

SCHEDULE 1

Regulation 3(1)

PERSONS ELIGIBLE FOR EDUCATION MAINTENANCE ALLOWANCES

1. A person who—
 - (a) is ordinarily resident in the United Kingdom and Islands on the qualifying date in relation to the course of education in respect of which he or she seeks an education maintenance allowance;
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the period of 3 years preceding the qualifying date; and
 - (c) is settled in the United Kingdom within the meaning of the Immigration Act 1971(1) on the qualifying date.
2. A person who is an EEA migrant worker who—
 - (a) is entitled to the payment of an education maintenance allowance for the course in respect of which he or she seeks that education maintenance allowance by virtue of Article 7(2) or (3) of the Free Movement Regulation or, where he or she is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3) of that Regulation;
 - (b) has been ordinarily resident in the European Economic Area throughout the period of 3 years immediately preceding the qualifying date; and
 - (c) is ordinarily resident in the United Kingdom and Islands on the qualifying date.
3. A person who is the spouse of an EEA migrant worker and who—
 - (a) has been ordinarily resident in the European Economic Area throughout the period of 3 years immediately preceding the qualifying date;
 - (b) is installed in the United Kingdom with his or her spouse; and
 - (c) is ordinarily resident in the United Kingdom and Islands on the qualifying date.
4. A person who is the child of an EEA migrant worker and who—
 - (a) is entitled to the payment of an education maintenance allowance by virtue of Article 12 of the Free Movement Regulation or, where his or her migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12;
 - (b) has been ordinarily resident in the European Economic Area throughout the period of 3 years immediately preceding the qualifying date; and
 - (c) is ordinarily resident in the United Kingdom and Islands on the qualifying date.
5. A person who—
 - (a) at the date of the Scottish Ministers receiving his or her application for an education maintenance allowance is—
 - (i) a refugee who has been ordinarily resident in the United Kingdom and Islands at all times since he or she was first recognised as a refugee; or

(1) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4, the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12, the Immigration and Asylum Act 1999 (c. 33), sections 1 to 3, 7, 8, 18, 19, 28 to 30, 38, 54, 128 to 140, 165 and Schedule 16, the Adoption (Intercountry Aspects) Act 1999 (c. 40), Schedule 2 and the Nationality Immigration and Asylum Act 2002 (c. 41), sections 10, 58, 62 to 64, 73, 75, 118, 119, 121, 143, 144, 148 to 156, 158 and Schedule 9.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (ii) the spouse, or child, of such a refugee; and
 - (b) is ordinarily resident in Scotland on the qualifying date.
6. A person who—
- (a) —
 - (i) has been informed in writing by a person acting under the authority of the Scottish Ministers that although he or she is considered not to qualify for recognition as a refugee, it is thought right to allow that person to enter or remain in the United Kingdom and he or she has been granted leave to enter or remain accordingly;
 - (ii) is ordinarily resident in Scotland on the qualifying date; and
 - (iii) has been ordinarily resident in the United Kingdom and Islands throughout the period of 3 years immediately preceding the qualifying date; or
 - (b) is the spouse or child of a person of the kind described in sub-paragraph (a) and who meets the requirements specified in sub-paragraph (a)(ii) and (iii).
7. A person who—
- (a) at the date of the Scottish Ministers receiving his or her application for an education maintenance allowance is a person entitled to temporary protection and who has been ordinarily resident in the United Kingdom and Islands at all times since he or she was first recognised as entitled to temporary protection; and
 - (b) is ordinarily resident in the United Kingdom and Islands on the qualifying date.
- 8.—(1) Subject to sub paragraph (2), a person to whom, or in respect of whom, an education maintenance allowance has been paid in accordance with these Regulations within the year immediately preceding the first day of the academic year of the course for which that person is currently seeking an education maintenance allowance, provided that the current application will not result in such a person being awarded an education maintenance allowance for more than 3 years.
- (2) Sub paragraph (1) shall not preclude the payment of the monetary value of 3 years education maintenance allowance over a period of 4 years.