

## **2021 (WG21-80)**

# **The Financial Contingency Fund (Open University) (Wales) Scheme 2021/2022**

### **EXPLANATORY NOTE**

*(This note is not part of the Scheme)*

This Scheme provides funding to the Open University for the purpose of establishing discretionary funds to provide emergency payments to eligible students in Wales in respect of unexpected crises, and to assist in cases where an eligible student in Wales may be considering leaving higher education because of financial problems. It provides the Open University with information in respect of policy and the administrative arrangements of such funding, and imposes requirements in respect of those arrangements.

This Scheme comes into force on 1 August 2021 and applies until 31 July 2022. It replaces the Financial Contingency Fund (Open University) (Wales) Scheme 2020/2021.

## 2021 (WG21-80)

# The Financial Contingency Fund (Open University) (Wales) Scheme 2021/2022

## PART 1 - GENERAL

### **Title, commencement and application**

1. The title of this Scheme is the Financial Contingency Fund (Open University) (Wales) Scheme 2021/2022.

2. This Scheme comes into force on 1 August 2021 and applies until 31 July 2022. This Scheme applies in relation to Wales and replaces the Financial Contingency Fund (Open University) (Wales) Scheme 2020/2021.

### **Interpretation**

3. In this Scheme—

“DSG” (“*GMA*”) means a grant for disabled students’ living costs under the Education (Student Support) (Wales) Regulations 2018 (No. 191 W. 42), or an equivalent allowance under the student’s respective government funded student support scheme or legislation;

“the Institution” (“*y Sefydliad*”) means the Open University;

“loan payment” (“*taliad o fenthyciad*”) means a loan payment under the Education (Student Support) (Wales) Regulations 2018 (No. 191 W. 42), or the eligible student’s equivalent government funded student support scheme or legislation;

“undergraduate taster module” (“*modiwl blas i israddedigion*”) means a module of an undergraduate higher education course which—

- (a) either leads to a higher education qualification or is self-standing and leads to no such qualification; and
- (b) is of at least 8% or 10 credits of a full-time course.

### **Revision**

4. The Welsh Ministers may at any time revise, revoke or add to the provisions set out in this Scheme.

## **Financial advice**

5. The provision of financial advice to a student is a key part of ensuring the effective operation of this Scheme.

6. Administrators should be aware that it may be a concern for some Muslim students to be required to exercise their entitlement to a student loan (1). In these cases administrators may find it helpful to advise students to visit the Federation of Student Islamic Societies (FOSIS) website at: <http://www.fosis.org.uk> for information and advice. Administrators will also no doubt be aware that several banks in the UK offer personal bank accounts that conduct banking according to Sharia law.

## **PART 2 – PURPOSES OF SCHEME**

### **Priority groups**

7. The Institution must give priority to students who fall into one or more of the priority groups set out in paragraph 8.

8. The priority groups for support under this Scheme are eligible students who are:

(1) Students with dependant children under 18 years of age;

(2) Students with existing essential financial commitments, including priority debts (see paragraph 13);

(3) Disabled students, in particular those whose DSG is unable to meet particular costs and neither is the Institution under any obligation to do so;

(4) Students who, at any time within the period of 3 years prior to the first day of their course, have been in the care of a local authority;

(5) Final year students who are in financial difficulty, including those unable to undertake paid work due to academic pressures;

(6) Students who are ineligible for support under the Education (Student Support) (Wales) Regulations 2018 or under the eligible student's equivalent government funded student support scheme or legislation, though such students must be able to demonstrate that they have made adequate provision in respect of living costs for the duration of their course; and

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(1) Loans payable under the Education (Student Support) (Wales) Regulations 2018 or equivalent government funded student support scheme.

(7) Students who are also carers providing unpaid support to someone who could not manage without this help.

