

SCHEDULE 2

ORDINARY RESIDENCE

2.—(1) Sub-paragraphs (2) to (5) apply in determining, for the purposes of regulation 3(b) and paragraphs 1(b), 2(b), 3(1)(c), 9(1)(c), 10(1)(b), 11(b) and 13(c) of Schedule 1, whether a post 2011/12 student is to be treated as having been or not having been ordinarily resident for the period specified in those paragraphs (in this paragraph, “the specified period”) in the United Kingdom and Islands, the European Economic Area, Switzerland, the EU overseas territories or Turkey (in this paragraph, “the relevant area”).

(2) A post 2011/12 student is not to be treated as having been ordinarily resident in the relevant area for the specified period in regulation 3(b) if that post 2011/12 student was resident there for any part of that period wholly or mainly for the purpose of receiving full-time education, unless the post 2011/12 student has acquired settled status in the United Kingdom under the Immigration Act 1971 as a result of residence for full-time education which has led to a right of permanent residence arising under Directive 2004/38, in which case the post 2011/12 student must have been ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the start of that period of residence.

(3) A post 2011/12 student is not to be treated as having been ordinarily resident in the relevant area for the specified period in paragraph 10(1)(b) of Schedule 1 if that post 2011/12 student was resident there for any part of that period wholly or mainly for the purpose of receiving full-time education.

(4) A post 2011/12 student is to be treated as having been ordinarily resident in the relevant area for the specified period if that post 2011/12 student was born and has spent the greater part of their life in the relevant area and—

- (a) their parents or either of them have been ordinarily resident in the relevant area throughout the specified period and that post 2011/12 student is not an independent student; or
- (b) that post 2011/12 student has been ordinarily resident in the relevant area for at least one year of the specified period and, in the case of those qualifying by virtue of regulation 3 or paragraph 10 of Schedule 1, no part of that residence was wholly or mainly for the purposes of receiving full time education.

(5) A post 2011/12 student is to be treated as having been ordinarily resident in the relevant area for the specified period if that post 2011/12 student was not actually ordinarily resident in the relevant area for the specified period only because—

- (a) that post 2011/12 student, or their spouse or civil partner, or either of their parents; or
- (b) in the case of a dependent direct relative in the ascending line, the child upon whom that post 2011/12 student was dependent or that child’s spouse or civil partner,

was temporarily—

- (i) employed outside the relevant area; or
- (ii) attending a course of study or undertaking postgraduate research outside the relevant area.