

## GUIDANCE ON FEE ASSESSMENT REGULATIONS

Fee assessment is carried out according to your circumstances on the first day of the first academic year of the course (see dates below) and throughout the three years preceding that date.

Under the regulations, the first day of the first academic year of the course is calculated as follows:

1 September	-	if the academic year starts between 1 August - 31 December
1 January	-	if the academic year starts between 1 January – 31 March
1 April	-	if the academic year starts between 1 April – 30 June
1 July	-	if the academic year starts between 1 July – 31 July

**Please see the notes on pages 3-4 for an explanation of some of the terms we use below**

In accordance with the Education (Fees & Awards) Regulations 1997 (as amended on 31 March 2006), you will be liable for payment of fees at the higher (overseas) rate unless:

- (a) you have a relevant connection with the United Kingdom and Islands (as set out below); **or**
- (b) you are regarded as an 'excepted student' under the Regulations.

### Relevant Connection with the United Kingdom and Islands

You will be regarded as having a relevant connection with the United Kingdom (UK) if you are **settled** in the UK on the first day of the first academic year of the course; **and**

- (a) you have been ordinarily resident in the UK throughout the three-year period preceding the first day of the first academic year of the course; **and**
- (b) you have not been resident in the UK during any part of that three-year period wholly or mainly for the purpose of receiving full-time education.

### Excepted Students

1. Any person who on the first day of an academic year of the course

- (a) is a national of a member state of the European Union (EU); **or**
- (b) is the family member of an EU national; **and** who also satisfies the following conditions:
- (c) has been ordinarily resident in the European Economic Area (EEA) or Switzerland throughout the three-year period preceding the first day of the first academic year of the course; **and**
- (d) has not been resident in the EEA or Switzerland during any part of that three-year period wholly or mainly for the purpose of receiving full-time education.

2. Any person who on the first day of the first academic year of the course

- (a) is an EU national\*; **and**
- (b) has been ordinarily resident in the UK throughout the three-year period preceding the first day of the first academic year of the course; **and**
- (c) **EITHER** has not been resident in the UK during any part of that three-year period wholly or mainly for the purpose of receiving full-time education **OR** was ordinarily resident in the EEA or Switzerland immediately prior to the three-year period of ordinary residence in the UK.

\* NB: this category excludes UK nationals unless they have exercised a European Community right of free movement in the EEA or Switzerland

3. Any person who on the first day of the first academic year of the course
  - (a) is an EEA/Swiss national resident in the UK as a worker; **or**
  - (b) is the spouse/civil partner or family member of such a worker **and** who also satisfies the following conditions:
  - (c) is ordinarily resident in the UK on the first day of the first academic year of the course; **and**
  - (d) has been ordinarily resident in the EEA or Switzerland throughout the three-year period preceding the first day of the first academic year of the course
  
4. Any person who on the first day of the first academic year of the course
  - (a) is the child of an EEA national who is employed in the UK, or who has been employed in the UK; **and**
  - (b) came to the UK to accompany the EEA migrant worker; **and**
  - (c) is ordinarily resident in the UK on the first day of the first academic year of the course; **and**
  - (d) has been ordinarily resident in the EEA or Switzerland throughout the three-year period preceding the first day of the first academic year of the course
  
5. Any person who on the first day of an academic year of the course
  - (a) is the child of a Swiss national; **and**
  - (b) is ordinarily resident in the UK on the first day of the first academic year of the course; **and**
  - (c) has been ordinarily resident in the EEA or Switzerland throughout the three-year period preceding the first day of the first academic year of the course; **and**
  - (d) **EITHER** has not been resident in the EEA or Switzerland during any part of that three-year period wholly or mainly for the purpose of receiving full-time education **OR** was ordinarily resident in the EEA or Switzerland immediately prior to the three-year period of ordinary residence therein.
  
6. Any person who
  - (a) is recognised by the UK Government as a refugee under the United Nations (Geneva) Convention, 1951; **or**
  - (b) is the spouse or civil partner or child of a person who has been recognised as a refugee by the UK Government; **and**
  - (c) the person who is recognised as a refugee has been ordinarily resident in the UK since the granting of refugee status.
  
7. Any person who
  - (a) has been informed in writing by the UK government specifically that they are not qualified for asylum or recognition as a refugee, but that nevertheless it is thought right to allow them to remain in the UK; **or**
  - (b) is the spouse or civil partner or child of a person who has been told that the UK government does not recognise them as a refugee but that they may remain in the UK; **and**
  - (c) the person who has been refused recognition as a refugee has been ordinarily resident in the UK throughout the period since that decision.
  