### **Purposes for which payments may be used**

9. Payments made to students by virtue of this Scheme must only be used for the purposes specified in this Scheme.

### **General**

10. Any funding made to the Institution by virtue of this Scheme must be used for the purpose of providing funding to eligible students whose access to higher education may be inhibited by financial considerations or who, for whatever reason, face financial hardship associated with their living costs. The Institution must not provide funding in respect of an eligible student's tuition fees in any circumstances except for those specified in paragraphs 15 and 18.

### **Costs arising from disabilities**

11. The Institution may make payments for the purpose of helping disabled eligible students and eligible students with disabled dependants. This includes, but is not limited to, payments in respect of reasonable costs associated with the disability which are not met by DSG, for example in respect of a preliminary diagnostic test or certain equipment. Where the Institution has made a purchase of equipment for a disabled student under this Scheme, that equipment should remain the property of the Institution, unless that equipment is tailored to meet the individual needs of that student.

### **Course costs**

12. The Institution may make payments to eligible students for the purpose of helping with their course costs. Such costs include, but are not limited to, those related to childcare, travel, books and field trips. Course costs do not include tuition fees in respect of which see paragraphs 15 and 17 below.

### **Exceptional costs**

13. The Institution may make payments to eligible students for the purpose of helping with their exceptional costs. Such costs include, but are not limited to, repairs to essential household equipment, emergency situations (including travel costs for family illness or bereavement, and hardship due to burglary or fire) and assistance with priority debts (those being debts where non-payment would result in the creditor having the right to deprive the debtor of their home, or

essential goods or services, and therefore do not include those incurred in the form of bank overdrafts or credit cards).

#### **Living costs**

**14.** The Institution may make payments to eligible students for the purpose of helping with their living costs whilst undertaking a higher education course. Such costs include, but are not limited to, rent, mortgage payments, food, utility bills, clothing and laundry, and may include costs incurred during the summer vacation as well as during term time.

#### **Tuition fees**

**15.** The Institution may provide additional fee support for low income eligible students whose other fee support is insufficient to meet the full tuition fee, particularly in circumstances where the resulting financial hardship will prevent a student from accessing and remaining in higher education.

#### **Undergraduate taster modules – course costs and tuition fees**

**16.** The Institution may make payments to eligible students undertaking an undergraduate taster module.

**17.** The Institution may offer support under this Scheme in respect of the fees charged for one undergraduate taster module or one academic year of an undergraduate taster module, whichever is the shorter of those two periods. Limited assistance could also be made available for course-related costs, such as books or travel.

**18.** Where an eligible student undertakes an undergraduate taster module and within the same academic year transfers credits accrued from that module into the first year of a part-time higher education course, the Institution must ensure that any tuition fee support that the eligible student receives during that academic year (whether that fee support is received under this Scheme or through any statutory fee support) does not exceed the tuition fee charged by the Institution to students who enrol directly onto that part-time higher education course.

## **PART 3 - ELIGIBILITY**

#### **Eligible students and courses**

**19.** Eligible students must have explored and applied for all alternative sources of funding, including public funding, before an application can be considered under this Scheme.

**20.** Payments under this Scheme may only be made available to eligible students.

**21.** An eligible student is a part-time student:

(1) whose study at the Institution is administered by the Open University in Wales; and

(2) who, in the opinion of the Institution, falls within one of the categories in paragraphs (a) and (b) below—

(a) Undergraduate students: including distance learners following a higher education course or any periods of work placement or study on foundation degree courses. Students studying on foundation years which are an integral part of an undergraduate course, and where progression to the HE part of the course is dependent on completion of that year, are also eligible to apply for support under this Scheme.

(b) Postgraduate students: following a higher education course at a level above first degree that is at least one academic year's duration. This may include, at the Institution's discretion, those who are writing up their thesis for a maximum 6 month period from date of the end of course registration and are not therefore attending the Institution.

