

## SCHEDULE

### PART 2

#### Qualifying Persons

##### Persons who are settled in the United Kingdom

3.—(1) A person who on the first day of the [<sup>F1</sup>first] academic year of the course—

- [<sup>F2</sup>(a) is settled in the United Kingdom and does not fall within paragraph 4;]
- (b) is ordinarily resident in the United Kingdom;
- (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) 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) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 2(2).

##### Textual Amendments

- F1** Word in Sch. para. 3(1) inserted (25.7.2018) by [The Higher Education \(Fee Limits and Fee Limit Condition\) \(England\) Regulations 2018 \(S.I. 2018/903\)](#), regs. 1, **18(c)**
- F2** Sch. para. 3(1)(a) substituted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(4)**

[<sup>F3</sup>3A.—(1) A person—

- (a) who is settled in the United Kingdom [<sup>F4</sup>on [<sup>F5</sup>the course start date]] and does not fall within paragraph 4;
- (b) who is ordinarily resident in the United Kingdom [<sup>F4</sup>on [<sup>F6</sup>the course start date]];]
- (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 paragraph 2(2).]

##### Textual Amendments

- F3** Sch. para. 3A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(5)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F4** Words in Sch. paras. 3A(1)(a)(b) substituted (1.9.2021) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/929), regs. 1(1), **28(b)**
- F5** Words in Sch. para. 3A(1)(a) substituted (16.2.2023) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), regs. 1, **99(2)(a)**
- F6** Words in Sch. para. 3A(1)(b) substituted (16.2.2023) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), regs. 1, **99(2)(b)**

4.—<sup>F7</sup>(1) A person who—

<sup>F8</sup>(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 an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations <sup>F9</sup>or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)]; 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 <sup>F10</sup>or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)]; or

(iv) 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;]

(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 preceding the first day of the first academic year of the course; and

(d) in a case where the residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, the person was ordinarily resident in the territory comprising <sup>F11</sup>the United Kingdom,] the European Economic Area, Switzerland and the overseas territories immediately before the period of residence referred to in paragraph (c).

<sup>F12</sup>(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

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules <sup>F13</sup>....]

[<sup>F14</sup>(3) For the purposes of sub-paragraph (1)(a)(iii), the citizens’ rights provisions referred to are—

- (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
- (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.]

#### Textual Amendments

- F7** Sch. para. 4 renumbered as Sch. para. 4(1) (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **61(6)(a)**
- F8** Sch. para. 4(1)(a) substituted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **61(6)(b)**
- F9** Words in Sch. para. 4(1)(a)(iii)(bb) inserted (1.9.2021) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/929), regs. 1(1), **28(c)(i)**
- F10** Words in Sch. para. 4(1)(a)(iii)(cc) inserted (1.9.2021) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/929), regs. 1(1), **28(c)(ii)**
- F11** Words in Sch. para. 4(d) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **30(3)(a)(ii)**
- F12** Sch. para. 4(2) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **61(6)(c)**
- F13** Words in Sch. para. 4(2) omitted (16.2.2023) by virtue of The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), regs. 1, **101(3)(a)**
- F14** Sch. para. 4(3) inserted (1.9.2021) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/929), regs. 1(1), **28(c)(iii)**

#### Refugees and their family members

5.—(1) A person who—

- (a) is a refugee;
- (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the person was recognised as a refugee;
- (c) is ordinarily resident in the United Kingdom on [<sup>F15</sup>the course start date].

(2) A person who—

- (a) is the spouse or civil partner of a refugee;
- (b) was the spouse or civil partner of the refugee on the date on which the refugee applied for asylum;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the person was given leave to remain in the United Kingdom; and
- (d) is ordinarily resident in the United Kingdom on [<sup>F16</sup>the course start date].

