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EU RESIDENCE INTERIM GUIDE - STUDENTS COMMENCING STUDIES IN 2021-22

Disclaimer: *The information in this guide offers general guidance only and is not legally binding, nor does it constitute any right of eligibility for, or entitlement to, funding. Each application will be assessed in accordance with the student support regulations in force for the academic year 2021/22.*

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Section 1 – Introduction

1.1 Who is this guide for?

This guide is aimed at staff in colleges and universities with responsibility for determining the fee status of students. This guide sets out residency conditions for EU, EEA and Swiss nationals and their family members, and UK nationals living in the EU, who are studying courses of further and higher education in Scotland from the start of the academic year 2021-22. This is in light of the announcement on 9th July 2020 that as a result of the UK's departure from the EU at the end of 2020, EU, EEA and Swiss nationals starting a course from 2021-22 will no longer be automatically entitled to home fee status in Scotland.

1.2 The legislation and guidance

This interim guide explains the changes that are required to be made to the current student support residency categories, with legislation expected to be passed in early 2021. This guidance will be reviewed on a continual basis and further updates will be published as necessary.

At this stage, this interim guide is intended to assist colleges and universities to start assessing the fee status of prospective students. We expect the legislation to be in force by the end of March 2021.

We will continue to update this guidance as the policy position develops for all categories of students impacted by the EU changes and final guidance will be published when the legislative changes have been made.

Section 2 – Residency

2.1 EU Settlement Scheme

EU, EEA and Swiss nationals and their respective family members who are living in the UK by the end of the transition period (31 December 2020) and continue to live here after that date have **citizens' rights** under the EU Withdrawal Agreement. Those with citizens' rights have the right to continue to legally reside in the UK and enjoy associated rights. The rights of those who move to the UK after the end of the transition period (unless they have citizens' rights as a family member of a person already in the UK) will be subject to future negotiations on mobility arrangements.

Those who have citizens' rights can apply for settled status via the Home Office's EU Settlement Scheme. They will be awarded:

- **settled status** (i.e. indefinite leave to remain) if they have the requisite minimum of five years of continuous lawful residence in the UK, or
- **pre-settled status** (i.e. limited leave to remain) if they have a shorter period of UK residence (any period of residence of less than five continuous years). After five years of continuous lawful residence in UK they can apply to change this status to settled status and should do so before the pre-settled status expires.

2.2 EU Fee Status Table

This table provides a summary of the fees applicable to different categories of students. The 'home' fee rate is the rate currently applied to Scottish domiciled students (£1,820). The 'rUK' rate is the fee rate applied to students from elsewhere in the UK (currently capped at £9,250) and the 'international' fee rate is the fee rate each institution currently charges to international students from outwith the EU.

In the table below, references to 'residency conditions' are to the student's **place of ordinary residence**¹.

	HOME	rUK	INTERNATIONAL
EU, EEA, Swiss nationals and family members ² living in the UK before the end of 2020 who have SETTLED status and meet the residency conditions of three years in the UK, EE, EU or Switzerland.	✓		
EU nationals and family members living in the UK before the end of 2020 who have PRE-SETTLED status and meet the residency conditions of three years in the UK, EEA, EU or Switzerland.	✓		
EEA and Swiss nationals (and their family members) living in the UK before the end of 2020 who have PRE-SETTLED status and meet the existing migrant worker or self-employed	✓		

¹ Ordinary residence means a person's place of residence which they have adopted voluntarily and for settled purposes, whether of short or long duration. The current rules on assessing ordinary residence for student support purposes (including an exclusion for residence for the primary purpose of education) will apply.