8. Any person who is studying in the UK on the basis of a formal student exchange.
  
9. Any person who is
  - (a) settled in the UK and has not been ordinarily resident in the UK throughout the three-year period prior to the first day of the first year of the academic course, only because he/she, his/her spouse or his/her parent was temporarily employed outside the UK; **or**
  - (b) a national of a member state of the EU, or the family member of an EU national, and has not been ordinarily resident in the EEA or Switzerland throughout the three-year period prior to the first day of the first year of the academic course, only because he/she, his/her spouse or his/her parent was temporarily employed outside the UK or, as the case may be, outside the EEA or Switzerland.

## EXPLANATORY NOTES

### 1. **Settled Status**

For these purposes the term 'settled in the UK' means that the person concerned is ordinarily resident in the UK and free from any restriction on the period for which he or she may stay in the UK.

### 2. **Definition of ordinary residence**

Ordinary residence is defined in case law as "a regular, habitual mode of life in a particular place, the continuity of which has persisted despite temporary absences".

### 3. **European Union (EU) Member States**

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark (excluding the Faroe Islands and Greenland), Estonia, Finland (including the Aland Islands), France (including Guadeloupe, Martinique, French Guyana, and Reunion), Germany (including Heligoland but excluding Buesingen), Greece, Hungary, Ireland, Italy (excluding Camione d'Italia and Livigno), Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal (including Madeira and the Azores, but excluding Macao), Romania, Slovakia, Slovenia, Spain, (including the Balearic Islands, the Canaries, Ceuta, and Melilla), Sweden, and the United Kingdom (including Gibraltar, but excluding the Channel Islands and the Isle of Man).

### 4. **European Economic Area (EEA) Member States**

The EEA is made up of the EU Member States plus Iceland, Liechtenstein and Norway.

### 5. **Switzerland**

A bilateral treaty was ratified between the EU and Switzerland on 1 June 2002 which gives Swiss nationals similar freedom of movement rights to non-EU EEA nationals (i.e. nationals of Iceland, Liechtenstein and Norway). In addition the definition of the area within which the three-year residency requirement can be met has been widened to include Switzerland.

### 6. **EU Nationals and their families**

The EU national must be:

- the student
- the student's spouse/civil partner
- the student's parent (etc in direct ascending line) or the spouse/civil partner of the student's parent (etc in direct ascending line) if the student is EITHER under 21 OR dependent on his/her EU national parent (etc in direct ascending line) or on that parent's spouse/civil partner
- the student's child (etc. in direct descending line) if the student is dependent on the EU national
- the spouse/civil partner of the student's child (etc in direct descending line) if the student is dependent on the EU national or the EU national's spouse or civil partner.

### 7. **Migrant Worker**

A migrant worker is any person who is a national of a member state of the EEA or Switzerland who has taken up an activity as an employed person in the UK:

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community, as extended by the EEA Agreement; or
- (b) in circumstances where as a national of the UK he/she 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 above mentioned Council Regulations.

8. **EEA Migrant Workers/Swiss Workers and their families**

The EEA/Swiss worker must be:

- the student
- the student's spouse/civil partner
- the student's parent/adoptive parent/step-parent/any other person having parental responsibility or the spouse/civil partner of that parent

**and** for EEA (not Swiss) workers:

- the student's child (etc. in direct descending line) if the student is dependent on the EEA worker
- the spouse/civil partner of the student's child (etc in direct descending line) if the student is dependent on the EEA migrant worker or the worker's spouse/civil partner

9. **Refugees and their families**

The refugee/person refused refugee status must be:

- the student
- the student's spouse/civil partner
- the student's parent/adoptive parent/step-parent/guardian/any other person having parental responsibility

10. **Temporary employment**

Where a student has been absent from the UK (or EEA or Switzerland as applicable) during the relevant three-year period, the onus is on the student to establish (a) that the absence was because of employment abroad; (b) that the absence was temporary; and (c) that if it were not for the employment the student would have been resident in the UK (or EEA or Switzerland) throughout the relevant three-year period.

11. **Overseas Territories**

Amendments are expected to the Regulations to extend the area in which students from specified overseas territories may be resident during the three years prior to the start of their course. The change (subject to Parliamentary approval) will apply from 2007/8 and will affect new and existing students on undergraduate courses in the HE sector. The specified territories are: British Overseas Territories: Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Montserrat, Pitcairn Islands, South Georgia and the South Sandwich Isles, St Helena and its Dependencies, Turks and Caicos Islands; Overseas Territories of other EU member states: Greenland & Faeroe Islands (Denmark), Netherlands Antilles and Aruba (Netherlands), New Caledonia, French Polynesia, Wallis and Futuna, Mayotte, St Pierre et Miquelon, French Southern and Antarctic Territories (France).

*Further information can be found on the UKCOSA website [<http://www.ukcosa.org.uk>] and on the Department for Education & Skills website [<http://www.dfes.gov.uk/hegateway/>]*

**This information is current at the time of its publication and may be subject to alteration.**