(3) A person who—

- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee;
- (b) on the date on which the refugee applied for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) was under 18 years of age on the date on which the refugee applied for asylum;
- (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the person was given leave to remain in the United Kingdom; and
- (e) is ordinarily resident in the United Kingdom on [<sup>F17</sup>the course start date].

(4) In this paragraph, “refugee” means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28<sup>th</sup> July 1951 <sup>M1</sup> as extended by the Protocol thereto which entered into force on 4<sup>th</sup> October 1967 <sup>M2</sup>.

#### Textual Amendments

- F15** Words in Sch. para. 5(1)(c) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), reg. 104(2)(a)
- F16** Words in Sch. para. 5(2)(d) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), reg. 104(2)(b)
- F17** Words in Sch. para. 5(3)(e) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), reg. 104(2)(c)

#### Marginal Citations

- M1** Cmnd. 9171.
- M2** Cmnd. 3906.

#### [<sup>F18</sup>Persons granted stateless leave and their family members

**5A.**—[<sup>F19</sup>(1) A person granted stateless leave, who is ordinarily resident in the United Kingdom on [<sup>F20</sup>the course start date].]

- (2) A person—
  - (a) who—
    - (i) is the spouse or civil partner of a person granted stateless leave; and
    - (ii) on the leave application date, was the spouse or civil partner of the person granted stateless leave;
  - [<sup>F21</sup>(b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
  - (c) who is ordinarily resident in the United Kingdom on [<sup>F22</sup>the course start date].]
- (3) A person—
  - (a) who—
    - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
    - (ii) on the leave application date, was the child of the person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of the person granted stateless leave;
  - (b) who was under 18 years of age on the leave application date;

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[<sup>F23</sup>(c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and

(d) who is ordinarily resident in the United Kingdom on [<sup>F24</sup>the course start date].]

(4) In this paragraph, “leave application date” means the date on which the person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules <sup>F25</sup>.....]

#### Textual Amendments

- F18** Sch. para. 5A inserted (25.7.2018) by The Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018 (S.I. 2018/903), regs. 1, **18(d)**
- F19** Sch. para. 5A(1) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **23(2)(a)**
- F20** Words in Sch. para. 5A(1) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), **reg. 104(3)(a)**
- F21** Sch. para. 5A(2)(b)(c) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **23(2)(b)**
- F22** Words in Sch. para. 5A(2)(c) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), **reg. 104(3)(b)**
- F23** Sch. para. 5A(3)(c)(d) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **23(2)(c)**
- F24** Words in Sch. para. 5A(3)(d) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), **reg. 104(3)(c)**
- F25** Words in Sch. para. 5A(4) omitted (16.2.2023) by virtue of The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), regs. 1, **101(3)(b)**

#### [<sup>F26</sup>Persons granted section 67 leave

**5B.** A person who—

(a) has extant leave to remain as a person granted leave under paragraph 352ZG of the immigration rules, having been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016, or a dependent child of such a person who has been granted “leave in line” under paragraph 352ZO of those rules; [<sup>F27</sup>and]

[<sup>F28</sup>(b) is ordinarily resident in the United Kingdom on [<sup>F29</sup>the course start date].]

#### Textual Amendments

- F26** Sch. para. 5B inserted (with application in accordance with reg. 1(2)(3)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **46(4)**
- F27** Word in Sch. para. 5B(a) inserted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **23(3)(a)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F28** Sch. para. 5B(b) substituted for Sch. para. 5B(b)-(d) (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **23(3)(b)**
- F29** Words in Sch. para. 5B(b) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), **reg. 104(4)**

### **[<sup>F30</sup>Persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse**

**5C.** A person granted indefinite leave to remain as a victim of domestic violence or domestic abuse, who is ordinarily resident in the United Kingdom on [<sup>F31</sup>the course start date].]