² Family members is defined by Article 9 of the Withdrawal Agreement, Article 8 of the EFTA Separation Agreement and Article 9 of the Swiss Citizens' Rights Agreement.

conditions ³ ; and also residency conditions of three years in the UK, EEA, EU or Switzerland.			
Non-EU EEA and Swiss nationals living in the UK before the end of 2020 who have PRE-SETTLED status but DO NOT meet existing migrant worker conditions.			✓
EU, EEA and Swiss nationals moving to live in the UK after 31 December 2020 without any other form of settled immigration status.			✓
Irish nationals living in the UK on 31 December 2020, who meet the residency conditions of three years in the UK, EEA, EU or Switzerland. Note: they do not require to apply for settled or pre-settled status (although they can apply).	✓		
Irish nationals, whether or not living in the UK on 31 December 2020, who are ordinarily resident in Scotland at the start of their course and meet the residency conditions of three years in the UK, EEA, EU or Switzerland.	✓		
Irish nationals who are not ordinarily resident in Scotland at the start of their course, but who meet the three year residency conditions of residing elsewhere within the Common Travel Area of the UK and ROI.	TBC	TBC	TBC
UK nationals living in the EU, EEA or Switzerland on 31 December 2020, who lived in Scotland before moving there, and who have lived in the EU, EEA or Switzerland for the last three years before starting their course.	✓		
UK nationals living in the EU, EEA or Switzerland on 31 December 2020, who lived in another part of the UK before moving there, and who have lived in the EU, EEA or Switzerland for the last three years before starting their course.		✓	
UK nationals living in the EU, EEA or Switzerland for at least three years prior to the relevant date and lived there between 31 December 2020 and the start of the course, but who did not live in the UK before moving there.	TBC	TBC	TBC
Family members of UK nationals living in the EU, EEA or Switzerland for at least three years prior to the relevant date [whether or not they lived in the UK before moving there].	TBC	TBC	TBC
Dual UK/EU nationals resident elsewhere in the UK		✓	

2.3 Irish nationals

We are not currently in a position to confirm the entitlement of Irish students to funding in session 2021-2022 who are not ordinarily resident in Scotland. Discussions are underway with the UK and Irish Governments around the development of an Education Memorandum of Understanding as part of the Common Travel Area (CTA) agreement.

³ The status of workers and self-employed persons is as set out in Article 7 of Directive 2004/38/EC.

We will provide details of the outcome of these discussions as soon as possible.

Irish nationals do not need to apply via the EU Settlement Scheme and do not require settled status to live in the UK (although as EU citizens they may apply to the Scheme).

Irish nationals, whether or not living in the UK on 31 December 2020, who are ordinarily resident in Scotland at the start of their course and meet the residency conditions of three years in the UK, EEA, EU or Switzerland will continue to be eligible for home fee status in line with current policy. **The fee status for Irish nationals moving to the UK for education after the transition period is still to be determined.**

Section 3– Intercalation, articulation, repeats, course changes and breaks in study

3.1 Intercalated students

Eligible EU nationals who began their degree in 2020-21 or earlier, who commence an intercalated year end-on to their degree, before recommencing their degree the following year will remain eligible to home fees for both their intercalated year and remainder of their degree.

Similarly, those who commence their degree in 2021-22 or later and are eligible for home tuition fees, will retain home fees for the intercalated year and the remainder of their degree.

3.2 Articulating students

Students who begin a course in academic year 2020-21 or earlier, who then articulate end-on to another qualification will continue to be entitled to home tuition fee funding (providing there is no gap in between study).

By articulating we mean;

HNC to HND year 2

HNC to degree year 2

HND to degree year 2 or 3

3.3 Repeat year students

Students who begin a course in academic year 2020-21 or earlier and have to repeat a year of their course will remain eligible for home tuition fees for that course where the break in study is no longer than one year.

Where the break in study is longer than a year, exceptions should be considered, depending on the circumstances of the student.

This also applies to students who are eligible for home tuition fees who commence in 2021-22 and have to repeat a year later on.

3.4 Deferrals

Students who were due to commence a course in 2020-21 but deferred their place until 2021-22 or later, will be assessed for tuition fees according to the regulations in place for the 2021-22 academic year.

Universities and colleges should give consideration to the level of tuition fees being charged where the institution has delayed the running of a course until 2021-22.

3.5 Course change students

Students who start a course in 2020-21 or earlier and then decide to change course in 2021-22 or later will fall under the new arrangements unless it is one of the approved articulation pathways.

For example, students who progress to postgraduate level will be assessed under the new arrangements at the point they change course.