

SCHEDULE 2

POST-GRADUATE AGRICULTURAL STUDENTSHIPS – EXCEPTED CANDIDATES

- 4.—(1) A person shall be an excepted candidate if that person—
- (a) is settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971⁽¹⁾;
 - (b) left the United Kingdom and utilised a right of residence after having been settled in the United Kingdom and, where the person is a national of the United Kingdom, was ordinarily resident in Scotland immediately prior to exercising that right and any residence in Scotland in the preceding 3 years was not wholly or mainly for the purposes of receiving full-time education;
 - (c) is ordinarily resident in Scotland on the day on which the first term of the first academic year of the course actually begins;
 - (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date; and
 - (e) in the case where their ordinary residence referred to in sub-sub-paragraph (d) 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 residence referred to in sub-sub-paragraph (d).
- (2) For the purposes of this paragraph, a person has utilised a right of residence if that person—
- (a) is—
 - (i) a United Kingdom national;
 - (ii) a family member of a United Kingdom national with rights under Article 7 of Directive 2004/38⁽²⁾ (or corresponding provisions under the EEA agreement or the Switzerland Agreement⁽³⁾); or
 - (iii) a person who has a right of permanent residence arising under Directive 2004/38; and
 - (b) either—
 - (i) has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland Agreement in a state other than the United Kingdom; or
 - (ii) in the case of a person who has a right of permanent residence in the United Kingdom arising under Directive 2004/38, has gone to the state within the territory comprising the European Economic Area and Switzerland of which that person is a national or of which the person in relation to whom that person is a family member is a national.

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

⁽²⁾ O.J. No. 158, 30.04.04, p.77.

⁽³⁾ Cm. 5639.