

SCHEDULE 1

Regulation 2

PERSONS WHO CAN BE AWARD STUDENTS

PART I

INTERPRETATION

1. In this Schedule—

“the Council Regulation” means Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community as extended by the EEA Agreement⁽¹⁾;

“the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽²⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽³⁾;

“European Community” means the territory comprised in the members States of the European Community as constituted from time to time; and

“European Economic Area” means the European Community and, subject to conditions laid down in the EEA Agreement, the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Leichenstein.

2. In this Schedule a reference to an EEA migrant worker is a reference to a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom—

(a) under the Council Regulation; or

(b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member state in relation to matters which are the subject of the Council Regulation.

PART II

CATEGORIES OF PERSONS

3. A person who on the first day of the first academic year of the course—

(a) is settled in the United Kingdom within the meaning of the Immigration Act 1971⁽⁴⁾; and

(b) meets the residence conditions referred to in paragraph 10.

4. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so resident since he was recognised as a refugee, or who is the spouse, child or stepchild of such a refugee, in each case who meets the residence condition in paragraph 10(a).

5. A person who—

(a) (i) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom; or

(1) OJ No. L257, 19.10.98, P. 2 (OJSE 1968) (II) p. 475).

(2) Cmnd 2073.

(3) Cmnd 2183.

(4) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4; by the Immigration Act 1998 (c. 14), sections 1, 2, 3, 4, 6 and 10 and the Schedule, any by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

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- (ii) before 1st July 1993 applied to the Secretary of State for the Home Department for recognition as a refugee and who has been informed by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow him to enter or remain in the United Kingdom,
- (b) has been granted leave to enter or to remain accordingly; and
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remain;

or who is the spouse, child or stepchild of such a person, where the person, or as the case may be the spouse, child or stepchild meets the residence conditions referred to in paragraph 10.

- 6. A person who is an EEA migrant worker who—
 - (a) is entitled to support by virtue of Article 7(2) or (3) of the Council Regulation or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3) of the Council Regulations; and
 - (b) meets the residence conditions referred to in paragraph 10.
- 7. A person who is the spouse of an EEA migrant worker and who—
 - (a) is installed in the United Kingdom with his spouse; and
 - (b) meets the residence conditions referred to in paragraph 10.

- 8.—(1) A person who is the child of an EEA migrant worker and who—
 - (a) is entitled to support by virtue of Article 12 of the Council Regulation, or, where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12 of the Council Regulation; and
 - (b) meets the residence conditions referred to in paragraph 10.

(2) For the purpose of this paragraph “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.

9. A person who is a national of a member State of the European Community who meets the residence conditions referred to in paragraph 10(b) and (c).

- 10. The residence conditions referred to above are that—
 - (a) the person is ordinarily resident in England and Wales on the first day of the first academic year of the course;
 - (b) the person has been ordinarily resident throughout the three year period preceding the first day of the first academic year of the course, in the case of a person mentioned in paragraphs 3 or 5, in the United Kingdom and Islands, or, in the case of a person mentioned in paragraphs 6, 7, 8 or 9 in the European Economic Area; and
 - (c) his residence in the United Kingdom and Islands, or in the European Economic Area, as the case may be, has not during any part of the period referred to in sub-paragraph (b) been wholly or mainly for the purpose of receiving full-time education.