#### **Textual Amendments**

- F30** Sch. para. 5C inserted (with application in accordance with reg. 1(3)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **2(6)(c)**
- F31** Words in Sch. para. 5C substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), **reg. 104(5)**

### **Persons granted Calais leave**

[<sup>F32</sup>**5D.** A person granted Calais leave, who is ordinarily resident in the United Kingdom on [<sup>F33</sup>the course start date].]

#### **Textual Amendments**

- F32** Sch. para. 5D substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **23(4)**
- F33** Words in Sch. para. 5D substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), **reg. 104(6)**

### **[<sup>F34</sup>Persons granted indefinite leave to remain as a bereaved partner**

**5E.** A person granted indefinite leave to remain as a bereaved partner, who is ordinarily resident in the United Kingdom on [<sup>F35</sup>the course start date].]

#### **Textual Amendments**

- F34** Sch. para. 5E inserted (with application in accordance with reg. 1(4)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **16(4)**
- F35** Words in Sch. para. 5E substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), **reg. 104(7)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**[<sup>F36</sup>Persons granted leave under one of the Afghan Schemes and their family members]**

**5F.**—[<sup>F37</sup>(1)] A person granted leave under [<sup>F38</sup>one of the Afghan Schemes] who is ordinarily resident in the United Kingdom on [<sup>F39</sup>the course start date].

[<sup>F40</sup>(2) A person who—

- (a) is the spouse or civil partner of a person granted leave under one of the Afghan Schemes;
- (b) on the leave application date, was the spouse or civil partner of that person;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom; and
- (d) is ordinarily resident in the United Kingdom on the course start date.

(3) A person who—

- (a) is—
  - (i) the child of a person granted leave under one of the Afghan Schemes; or
  - (ii) the child of the spouse or civil partner of a person granted leave under one of the Afghan Schemes;
- (b) on the leave application date, was—
  - (i) the child of the person granted leave under one of the Afghan Schemes; or
  - (ii) the child of a person who was the spouse or civil partner of a person granted leave under one of the Afghan Schemes on that date;
- (c) was under 18 on the leave application date;
- (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
- (e) is ordinarily resident in the United Kingdom on the course start date.

(4) In this paragraph “leave application date” means the date on which the person granted leave under one of the Afghan Schemes made an application for leave to enter or remain in the United Kingdom.]

**Textual Amendments**

- F36** Sch. para. 5F heading substituted (with application in accordance with reg. 2(6)(7)(9) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 108(a)(i)**
- F37** Sch. para. 5F renumbered as Sch. para. 5F(1) (with application in accordance with reg. 2(6)(7)(9) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 108(a)(ii)**
- F38** Words in Sch. para. 5F substituted (15.2.2022) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2022 \(S.I. 2022/57\)](#), regs. 1(1), **26(3)** (with reg. 1(3))
- F39** Words in Sch. para. 5F substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 104(8)**
- F40** Sch. para. 5F(2)-(4) inserted (with application in accordance with reg. 2(6)(7)(9) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 108(a)(iii)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

### [<sup>F41</sup>Evacuated or assisted British nationals from Afghanistan

**5G.** An evacuated or assisted British national from Afghanistan who is ordinarily resident in the United Kingdom on the first day of [<sup>F42</sup>the course start date].]

#### Textual Amendments

- F41** Sch. para. 5G inserted (with application in accordance with reg. 1(3)(f) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2022 \(S.I. 2022/534\)](#), regs. 1(1), **18(2)(b)**
- F42** Words in Sch. para. 5G substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 104(9)**

### [<sup>F43</sup>Persons granted leave under one of the Ukraine Schemes and their family members

**5H.—**(1) A person granted leave under one of the Ukraine Schemes, who is ordinarily resident in the United Kingdom on the course start date.

