

SCHEDULE

PART 2

Qualifying Persons

Persons who are settled in the United Kingdom

3.—(1) A person who on the first day of the 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 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).

4. A person who—

- (a) is settled in the United Kingdom by reason of having acquired the right of permanent residence on the first day of an 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 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 the European Economic Area, Switzerland and the overseas territories immediately before the period of residence referred to in paragraph (c).

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 the first day of the academic year of the course.

(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

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- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.

(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;
- (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 the first day of the first academic year of the course.

(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 28th July 1951(1) as extended by the Protocol thereto which entered into force on 4th October 1967(2).

Persons granted humanitarian protection and their family members

6.—(1) A person granted humanitarian protection who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (b) 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.

(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”);
- (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 United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(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;
- (d) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (e) 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.

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

(1) Cmnd. 9171.

(2) Cmnd. 3906.

- (a) who, on the grounds of humanitarian protection, has been granted leave to remain under the immigration rules as defined in section 33(1) of the Immigration Act 1971;
- (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)(3);
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave to remain.

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 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.

8. 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 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](#)(4) on the freedom of movement of workers, as extended by the EEA Agreement.

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;

(3) [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.

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

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- (c) is ordinarily resident in the United Kingdom 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, 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 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 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 the person goes 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.

EU nationals

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 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.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of an EU national, where that national—

- (a) is—
 - (i) a United Kingdom national who has exercised a right to reside in the territory of another Member State under Article 7(1) of Directive 2004/38; or
 - (ii) not a United Kingdom national; and
- (b) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding 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 resident territory in accordance with paragraph (2)(2).

11.—(1) A person who—

- (a) is an EU national other than a United Kingdom 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 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 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.

Children of Swiss nationals

12. 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 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 the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

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 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.

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—

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- (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).