

## SCHEDULE 1

Regulation 42

### Schedule substituted for Schedule 1 to the Principal Regulations

“SCHEDULE 1 Regulations 3(3), 4(2), 10(2)(b), 10(2)(c), 18(2), 18(8)(b), 26(2)(f), 31(3), 38, 39(2)(b), 50(2)(a), 50(7), 50(14)(b), 55(3)(b), 62(3)(a), 62(7) and Schedule 4(4)(a)

### Eligible Students

## PART 1

### Interpretation

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

“Directive 2004/38” (“*Cyfarwyddeb 2004/38*”) means Directive [2004/38/EC](#) of the European Parliament and of the Council of 29th April 2004<sup>(1)</sup> on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EC national” (“*gwladolyn y GE*”) means a national of a Member State of the European Community;

“EEA Agreement” (“*Cytundeb yr AEE*”) means the Agreement on the European Economic Area signed at Oporto on 2 May 1992<sup>(2)</sup> as adjusted by the Protocol signed at Brussels on 17 March 1993<sup>(3)</sup>;

“EEA frontier self-employed person” (“*person hunan-gyflogedig*”) 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 other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

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

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

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

“EEA national” (“*gwaldolyn GE*”) means a national of an EEA State other than the United Kingdom;

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

“EEA State” (“*Gwladwriaeth AEE*”) means a Member State of the European Economic Area;

<sup>(1)</sup> OJ L158, 30.04.2004, p.77— 123.

<sup>(2)</sup> Cm. 2073.

<sup>(3)</sup> Cm. 2183.

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“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 European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

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

- (a) in relation an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
  - (i) his or her spouse or civil partner;
  - (ii) his or her child or the child of his or her spouse or civil partner; or
  - (iii) dependent direct relatives in his or her ascending line or that of his or her 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) his or her spouse or civil partner; or
  - (ii) his or her child or the child of his or her spouse or civil partner;
- (c) in relation to an EC national who is not self sufficient—
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;
- (d) in relation to an EC national who is self sufficient—
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;
  - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;

“person with leave to enter or remain” (“*person sydd â chaniatâd ganddo i ddod i mewn neu aros*”) means a person who—

- (a) has been informed by a person acting under the authority of the Secretary of the State for the Home Department that, although he or she is considered not to qualify for recognition as a refugee, it is thought right to allow him or her to enter or remain in the United Kingdom;
- (b) has been granted leave to enter or to remain accordingly; and
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he or she was granted leave to enter or remain;

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“right of permanent residence” (“*Hawl i breswyllo 'n barhaol*”) means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” (“*person hunan-gyflogedig*”) 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;

“self-sufficient” (“*hunangynhaliol*”) means self-sufficient within the meaning of Article 7(1)(b) of Directive 2004/38;

“settled” (“*wedi setlo*”) has the meaning given by section 33(2A) of the Immigration Act 1971(4);

“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(5) and which came into force on 1st June 2002;

“Swiss employed person” (“*person cyflogedig Swisaid*”) 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 Swisaid y ffin*”) means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her 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 hunan-gyflogedig Swisaid y ffin*”) means a Swiss national who—

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

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

“United Kingdom national” (“*gwladolyn y Deyrnas Unedig*”) means a person who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties;

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

(2) For the purposes of this Schedule, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” 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 present course; or

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

(5) Cm. 4904.

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

is to be considered to be ordinarily resident in the place from which he or she moved.

(4) For the purposes of this Schedule, a person is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or in the territory comprising the European Economic Area and Switzerland if he or she would have been so resident but for the fact that—

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

is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(5) For the purposes of sub-paragraph (4), temporary employment outside Wales, the United Kingdom and Islands or the territory comprising the European Economic Area and Switzerland 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 the territory comprising the European Economic Area and Switzerland as members of such forces.

(6) For the purposes of this Schedule an area which—

- (a) was previously not part of the European Community 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;

## **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—

- (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
- (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).

3. A person who—

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (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 his or her residence as 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 European Economic Area and Switzerland immediately before the period of ordinary residence as referred to in paragraph (c).

#### **Refugees and persons with leave to enter or remain**

- 4. A person who
  - (a) is either—
    - (i) a refugee ordinarily resident in the United Kingdom and Islands who has not ceased to be so resident since he or she was recognised as a refugee; or
    - (ii) the spouse, civil partner, child or step-child of a person mentioned in paragraph (i); and
  - (b) is ordinarily resident in Wales on the first day of the first academic year of the course.
- 5. A person who—
  - (a) is either—
    - (i) a person with leave to enter or remain; or
    - (ii) the spouse, civil partner, child or step-child of a person with leave to enter or remain;
  - (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 United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

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

- 6.—(1) A person 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 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 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 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).

- 7. A person who—

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- (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 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 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers<sup>(6)</sup>, as extended by the EEA Agreement.

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

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence after having been settled in the United Kingdom;
- (c) is ordinarily resident in Wales on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising 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 his or her 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 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 he or she 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 has a 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 has a right of permanent residence, if he or she goes to the state within the territory comprising the European Economic Area and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national.

**EC nationals**

9.—(1) A person who—

- (a) is either—
  - (i) an EC national on the first day of the first academic year of the course; or
  - (ii) a family member of a such a person;
- (b) is—
  - (i) attending a designated course in Wales; or
  - (ii) undertaking a designated part-time course or designated postgraduate course in Wales;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

<sup>(6)</sup> OJ No L257, 19.10.1968, p.2 (OJ/SE 1968 (II) p.475).

- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising 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 European Economic Area and Switzerland in accordance with paragraph 1(4).

(3) Where a state accedes to the European Community 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 EC national on the first day of the first academic year of the course is treated as being satisfied.

**10.**—(1) A person who—

- (a) is an EC national other than a United Kingdom 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 his or her 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 European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community 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 EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

### **Children of Swiss nationals**

**11.** 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 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 his or her 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”.

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SCHEDULE 2

Regulation 43

“SCHEDULE 3A

Regulation 44A

COLLEGE FEE LOANS

**Interpretation**

**1.** In this Schedule—

- (a) “qualifying course” (“*cwrs cymhwysol*”) means a full-time designated course that is provided by the University of Oxford or the University of Cambridge and—
  - (i) is listed in regulation 5(5);
  - (ii) leads to qualification as a social worker; or
  - (iii) in respect of any academic year of which the student is eligible to receive a payment under a healthcare bursary the amount of which is calculated by reference to his or her income or a Scottish healthcare bursary the amount of which is calculated by reference to his or her income;
- (b) “qualifying student” (“*myfyriwr cymhwysol*”) means a person who meets the conditions in paragraph 3;
- (c) “standard academic year” (“*blwyddyn academaidd safonol*”) means an academic year of the qualifying course that would be taken by a person who does not repeat any part of the course and who enters the course at the same point as the qualifying student.

**Availability of college fee loans**

**2.** A person qualifies for a college fee loan in connection with his or her attendance on a qualifying course in accordance with this Schedule.

**3.** A person qualifies for a college fee loan if he or she meets the following conditions—

- (a) he or she is an eligible student who is not excluded from qualifying by paragraph 4;
- (b) he or she has an honours degree from an institution in the United Kingdom;
- (c) he or she is taking a qualifying course which he or she begins on or after 1 September 2006;
- (d) he or she is a member of a college or a permanent private hall of the University of Oxford or a member of a college of the University of Cambridge; and
- (e) he or she is under the age of 60 on the first day of the first academic year of the qualifying course.

**4.** An eligible student who falls within paragraph 9 of Schedule 1 does not qualify for a college fee loan under these Regulations if he or she is ordinarily resident in England, Scotland or Northern Ireland.

**5.** To receive a college fee loan, a qualifying student must enter into a contract with the National Assembly.

**6.** A disabled student who is undertaking a qualifying course in the United Kingdom but who is not in attendance because he or she is unable to attend for a reason which relates to his or her disability is treated as if he or she were in attendance on the qualifying course for the purpose of qualifying for the college fee loan.

**7.** Where one of the events listed in paragraph 8 occurs in the course of an academic year—



- (a) a student may qualify for a college fee loan in accordance with this Schedule in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
- (b) a college fee loan is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

**8.** The events are—

- (a) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;
- (b) a state accedes to the European Community where the student is a national of that state or is the family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (c) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (d) the student acquires a right of permanent residence as defined in Part 1 of Schedule 1;
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
- (f) the student becomes the child of a Swiss national.

**9.** A college fee loan is available in respect of each standard academic year of the qualifying course and in respect of one academic year of the qualifying course that is not a standard academic year.

**10.** Where a qualifying student is allowed to study the content of one standard academic year of the qualifying course over two or more academic years, for the purpose of determining whether the student qualifies for a college fee loan for those years, the first of such years of study is to be treated as a standard academic year and the following years of that kind are to be treated as academic years that are not standard academic years.

**Amount of the college fee loan**

**11.—(1)** The amount of the college fee loan in respect of an academic year of a qualifying course is an amount equal to the college fees payable by the student to his or her college or permanent private hall in connection with that year.

(2) Where a qualifying student has applied for a college fee loan of less than the maximum amount available in relation to the academic year, he or she may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the maximum amount available.

**Transfers**

**12.** Despite regulation 8, where a qualifying student transfers from one qualifying course to another—

- (a) the National Assembly must transfer the student's status as a qualifying student to the other course on the request of the student unless the period of eligibility has terminated;
- (b) if the student transfers before the end of the academic year after applying for a college fee loan, the amount applied for is paid to the relevant college or permanent private hall in respect of the qualifying course to which the student transfers provided that the conditions in paragraph 14 are met and he or she cannot qualify for another college fee loan in respect of that academic year;
- (c) if the student transfers after the college fee loan is paid and before the end of the academic year, he or she cannot apply for another college fee loan in connection with the academic year of the qualifying course to which he or she transfers.

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### **Contribution**

13. Where the only support that a qualifying student is applying for is the college fee loan, no contribution is calculated.

### **Payment**

14.—(1) The National Assembly must pay the college fee loan for which a qualifying student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The National Assembly must pay the college fee loan in one lump sum.

(3) The National Assembly must not pay the college fee loan before—

- (a) it has received a valid request for payment from the college or permanent private hall; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) The college or permanent private hall is required to send confirmation of attendance to the National Assembly in such form as the Assembly may require and the National Assembly must not pay the college fee loan in respect of the academic year until it has received that confirmation unless it determines that owing to exceptional circumstances, it would be appropriate to make a payment without receiving an attendance confirmation.

(5) The National Assembly must not make a payment of college fee loan in respect of a qualifying course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend the course; and
- (b) the college or permanent private hall has determined or agreed that the student will not commence attending again during the academic year in respect of which the college fees are payable or at all.

### **Overpayment**

15. Any overpayment of college fee loan is recoverable by the National Assembly from the college or permanent private hall.”.