- (2) A person who—
- is the spouse or civil partner of a person granted leave under one of the Ukraine Schemes;
  - on the leave application date, was the spouse or civil partner of that person;
  - is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom; and
  - is ordinarily resident in the United Kingdom on the course start date.
- (3) A person who—
- is—
    - the child of a person granted leave under one of the Ukraine Schemes; or
    - the child of the spouse or civil partner of a person granted leave under one of the Ukraine Schemes;
  - on the leave application date, was—
    - the child of the person granted leave under one of the Ukraine Schemes; or
    - the child of a person who was the spouse or civil partner of a person granted leave under one of the Ukraine Schemes on that date;
  - was under 18 on the leave application date;
  - is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
  - is ordinarily resident in the United Kingdom on the course start date.

(4) In this paragraph “leave application date” means the date on which the person granted leave under one of the Ukraine Schemes made an application for leave to enter or remain in the United Kingdom.]

#### Textual Amendments

- F43** Sch. para. 5H substituted (with application in accordance with reg. 2(4)(5)(b) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 108(b)**



## Persons granted humanitarian protection and their family members

6.—<sup>F44</sup>(1) A person granted humanitarian protection, who is ordinarily resident in the United Kingdom on <sup>F45</sup>[the course start date].]

(2) A person who—

- (a) is the spouse or civil partner of a person granted humanitarian protection;
- (b) was the spouse or civil partner of the person granted humanitarian protection on the date on which that person applied for asylum (the “asylum application date”);

<sup>F46</sup>(c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and

(d) is ordinarily resident in the United Kingdom on <sup>F47</sup>[the course start date].]

(3) A person who—

- (a) is the child of a person granted humanitarian protection or the child of the spouse or civil partner of a person granted humanitarian protection;
- (b) on the asylum application date, was the child of that person or the child of a person who was the spouse or civil partner of the person granted humanitarian protection on that date;
- (c) was under 18 years of age on the asylum application date;

<sup>F48</sup>(d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and

(e) is ordinarily resident in the United Kingdom on <sup>F49</sup>[the course start date].]

(4) In this paragraph, “person granted humanitarian protection” means a person—

- (a) who, on the grounds of humanitarian protection, has been granted leave to remain under the immigration rules <sup>F50</sup>...;
- (b) whose leave to remain is extant, or in respect of whose leave to remain an appeal is pending (within section 104 of the Nationality, Immigration and Asylum Act 2002) <sup>M3</sup>;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave to remain.

### Textual Amendments

**F44** Sch. para. 6(1) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **23(5)(a)**

**F45** Words in Sch. para. 6(1) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 104(10)(a)**

**F46** Sch. para. 6(2)(c)(d) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **23(5)(b)**

**F47** Words in Sch. para. 6(2)(d) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), **reg. 104(10)(b)**

**F48** Sch. para. 6(3)(d)(e) substituted (with application in accordance with reg. 1(3)(a)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 3\) Regulations 2020 \(S.I. 2020/1203\)](#), regs. 1(2), **23(5)(c)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F49** Words in Sch. para. 6(3)(e) substituted (with application in accordance with reg. 2(4)(5)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), reg. 104(10)(c)
- F50** Words in Sch. para. 6(4)(a) omitted (16.2.2023) by virtue of The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), regs. 1, 101(3)(c)

#### Marginal Citations

- M3** 2002 c.41; section 104 was amended by the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (c.19), section 26 and Schedules 2 and 4, the Immigration, Asylum and Nationality Act 2006 (c.13), section 9, and the Immigration Act 2014 (c.22), Schedule 9.

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

- 7.—(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) 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 [<sup>F51</sup>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 falls within paragraph (a) (iv), (a)(v) or (a)(vi) of that sub-paragraph.

#### Textual Amendments

- F51** Words in Sch. para. 7(1)(c) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), 30(3)(b)

[<sup>F52</sup>7A.—(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);

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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.]

#### Textual Amendments

**F52** Sch. para. 7A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(7)**

**8.**—<sup>[F53]</sup>(1) A person 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 <sup>[F54]</sup>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 12 of Council Regulation [\(EEC\) No. 1612/68](#)<sup>M4</sup> on the freedom of movement of workers, as extended by the EEA Agreement.