**22.**—(1) Subject to sub-paragraph (2), a person falling within paragraph 21 will not be an eligible student unless they fall within one of the categories set out in —

(a) paragraphs 2, 3, 4, 5, 6, 7, 9, 11, 13, 14, 16, 18 and 20 of Part 2 of the Schedule to this Scheme; or

(b) in the case of a student whose course began before 1 August 2021, paragraphs 8, 10, 12, 15, 17 or 19 of Part 2 of the Schedule.

(2) A person falling within one of the categories set out in Part 3 of the Schedule to this Scheme will be an eligible student only for the purposes of support for tuition fees.

(3) Where the Institution has decided before 1 August 2021 that a student is only eligible for support for tuition fees, that student will only be eligible for support for tuition fees for the duration of the course.

(4) A person will not be an eligible student in respect of a course that begins on or after 1 January 2028 if the only paragraph or paragraphs in the Schedule into which the person falls is one or both of paragraphs 13 or 14.

**23.** The Institution may accept more than one application for funding under this Scheme from an eligible student but usually only where the eligible student's circumstances have changed or where the

eligible student applies for assistance during the summer vacation.

## PART 4 – TYPES OF PAYMENT

### **Grants**

**24.** The Institution may provide funding to eligible students in the form of grants.

### **Short-term loans**

**25.** The Institution may provide funding to eligible students in the form of short-term loans. Eligible students may receive an emergency short-term loan under this Scheme where their first loan payment has been delayed beyond the start of the term in question. It is for the Institution to determine the amount of short-term loan to be awarded to an eligible student, though it is recommended that this should not exceed the equivalent of four weeks of loan payment. There may also be other circumstances where the Institution wishes to assess the benefit of offering a short-term loan.

## PART 5 – DETERMINATION OF PAYMENTS

### **Applications for funding**

**26.** Applications for funding under this Scheme must be evaluated by the Institution on a case-by-case basis. In each case, the Institution must assess a student's application on the basis of the evidence provided by that student and their individual circumstances. A student should be notified of whether or not their application for funding has been successful within four weeks of receipt of that application by the Institution.

### **Consideration of funding from other sources in assessing eligibility**

**27.** The Institution should consider whether it is appropriate to take into account any discretionary bursaries it has previously awarded a student, either attainment based or means-tested, when assessing their eligibility under this Scheme, and also whether the student is in receipt of any bursaries or monetary training incentives from other sources which are connected to specific courses, for example those associated with the NHS and teacher training.

### **Parental/Partner contribution**

**28.** The Institution should be mindful of the fact that parental or partner contributions, for a variety of reasons including estrangement and financial difficulties within the family, may not always be as much as expected.

## **PART 6 – PROCESSES: INTERFACE BETWEEN WELSH MINISTERS AND INSTITUTION**

### **Payment to the Institution**

**29.** The Welsh Ministers will provide funding under this Scheme to the Institution upon written confirmation from the Institution that it accepts the terms and conditions of this Scheme.

**30.** The amount of funding to be paid to the Institution will be the amount that has been allocated to the Institution by the Welsh Ministers.

**31.** The Welsh Ministers will provide the funding to the Institution in three instalments. The instalments will be made in advance of each term in the ratio 40:30:30, but the Welsh Ministers may choose to withhold any instalment if the Institution has confirmed that it is holding sufficient funds to meet existing need.

### **Unspent funds**

**32.** At the end of the period to which this Scheme applies, the Institution may carry forward up to 10% of their total available funds under this Scheme without reference to the Welsh Ministers.

**33.** Any funds and interest carried forward under paragraph 32 may only be used in relation to a successor hardship scheme established by the Welsh Ministers.

**34.** The remainder of any unspent funds and interest held by the Institution in respect of this Scheme (over and above that calculated under paragraph 32 and which remains unspent as of 31 July 2022) must be returned to the Welsh Government not later than 1 December 2022.

**35.** For the purposes of paragraph 32, the 10% figure is to be calculated by reference to the sum of the 2021/22 allocation to the Institution, together with any funds previously carried forward by the Institution, and any interest earned on that sum and funds.



