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Welsh Government

## PUBLICATION

# Student Finance Wales Information Notice: EU exit eligibility categories

Describes the revised eligibility categories for home fee status and student support for the 2021/22 academic year. (SFWIN 03/2021)

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EU exit: Revised eligibility categories for home fee status and student support for the 2021/22 academic year

## Introduction

1. The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2021 ('the Regulations') are currently being drafted and once made will amend the regulations which provide for financial support and home fee status for students ordinarily resident in Wales taking a designated course of higher education on or after 1 August 2021.

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2. The arrangements described here are subject to change and to the Regulations being made. This document is designed to provide information about the new eligibility categories. It does not cover every aspect of eligibility for financial support nor does it constitute legal advice or a definitive statement of the law. Whilst every endeavour has been made to ensure the information contained is correct at the time of publication, this guidance should not be relied upon as a complete and accurate summary of the Regulations, which are yet to be made. In the event of anomalies between this guidance and the Regulations, the Regulations prevail.
3. The background to these changes and an overview of policy has been provided in SFWIN 01/21, *EU exit: New eligibility rules for home fee status and student support for the 2021/22 academic year*, which is available from:  
**[Student Finance Wales information notice: EU exit](#)**  
**[Student Finance Wales information notices](#)**
4. SFWIN 01/21 provided a summary of the new eligibility categories. From 1 August 2021, subject to the Regulations being made, the Welsh Government will provide financial support and home fee status to:
  - EU, EEA and Swiss nationals who benefit from citizens' rights under the various withdrawal agreements
  - family members of EU nationals
  - family members of People of Northern Ireland
  - Children of Swiss nationals
  - Children of Turkish Workers
  - UK nationals living in the EEA and Switzerland
  - UK and EU nationals resident in Gibraltar
  - family members of UK nationals
  - persons covered by the Common Travel Area arrangement
5. This Notice provides detailed information on the new eligibility categories to assist those involved in student finance and assessing home fee status to prepare for the Regulations. The Regulations are due for making in April.
6. The majority of these categories are new and will apply to academic years

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starting on or after 1 August 2021. These are in addition to existing categories. Some of the existing categories, those which are affected by EU exit, will apply only to those starting courses before 1 August 2021. A number of categories, including those related to non-EU immigration to the UK, are unaffected.

7. This eligibility categories in the student support and associated regulations are complex. In order to simplify this presentation a number of matters related to eligibility are omitted. The Regulations will provide for the full eligibility criteria. In particular, there are two matters which apply to a number of eligibility categories but are not discussed here:
  - the requirement that certain periods of ordinary residence in the UK have not been wholly or mainly for the purpose of receiving full-time education
  - the different residency requirements which in some cases apply to members of the armed forces to recognise their deployment overseas
8. The eligibility table at the end of this document uses the new categories as they will appear in the Education (Fees and Awards) (Wales) Regulations 2007 (for home fee status) and the Education (Student Support) (Wales) Regulations 2018 (for student support). There may be some differences between the categories in the various student support regulations.
9. SFWIN 01/21 noted that some groups will be eligible for support only until 1 January 2028. This applies to some UK nationals living outside the UK. The date is seven years from the end of the transition period, and so recognises that children may be starting a secondary education outside the UK but may wish to return to the UK to begin a higher education in due course. This is indicated accordingly.
10. As is currently the case, not all groups are eligible for all forms of student support. Eligibility for student support has long been based on a person being able to demonstrate a sufficiently strong connection to the UK. In some cases, students may only be eligible for some elements of support, as recorded in the following.

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## Part support

A person is eligible for:

- home fee status in the Education (Fees and Awards) (Wales) Regulations 2007
- tuition fee caps in the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provisions) (Wales) Regulations 2015
- a tuition fee grant and loan in the Education (Student Support) (Wales) Regulations 2017
- a loan in the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017
- a tuition fee loan in the Education (Student Support) (Wales) Regulations 2018
- a loan in the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018
- a loan and grant in the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019

## Full support

A person is eligible for part support plus:

- a maintenance loan and grant and other grants in the Education (Student Support) (Wales) Regulations 2017
- a maintenance loan and grant and other grants in the Education (Student Support) (Wales) Regulations 2018

## Further information

11. Readers may contact Welsh Government or their usual contact in the

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Student Loans Company/Student Finance Wales for more information on eligibility. Welsh Government can be contacted at [HEDConsultationsmailbox@gov.wales](mailto:HEDConsultationsmailbox@gov.wales)

## Persons who are settled in the United Kingdom

**This category already exists, but is amended to exclude persons who will fall within category 3**

### Full support is available

1. A person who is settled in the United Kingdom on the first day of the first academic year of the course, other than a person falling within category 3.