<sup>[F55]</sup>(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.]

#### Textual Amendments

**F53** Sch. para. 8 renumbered as Sch. para. 8(1) (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(c)(i)**

**F54** Words in Sch. para. 8(1)(b) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(c)(ii)**

**F55** Sch. para. 8(2) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(c)(iii)**

#### Marginal Citations

**M4** OJ L257, 19.10.1968 p2 (OJ/SE 1968 (II) p475).

<sup>[F56]</sup>**8A.**—(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

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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.]

#### Textual Amendments

**F56** Sch. para. 8A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(8)**

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

- 9.—(1) A person who—
- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in the United Kingdom and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence [<sup>F57</sup>before IP completion day] ;
- (c) is ordinarily resident in the United Kingdom on [<sup>F58</sup>the course start date];
- (d) has been ordinarily resident in the territory comprising [<sup>F59</sup>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) in a case where the ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full-time education, the person was ordinarily resident in the territory comprising [<sup>F60</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) In this paragraph, a person has exercised a right of residence if the 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 [<sup>F61</sup>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 has a right of permanent residence, if the person [<sup>F62</sup>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 a person in relation to whom the person is a family member is a national.

[<sup>F63</sup>(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.]

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### Textual Amendments

- F57** Words in Sch. para. 9(1)(b) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **30(3)(d)(i)(aa)**
- F58** Words in Sch. para. 9(1)(c) substituted (16.2.2023) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (S.I. 2023/74), regs. 1, **99(3)**
- F59** Words in Sch. para. 9(1)(d) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **30(3)(d)(i)(bb)**
- F60** Words in Sch. para. 9(1)(e) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **30(3)(d)(i)(cc)**
- F61** Words in Sch. para. 9(2) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **30(3)(d)(ii)(aa)**
- F62** Words in Sch. para. 9(2) substituted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **30(3)(d)(ii)(bb)**
- F63** Sch. para. 9(3) inserted (31.12.2020) by The Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1181), regs. 1(3), **30(3)(d)(iii)**

**[<sup>F64</sup>9A.—(1)** A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in the United Kingdom and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day;
- (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 [<sup>F65</sup>the course start date];
- (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

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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.]

#### Textual Amendments

- F64** Sch. para. 9A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(9)**
- F65** Words in Sch. para. 9A(1)(d) substituted (16.2.2023) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2023 \(S.I. 2023/74\)](#), regs. 1, **99(4)**

#### EU nationals [<sup>F66</sup>etc.]

**10.**—(1) A person who—

- (a) is either—
  - (i) an EU national on the first day of an academic year of the course; or
  - (ii) a family member of such a person;
- (b) is undertaking the course in the United Kingdom;
- (c) has been ordinarily resident in the territory comprising [<sup>F67</sup>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) whose ordinary residence in the relevant territory 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.

[<sup>F68</sup>(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is—
  - (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or
  - (ii) an EU national; 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 [<sup>F69</sup>relevant territory] in accordance with paragraph (2)(2).

[<sup>F70</sup>(4) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.]

#### Textual Amendments

- F66** Word in Sch. para. 10 heading inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(10)**
- F67** Words in Sch. para. 10(1)(c) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(e)(i)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- F68** Sch. para. 10(2) substituted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(e)(ii)**
- F69** Words in Sch. para. 10(3) substituted (25.7.2018) by [The Higher Education \(Fee Limits and Fee Limit Condition\) \(England\) Regulations 2018 \(S.I. 2018/903\)](#), regs. 1, **18(e)**
- F70** Sch. para. 10(4) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(e)(iii)**

[<sup>F71</sup>**10A.**—(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 paragraph 2(2).

#### Textual Amendments

- F71** Sch. paras. 10A-10E inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(11)**

### United Kingdom nationals

**10B.**—(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

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

(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 paragraph 2(2).