### **Publicity and administrative costs**

**36.** The Institution may use up to 3% of its total funding allocation under this Scheme or £525, whichever is the greater, to ensure that the Scheme is effectively publicised and administered.

### **Accountability**

**37.** The Director of the Institution in Wales is responsible for—

(1) advising the Governing Body of the Institution of its responsibilities under this Scheme;

(2) ensuring that the uses to which the Institution puts its funding allocation are consistent with the purposes of this Scheme and that the terms and conditions of this Scheme are complied with; and

(3) taking those measures which the Welsh Ministers may from time to time require to ensure that a system of financial controls and managements are in place to enable the Institution to fulfil its financial obligations.

### **Provision of accounts, audit and additional information**

**38.** The Institution is required to have regard to the requirements contained in the offer letter. The Institution must make information in respect of its audited accounts available to the Welsh Ministers upon request.

**39.** The Institution must use the repayments made by students in respect of short-term loans made under paragraph 25 of this Scheme for the purposes set out in this Scheme, or for further payments, which must be documented in the same way as the original payments.

**40.** The Institution may only use the repayments made by students in respect of loans made under paragraph 25 of this Scheme for the purposes set out in this Scheme, or for further payments which must be documented in the same way as original payments.

## **PART 7 – PROCESSES: INTERFACE BETWEEN THE INSTITUTION AND STUDENTS**

### **Policy**

**41.** The Institution is required to have a written policy for the allocation of payments to eligible students under this Scheme. The written policy must be clear and published (together with the appeals procedure under paragraph 50) in such manner as the Institution considers appropriate, provided that it is

easily accessible to its students and those who advise them. The written policy, and any other materials or advertisements published in relation to the Scheme, must refer to the Scheme as “the Financial Contingency Fund (Open University) (Wales) Scheme 2021/22”.

### **Payments to students**

**42.** The Institution must deal with students’ payments promptly, bearing in mind the purposes of this Scheme and circumstances which give rise to financial hardship.

**43.** The Institution must not commit to any year on year awards to students.

**44.** The Institution may agree payments to eligible students under this Scheme in principle prior to the start of the eligible student’s course, although actual payment cannot occur until the student has started the course.

**45.** The Institution may make payments to eligible students under this Scheme either in a lump sum or by way of instalments.

**46.** The Institution should have regard to any Code of Practice issued from time to time by the Equalities and Human Rights Commission in respect of requirements imposed by Chapter 2 of Part 6 of the Equality Act 2010.

### **Payments other than directly to the student / debt owed to the Institution**

**47.** Subject to the exception which follows, the Institution may use this Scheme to reimburse itself for amounts owed to it by the student, provided the student first consents to the using of the funding for that purpose. The exception is that the Institution may not use the Scheme to directly reimburse itself in respect of unpaid tuition fees (other than a debt which has arisen in respect of a payment made under paragraph 15 of this Scheme).

**48.** The Institution must not make payments under this Scheme conditional on a student first settling any debt owed by that student to the Institution, nor require a student to use any payment under this Scheme to settle such debt.

### **Payments during periods when study is suspended**

**49.** The Institution may make payments under this Scheme to eligible students who have suspended their studies due to health, caring reasons, pregnancy, or for any other circumstances that the Institution deems appropriate, provided that the Institution is satisfied

that the student has not withdrawn from or abandoned the course and that the student intends to return to the course.

### **Appeals**

**50.** The Institution must have a published appeals procedure in place for cases where students have applied unsuccessfully for support under this Scheme. This procedure should be published and students must be informed of their right to appeal. Decisions on eligibility and awards rest with the Institution. It is for the Institution to consider each case and resolve appeals in accordance with its published procedure.

