

SCHEDULE 3

Regulation 10

FEES AWARDS – EXCEPTED CANDIDATES

1. In this Schedule, “the relevant date” means the date of a candidate’s application for a fees award.

2. It shall not be lawful in pursuance of regulation 10 to adopt rules of eligibility for fees awards which exclude from eligibility a person who is an excepted candidate within the meaning of this Schedule.

3.—(1) A person who is an excepted candidate within the meaning of Schedule 2 shall be an excepted candidate within the meaning of this Schedule.

(2) Subject to paragraph 4, a person who—

- (a) is a non UKEC national; or
- (b) a family member of such a national,

shall be an excepted candidate if they satisfy the conditions mentioned in sub-paragraph (3).

(3) The conditions referred to in sub-paragraph (2) are that—

- (a) that person has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the 3 year period immediately preceding, 1st August, 1st January, 1st April or 1st July closest to the beginning of the first term of their intended course; and
- (b) their residence there during any part of that 3 year period has not been wholly or mainly for the purpose of receiving full-time education.

4. A candidate who would, but for this paragraph, be an excepted candidate by virtue of paragraph 3(2) and (3) shall not be an excepted candidate in a case where rules of eligibility confine awards to candidates having a relevant connection with part only of the United Kingdom and Islands and that person is, on the relevant date, ordinarily resident in some other part of the United Kingdom and Islands.

5. A person shall be an excepted candidate if that person fails to satisfy the criterion specified in paragraph 3(3)(a) by reason only that—

- (a) that person, or their spouse or civil partner, or either of their parents or, in the case of a dependant direct relative in the ascending line, the child upon whom that person was dependent or that child’s spouse or civil partner, was temporarily employed outside the European Economic Area or Switzerland, or
- (b) that person, or their spouse or civil partner, or either of their parents, or, in the case of a dependant relative in the ascending line, their child or child’s spouse or civil partner, was temporarily receiving full-time education outside the European Economic Area or Switzerland.

6. A person shall be an excepted candidate if the Scottish Ministers are satisfied that the person was born and has spent the greater part of their life in the relevant area and that—

- (a) their parents or either of them have been ordinarily resident in the relevant area throughout the specified period and he or she is not an independent student; or
- (b) that person has been ordinarily resident in the relevant area for at least 1 year of the specified period and, in the case of those qualifying by virtue of paragraph 1 or 9 of Schedule 1, no part of that residence was wholly or mainly for the purposes of receiving full time education.

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

7.—(1) In paragraph 6(a), “an independent student” means a person who prior to the relevant date—

- (a) has attained the age of 25 years;
- (b) is married or in a civil partnership;
- (c) has no parent living; or
- (d) has been self-supporting out of their earnings for periods aggregating not less than 3 years.

(2) A person shall be regarded as having been self-supporting out of their earnings for any period during which that person—

- (a) was participating in arrangements for training for the unemployed under any scheme operated, sponsored or funded by any state authority or agency, national, regional or local; or
- (b) was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed; or
- (c) was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) or (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit; or
- (d) received any pension, allowance or other benefit paid by reason of a disability to which that person is subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer or by any other person; or
- (e) held a Scottish Studentship or comparable award; or
- (f) could not reasonably be expected to be self-supporting out of their earnings because that person had the care of a person under the age of 18 years who was wholly or mainly financially dependent upon them.