(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.

#### Textual Amendments

**F71** Sch. paras. 10A-10E inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(11)**

**F72** **10BA.**—(1) A person—

- (a) who is an Irish citizen on the first day of an academic year of the course;
- (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



**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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 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 (2), 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 (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 paragraph 2(2).

(3) 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.]

#### Textual Amendments

- F71** Sch. paras. 10A-10E inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(11)**
- F72** Sch. para. 10BA inserted (1.9.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2021 \(S.I. 2021/929\)](#), regs. 1(1), **29(2)**

**10C.—**(1) A person—

- (a) who is—
  - (i) [<sup>F73</sup>a person who is settled in the United Kingdom] 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) [<sup>F74</sup>, or who would be such a person if they were ordinarily resident in the United Kingdom];
- (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

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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 paragraph 2(2).

#### Textual Amendments

**F71** Sch. paras. 10A-10E inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(11)**

**F73** Words in Sch. para. 10C(1)(a)(i) substituted (with application in accordance with reg. 1(3)(j) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1348\)](#), regs. 1(1), **53(b)(i)**

**F74** Words in Sch. para. 10C(1)(a)(ii) inserted (with application in accordance with reg. 1(3)(j) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1348\)](#), regs. 1(1), **53(b)(ii)**

**10D.**—(1) A person—

- (a) who is a family member of a person who is [<sup>F75</sup>settled in the United Kingdom] 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 paragraph 2(2).

#### Textual Amendments

**F71** Sch. paras. 10A-10E inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(11)**

**F75** Words in Sch. para. 10D(1)(a) substituted (with application in accordance with reg. 1(3)(f) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1348\)](#), regs. 1(1), **54**

### Persons resident in Gibraltar

**10E.**—(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

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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 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 paragraph 2(2).]

#### Textual Amendments

**F71** Sch. paras. 10A-10E inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(11)**

#### [<sup>F76</sup>EU nationals ordinarily resident in the United Kingdom and Islands]

- 11.**—(1) A person who—
- (a) is an EU national <sup>F77</sup>... 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 ordinary residence referred to in paragraph (c) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising [<sup>F78</sup>the United Kingdom,] the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in that paragraph.
- (2) Where a state accedes to the European Union 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) is treated as being satisfied.

#### Textual Amendments

**F76** Sch. para. 11 cross-heading inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(12)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F77** Words in Sch. para. 11(1)(a) omitted (31.12.2020) by virtue of [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(f)(i)**
- F78** Words in Sch. para. 11(1)(d) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(f)(ii)**

[<sup>F79</sup>11A. 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).]

#### Textual Amendments

- F79** Sch. para. 11A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(13)**

#### Children of Swiss nationals

12.—[<sup>F80</sup>(1)] 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 the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising [<sup>F81</sup>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 ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, the person was ordinarily resident in the territory comprising [<sup>F82</sup>the United Kingdom, Gibraltar,] the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

[<sup>F83</sup>(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.]

#### Textual Amendments

- F80** Sch. para. 12 renumbered as Sch. para. 12(1) (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(g)(i)**
- F81** Words in Sch. para. 12(1)(c) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(g)(ii)**

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- F82** Words in Sch. para. 12(1)(d) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(g)(iii)**
- F83** Sch. para. 12(2) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(g)(iv)**

**[<sup>F84</sup>12A.** 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).]

#### Textual Amendments

- F84** Sch. para. 12A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(14)**

### Children of Turkish Workers

**13.—(1)** A person who—

- (a) is the child of a Turkish worker;
  - (b) 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 [<sup>F85</sup>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.
- (2)** In sub-paragraph (1)(a), “Turkish worker” means a Turkish national who—
- (a) is ordinarily resident in the United Kingdom; and
  - (b) is, or has been, lawfully employed in the United Kingdom.