**51.** The Institution should consider including student representation in the decision making process.

*Jeremy Miles MS*

Minister for Education and Welsh Language, one of the Welsh Ministers

10 September 2021

# SCHEDULE

## Eligible Students

### PART 1

#### Interpretation

1.—(1) For the purposes of this Schedule—

“the 2020 Citizens’ Rights Regulations” (*“Rheoliadau Hawliau Dinasyddion 2020”*) means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;

“Directive 2004/38” (*“Cyfarwydddeb 2004/38”*) means Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EEA” (*“AEE”*) means the territory comprised by the member states of the European Economic Area;

“EEA frontier self-employed person” (*“person hunangyflogedig trawsffiniol AEE”*) means an EEA national who—

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” (*“gweithiwr trawsffiniol AEE”*) means an EEA national who—

- (a) is a worker in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” (*“gweithiwr mudol AEE”*) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (*“gwladolyn AEE”*) means a national of an EEA State;

“EEA self-employed person” (*“person hunangyflogedig AEE”*) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” (“*Gwladwriaeth AEE*”) means a Member State of the European Economic Area;

“employed person” (“*person cyflogedig*”) means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“EU national” (“*EU national*”) means a national of a Member State of the European Union;

“European Union” (“*yr Undeb Ewropeaidd*”) means the territory comprised by the Member States of the European Union as constituted from time to time;

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”) means the area comprised by the EEA States;

“family member” (“*aelod o deulu*”) means (unless otherwise indicated)—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person, an EEA self-employed person or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person—
  - (i) the person’s spouse or civil partner;
  - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the person or the person’s spouse or civil partner; or
  - (iii) dependent direct relatives in the ascending line of the person or that of the person’s spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
  - (i) the person’s spouse or civil partner; or
  - (ii) the person’s child or the child of the person’s spouse or civil partner;
- (c) in relation to an EU national who falls within Article 7(1)(c) of Directive 2004/38—
  - (i) the national’s spouse or civil partner; or
  - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or of the national’s spouse or civil partner;
- (d) in relation to an EU national who falls within Article 7(1)(b) of Directive 2004/38—

- (i) the national’s spouse or civil partner;
  - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or of the national’s spouse or civil partner; or
  - (iii) dependent direct relatives in the national’s ascending line or that of the national’s spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 14—
- (i) the national’s spouse or civil partner; or
  - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of the national or of the national’s spouse or civil partner;

“grace period” (“*cyfnod gras*”) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;

“immigration rules” (“*rheolau mewnfudo*”) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971(1);

“IP completion day” means “implementation period completion day” (“*diwrnod cwblhau’r cyfnod gweithredu*”) and has the meaning given by Schedule 1 of the Legislation (Wales) Act 2019;

“Islands” (“*Ynysoedd*”) means the Channel Islands and the Isle of Man;

“person granted leave to enter or remain as a protected person” (“*person y rhoddwyd caniatâd iddo ddod i mewn neu aros fel person a ddiogelir*”) means a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;

“person granted leave to remain as a protected partner” (“*person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir*”) means a person granted leave to remain in the United Kingdom as either a victim of domestic violence or domestic abuse or as a bereaved partner under any of the following provisions of the immigration rules—

- (a) paragraphs 289B and 289D (victims of domestic violence);

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(1) 1971 c. 77

- (b) paragraphs D-DVILR.1.1. and D-DVILR.1.2. of Appendix FM (victims of domestic abuse);
- (c) paragraphs 40 and 41 of Appendix Armed Forces (victims of domestic violence who are partners of members of the armed forces);
- (d) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved spouses or civil partners);
- (e) paragraphs D-BPILR.1.1. and D-BPILR.1.2. of Appendix FM (bereaved partners);
- (f) paragraphs 36 and 37 of Appendix Armed Forces (bereaved partners); or
- (g) paragraph 295N, as a person in relation to whom the requirements in paragraph 295M of those rules are met (bereaved unmarried or same sex partners).

