “Subject to paragraph (4),”
 - (ii) after the words “who fall within”, insert “any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of”;
 - (b) after paragraph (3), insert—

“(4) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, they did not mention paragraphs 8A and 9B of Schedule 1.”.

Amendment of Schedule 1

- 35.**—(1) Schedule 1 (eligible students)(10) is amended as follows.
- (2) In paragraph 1 (interpretation)(11)—
- (a) number the existing text as sub-paragraph (1);
 - (b) in sub-paragraph (1) as so numbered—
 - (i) before the definition of “Directive 2004/38”, insert—

““the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;
 - (ii) in the definition of “family member”—
 - (aa) in paragraph (a), for “or an EEA self-employed person” substitute “, 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 6A(3)”;
 - (bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, 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”;
 - (cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, 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”;

(9) Regulation 9A was amended by [S.I. 2018/1141](#).

(10) Schedule 1 was amended by [S.I. 2007/2263](#), [2011/87](#), [1043](#), [1987](#), [2016/584](#), [2017/114](#), [2018/137](#), [2019/142](#), [2020/48](#), [1181](#), [1203](#).

(11) Paragraph 1 was amended by [S.I. 2011/87](#), [2011/1043](#), [2018/137](#).

- (dd) in paragraph (e), for “paragraph 9” substitute “, paragraphs 9, 9B, 9C, 9D and 9E”;
- (iii) after the definition of “family member”, insert—
 ““grace period” has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
- (iv) after the definition of “person granted stateless leave”, insert—
 ““person with protected rights” means—
 (a) a person within the personal scope of the citizens’ rights provisions who—
 (i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;
 (ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom;
 (iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended; or
 (iv) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations where the relevant period has not expired; or
 (b) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;”;
- (v) after the definition of “refugee”, insert—
 ““relevant period” has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;
 “relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;”;
- (vi) omit the definition of “right of permanent residence”;
- (vii) after the definition of “Swiss self-employed person”, insert—
 ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (c) after paragraph (1), insert—
 “(2) 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.
 (3) For the purposes of this Schedule, a person is within the personal scope of the citizens’ rights provisions if that person falls within—
 (a) Article 10 (personal scope) of the EU withdrawal agreement;
 (b) Article 9 (personal scope) of the EEA EFTA separation agreement; or
 (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”.
- (3) In paragraph 2(1)(a)(12) (persons who are settled in the United Kingdom), for subparagraph (i) substitute—
 “(i) is settled in the United Kingdom and does not fall within paragraph 3;”.

(4) After paragraph 2, insert—

“**2A.**—(1) A person—

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within paragraph 3;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland 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, the 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.

(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, the Islands and the Republic of Ireland in accordance with regulation 2(4).”

(5) In paragraph 3(**13**)—

(a) number the existing text as sub-paragraph (1);

(b) for sub-paragraph (1)(a) as so numbered substitute—

“(a) meets one of the following conditions on the first day of an academic year of the course—

(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;

(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; 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; 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;”;
- (c) after sub-paragraph (1), insert—
- “(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 (as defined in section 33(1) of the Immigration Act 1971).”.
- (6) After paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—

“**6A.**—(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 the United Kingdom 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, the European Economic Area, Switzerland and the overseas territories 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.”.

- (7) After paragraph 7, insert—

“**7A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
 - (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 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.
- (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.”.
- (8) After paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), insert—

“8A.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence before IP completion day after having been settled in the United Kingdom;
- (c) was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area, Switzerland and the overseas territories; or
 - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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, the European Economic Area, Switzerland and the overseas territories 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 purposes 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.”

(9) In the heading to paragraph 9 (EU nationals), at the end, insert “etc.”.

(10) After paragraph 9, insert—

“**9A.**—(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 undertaking the course in the United Kingdom;

(c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 (c) of sub-paragraph (1) does not apply to a family member of a person who—

(a) is an EU national or a relevant person of Northern Ireland; and

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) 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, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

United Kingdom nationals

9B.—(1) A person—

(a) who is—

(i) a United Kingdom national on the first day of an 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, Switzerland and the EU overseas territories; or
- (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories 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 the course in the United Kingdom;
- (d) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) 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, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

(4) 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).

(5) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.

9C.—(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 is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the specified British overseas territories for at least part of the three year period preceding the first day of the first academic year of the course;

- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories in accordance with regulation 2(4).

9D.—(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 undertaking the course in the United Kingdom;
- (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; and
- (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.

(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 regulation 2(4).

Persons resident in Gibraltar

9E.—(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;
 - (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 undertaking the course in the United Kingdom;
- (c) who, subject to paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is an EU national or a relevant person of Northern Ireland; and

(b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(3) 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, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).”.

(11) Before paragraph 10, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”.

(12) After paragraph 10, insert—

“**10A.** 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 the United Kingdom 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 the United Kingdom, the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in paragraph (c).”.

(13) After paragraph 11 (children of Swiss nationals), insert—

“**11A.** 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;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 prior to the period of ordinary residence referred to in paragraph (c).”.

(14) After paragraph 12 (children of Turkish workers), insert—

“**12A.** 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 the United Kingdom on the first day of the first academic year of the course; and

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- (d) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.”.