#### Textual Amendments

- F85** Words in Sch. para. 13(1)(c) inserted (31.12.2020) by [The Education \(Student Fees, Awards and Support\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1181\)](#), regs. 1(3), **30(3)(h)**

**[<sup>F86</sup>13A.** 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;

**Changes to legislation:** There are outstanding changes not yet made by the [legislation.gov.uk](https://www.legislation.gov.uk) editorial team to *The Higher Education (Fee Limit Condition) (England) Regulations 2017*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (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
- (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.]

**Textual Amendments**

**F86** Sch. para. 13A inserted (1.3.2021) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2021 \(S.I. 2021/127\)](#), regs. 1(1), **61(15)**

**Long residence**

- 14.—**(1) A person who on the first day of the first academic year of the course—
- (a) is either—
    - (i) under the age of 18 and has lived in the United Kingdom throughout the seven-year period preceding the first day of the first academic year of the course; or
    - (ii) aged 18 years old or above and, preceding the first day of the first academic year of the course, has lived in the United Kingdom throughout either—
      - (aa) half their life; or
      - (bb) a period of twenty years;
  - (b) is ordinarily resident in the United Kingdom;
  - (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) 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 (2)(2).

### **Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Higher Education (Fee Limit Condition) (England) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

### **Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. para. 12(1)(a)-(d) Sch. para. 12(a)-(d) renumbered as Sch. para. 12(1)(a)-(d) by [S.I. 2019/139 reg. 25\(3\)\(e\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1181, regs. 1(2). 2)
- Sch. para. 5C(1) Sch. para. 5C renumbered as Sch. para. 5C(1) by [S.I. 2024/85 reg. 44\(2\)\(b\)](#)
- Sch. para. 5E(1) Sch. para. 5E renumbered as Sch. para. 5E(1) by [S.I. 2024/85 reg. 44\(2\)\(e\)](#)
- Sch. para. 5C(2)(3) inserted by [S.I. 2024/85 reg. 44\(2\)\(c\)](#)
- Sch. para. 5E(2)(3) inserted by [S.I. 2024/85 reg. 44\(2\)\(f\)](#)
- Sch. para. 10C(1)(a)(iii) and word inserted by [S.I. 2024/85 reg. 45\(a\)\(iii\)](#)
- Sch. para. 10C(3)(4) inserted by [S.I. 2024/85 reg. 45\(b\)](#)
- Sch. para. 12(1)(c) words inserted by [S.I. 2019/139 reg. 25\(3\)\(e\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1181, regs. 1(2). 2)
- Sch. para. 12(1)(d) words inserted by [S.I. 2019/139 reg. 25\(3\)\(e\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked immediately before IP completion day by S.I. 2020/1181, regs. 1(2). 2)
- Sch. 1 Pt. 2 para. 5C inserted by [S.I. 2020/46 reg. 2\(6\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/46 was revoked by S.I. 2020/48, reg. 19 before ever coming into force)
- reg. 2(bba)(i)(aa)(bb) substituted for reg. 2(bba)(i)(aa)-(cc) by [S.I. 2024/85 reg. 39\(1\)\(b\)](#)
- reg. 2(bbac)(a)(ia) substituted by [S.I. 2024/85 reg. 40](#)
- reg. 4(6A) inserted by [S.I. 2024/85 reg. 41](#)
- reg. 5(1A) inserted by [S.I. 2024/85 reg. 42\(a\)](#)
- reg. 6(2)(da)(db) inserted by [S.I. 2024/85 reg. 43\(1\)\(a\)](#)
- reg. 6(2)(ga) inserted by [S.I. 2024/85 reg. 43\(1\)\(b\)](#)
- reg. 7(2)(a) reg. 7(2) renumbered as reg. 7(2)(a) by [S.I. 2024/85 reg. 61\(b\)\(i\)](#)
- reg. 7(2)(b) and word inserted by [S.I. 2024/85 reg. 61\(b\)\(ii\)](#)