“person granted stateless leave” (*“person y rhoddwyd caniatâd iddo aros fel person diwlladwriaeth”*) means a person who—

- (a) has extant leave to remain as a stateless person under the immigration rules; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;

“person with Calais leave” (*“person sydd â chaniatâd Calais”*) means a person with extant leave to remain under paragraphs 352J, 352K, 352L or 352T of the Immigration Rules (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave);

“person with protected rights” (*“person sydd â hawliau gwarchoddedig”*) means a person within the personal scope of the citizens’ rights provisions who—

- (i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;
- (ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom;
- (iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended;
- (iv) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations where the relevant period has not expired; or

(v) otherwise has rights deemed to apply by virtue of any relevant citizens' rights provisions;

(c) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;

(2) in paragraph (1)(v) "relevant citizens' rights provisions" means—

(a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;

(b) Article 17(2) and (3) (issuance of residence documents) of the separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or

(c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement;

"person with section 67 leave to remain" (*"person sydd â chaniatâd i aros o dan adran 67"*) means a person who—

(a) has leave to remain in the United Kingdom under section 67 of the Immigration Act 2016 and in accordance with the immigration rules; and

(b) has been ordinarily resident in the United Kingdom and the Islands throughout the period since the person was granted such leave;

"refugee" (*"ffoadur"*) 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 July 1951 as extended by the Protocol thereto which entered into force on 4 October 1967;

"relevant period" (*"cyfnod perthnasol"*) has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;

"relevant person of Northern Ireland" (*"person perthnasol o Ogledd Iwerddon"*) has the meaning given by residence scheme immigration rules;

"residence scheme immigration rules" (*"rheolau mewnfudo'r cynllun preswyllo"*) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;

"self-employed person" (*"person hunangyflogedig"*) means—

(a) in relation to an EEA national, a person who is self-employed within the meaning of



Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or

- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“settled” (“*wedi setlo*”) has the meaning given by section 33(2A) of the Immigration Act 1971<sup>(1)</sup>;

“Swiss Agreement” (“*Cytundeb y Swistir*”) means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999<sup>(2)</sup> and which came into force on 1 June 2002;

“Swiss citizens’ rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;

“Swiss employed person” (“*person cyflogedig Swisaidd*”) means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” (“*person cyflogedig trawsffiniol Swisaidd*”) means a Swiss national who—

- (a) is an employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” (“*person hunangyflogedig trawsffiniol Swisaidd*”) means a Swiss national who—

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State, and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” (“*person hunangyflogedig Swisaidd*”) means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“Turkish worker” (“*gweithiwr Twrcaidd*”) means a Turkish national who—

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

(2) Cm. 4904 and OJ No L114, 30.04.02, p.6 .

- (a) is ordinarily resident in the United Kingdom and Islands; and
- (b) is, or has been, lawfully employed in the United Kingdom;

“worker” (“*gweithiwr*”) means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be;

(3) For the purposes of this Schedule, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly.

(4) For the purposes of this Schedule, a person (“A” in this sub-paragraph) is to be treated as ordinarily resident in Wales, the United Kingdom, Islands and the Republic of Ireland or in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey if A would have been so resident but for the fact that—

- (a) A;
- (b) A’s spouse or civil partner;
- (c) A’s parent; or
- (d) in the case of a dependent direct relative in the ascending line, A’s child or child’s spouse or civil partner,

is or was temporarily employed outside Wales, the United Kingdom, Islands and Republic of Ireland or the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey.

(5) For the purposes of sub-paragraph (3), temporary employment outside Wales, the United Kingdom, Islands and Republic of Ireland or the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces;
- (b) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces;
- (c) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland as members of such forces; and
- (d) in the case of members of the regular armed forces of Turkey, any period which they serve

outside of the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey as members of such forces.

(6) For the purposes of this Schedule an area other than the United Kingdom or Gibraltar which—

- (a) was previously not part of the European Union or the European Economic Area; but
- (b) at any time before or after this Scheme came into force has become part of one or other or both of these areas,

is to be considered to have always been a part of the European Economic Area.

(7) For the purposes of this Schedule, a reference to a “Member State” or “State” in Article 7 of Directive 2004/38 is to be read as including the United Kingdom.

(8) For the purposes of this Schedule, a person is within the personal scope of the citizens’ rights provisions if that person falls within—

- (a) Article 10 (personal scope) of the EU withdrawal agreement;
- (b) Article 9 (personal scope) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
- (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.

## PART 2

### Categories of Eligible Students

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

2.—(1) A person who on the first day of the first academic year of the course—

- (a) is settled in the United Kingdom and does not fall within paragraph 3;
- (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) subject to sub-paragraph (2), 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 1(3).

**3.—(1) A person who—**

- (a) meets one of the following conditions on the first day of the first 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 a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations; and
    - (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (EEA) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens’ Rights Regulations in relation to that person during the grace period;
  - (iv) 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 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 (EEA) 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 or otherwise has a deemed right of permanent residence by virtue of any of the citizens' rights provisions specified in paragraph (3); or
- (v) 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 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 EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(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 rules" means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.

(3) For the purposes of sub-paragraph (1)(a)(iv), 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.

#### **Refugees and their family members**

- 4.—(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; and
  - (c) is ordinarily resident in the United Kingdom on the first day of the first 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 made the application for asylum;
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom; and
  - (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 made the application 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 on the date on which the refugee made the application for asylum;
  - (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being 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.

#### **Protected persons and their family members**

- 5.—(1) A person—
  - (a) granted leave to enter or remain as a protected person;
  - (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be

so resident since the person was granted such leave; and

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

(2) A person who—

(a) is a protected spouse or civil partner;

(b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules);

(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 Wales on the first day of the first academic year of the course.

(3) A person—

(a) is a protected child;

(b) on the leave application date was—

(i) under 18 years old; and

(ii) was the child of a person granted leave to enter or remain as a protected person or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be);

(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 Wales on the first day of the first academic year of the course.

(4) In this paragraph—

(a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person;

(b) “leave to enter or remain as a protected person” means—

- (i) a person granted leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
- (ii) a person granted stateless leave;
- (iii) a person with section 67 leave to remain; or
- (iv) a person with Calais leave;
- (c) “protected child” means—
  - (i) a child of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules;
    - (bb) a person granted stateless leave;
    - (cc) a person with section 67 leave to remain;
  - (ii) a child of the spouse or civil partner of—
    - (aa) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
    - (bb) a person granted stateless leave;
- (d) “protected spouse or civil partner” means a spouse or civil partner of—
  - (i) a person who has extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules; or
  - (ii) a person granted stateless leave.

**Persons granted leave to remain as a protected partner and their children**

- 6.—(1) A person—
- (a) granted leave to remain as a protected partner;
  - (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave; and
  - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.
- (2) A person who—
- (a) is the child of a person granted leave to remain as a protected partner;
  - (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner;



- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom;
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) In this paragraph, “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner.

**Persons with leave to enter or remain and their family members**

7.—(1) A person—

- (a) with leave to enter or remain;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (c) who 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.

(2) A person—

- (a) who is the spouse or civil partner of a person with leave to enter or remain;
- (b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date;
- (c) who 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 immediately preceding the first day of the first academic year of the course.

(3) A person—

- (a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;
- (b) who, on the leave application date, was under 18 years old and was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;
- (c) who 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 immediately preceding the first day of the first academic year of the course.

(4) In this paragraph, a “person with leave to enter or remain” means a person (“P”)—

(a) who has—

(i) applied for refugee status but has as a result of that application been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is considered not to qualify for recognition as a refugee it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;

(ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow that person to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;

(iii) been granted leave to remain on the grounds of private or family life under the immigration rules; or

(iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although that P is not considered to qualify for leave to remain on the grounds of private or family life under the immigration rules, that P has been granted leave to remain outside the rules on the grounds of Article 8 of the European Convention on Human Rights;

(b) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002); and

(c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since they were granted leave to enter or remain.

(5) In this paragraph, “leave application date” means the date on which the person with leave to enter or

remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.

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

**8.**—(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) 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, Gibraltar, the European Economic Area and Switzerland 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 under this Scheme falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

**9.**—(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);
- (b) subject to sub-paragraph (2), is ordinarily resident in Wales 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, Gibraltar, the EEA and Switzerland 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.

**10.—(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 the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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 10 of Council Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on the 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 the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.

(3) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.

**11.—(1) A person with protected rights who—**

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;

- (b) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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 10 of 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.

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

**12.**—(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) 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 United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where the person’s ordinary residence referred to in paragraph (d) 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 (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if sub-paragraph (3) or (4) applies to the person.

(3) This sub-paragraph applies to a person who is—

- (a) a United Kingdom national;

- (b) 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
- (c) a person who had the right of permanent residence;
- (d) who 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.

(4) This paragraph applies to a person who—

- (a) is settled in the United Kingdom and had the right of permanent residence; and
- (b) has gone to the state within the territory comprising the EEA and Switzerland of which they are a national or of which the person in relation to whom that person is a family member is a national.

(5) For the purposes of this paragraph, 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.

**13.—**(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales 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 Gibraltar, the EEA and Switzerland; or
  - (ii) in the United Kingdom where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, the EEA and Switzerland;

and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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 the day on which the first term of the first academic year of the course actually begins;

- (e) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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 purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA 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 in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the EEA 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.

### **United Kingdom nationals**

**14.—(1)** A person—

- (a) who is—
  - (i) a United Kingdom national 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);
- (b) who was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the EEA and Switzerland; or
  - (ii) in the United Kingdom, where that residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the EEA and Switzerland;

and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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 attending a course;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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, Gibraltar, the EEA and Switzerland 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, Gibraltar, the EEA and Switzerland in accordance with paragraph 1(3).

(3) 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).

### **EU nationals ordinarily resident in the United Kingdom**

**15.**—(1) A person 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, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).



(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) to be an EU national on the first day of the first academic year of the course is treated as being satisfied.

**16.** 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 Wales 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 person's ordinary residence referred to in sub-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 EEA and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).

#### **Children of Swiss nationals**

**17.**—(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 the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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).

(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.

**18.** 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 Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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 sub-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 EEA and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).

#### **Children of Turkish workers**

**19.** 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 United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

**20.** 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;
- (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 Wales 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, Gibraltar, the EEA, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

## PART 3

### Categories of Student Eligible for Tuition Fee Support Only

#### Persons settled in the United Kingdom

**21.** A person—

- (a) who is settled in the United Kingdom on the first day of the first academic year of the course and who does not fall within paragraph 3 of this Schedule;
- (b) who is undertaking a course in Wales;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, 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) whose ordinary residence in the territory comprising the United Kingdom, 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.

#### EU nationals and United Kingdom nationals who have exercised a right of residence

**22.—**(1) A person—

- (a) who, on the first day of the first academic year of the course, is—
  - (i) an EU national;
  - (ii) a United Kingdom national who has exercised a right of residence; or
  - (iii) the family member of a person in sub-paragraph (i) or (ii);
- (b) who is undertaking a course in Wales;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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) Any description of person who would have been eligible under sub-paragraph (1) immediately before IP

completion day is to be eligible on and after IP completion day.

### **Persons with protected rights**

**23.** 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 a course in Wales;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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.

### **Family members of United Kingdom nationals**

**24.** A person—

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is undertaking a course in Wales;
- (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) whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in sub-paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

### **Residents of Gibraltar**

**25.** 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
  - (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 a course in Wales;
  - (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
  - (d) whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland has not during any part of the period referred to in sub-paragraph (c) been wholly or mainly for the purpose of receiving full-time education.