### For home fee status

Persons in category 1 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course
- have been ordinarily resident in the territory comprising the United Kingdom and the Islands throughout the three-year period preceding the first day of the first academic year of the course

### For student support

Persons in category 1 must:

- be ordinarily resident in Wales on the first day of the first academic year of the course

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- have 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

## **Part support is available**

2. A person who is settled in the United Kingdom on the first day of the first academic year of the course, other than a person falling within category 3.

### **For home fee status**

Persons in category 2 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course
- have been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course

### **For student support**

Persons in category 2 must:

- be undertaking a designated course in Wales
- have been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course

## **This category already exists, but is amended as a result of EU exit**

### **Full support is available**

3. A person who falls within the personal scope of the citizens' rights agreements and is settled in the United Kingdom by virtue of the grant of indefinite leave to remain under residence scheme immigration rules.

A person within the personal scope of the citizens' rights provisions who is an Irish citizen settled in the United Kingdom who does not require leave to enter or remain in the United Kingdom; and 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.

A person who falls within the personal scope of the citizens' rights agreements and is a relevant person within the meaning of regulation 3 (grace period) of the 2020 Citizens' Rights Regulations, who has or is treated as having a right of permanent residence for the purposes of the Immigration (European Economic Area) 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.

A person who falls within the personal scope of the citizens' rights agreements and is an applicant within the meaning of regulation 4 (applications which have not been finally determined by the application deadline) of the 2020 Citizens' Rights Regulations, who has or is treated as having a right of permanent residence for the purposes of the Immigration (European Economic Area) 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.

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A person who is a family member (“P”) of a relevant person of Northern Ireland, where P is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules.

### **For home fee status**

Persons in category 3 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course
- have been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first academic year of the course

### **For student support**

Persons in category 3 must:

- be ordinarily resident in Wales on the first day of the first academic year of the course
- have 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

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

### **Those in category 4 are eligible for full support**

4. A person with protected rights or a frontier worker who is:

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- (a) an EEA migrant worker or an EEA self-employed person
- (b) a Swiss employed person or a Swiss self-employed person
- (c) a family member of a person mentioned in paragraph (a) or (b)
- (d) an EEA frontier worker or an EEA frontier self-employed person
- (e) a Swiss frontier employed person or a Swiss frontier self-employed person
- (f) a family member of a person mentioned in paragraph (d) or (e).

Paragraph (a) 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.

### **For home fee status**

Persons in category 4 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course (this does not apply where the person applying for support falls within paragraph (d), (e) or (f))
- have been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

### **For student support**

Persons in category 4 must:

- be ordinarily resident in Wales on the first day of the first academic year of the course if they fall in (a)–(c)
- have 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

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## **Those in category 5 are eligible for full support**

5. A person with protected rights who is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.

### **For home fee status**

Persons in category 5 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course
- have been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

### **For student support**

Persons in category 5 must:

- be ordinarily resident in Wales on the first day of the first academic year of the course
- have 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

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

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## elsewhere

6A provides for home fee status, 6B is the equivalent for student support requiring ordinary residence in Wales but provides for a slightly smaller group. Full support is available for those in 6B on courses beginning before 1 January 2028. Home fee status for those in 6A is not time limited.

6A. A person who is settled in the United Kingdom, left the United Kingdom and exercised a right of residence before IP completion day and after having been settled in the United Kingdom.

### For home fee status

Persons in category 6A must:

- have been ordinarily resident immediately before IP completion day:
  - in the territory comprising the European Economic Area, Switzerland and the overseas territories
  - in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the overseas territories

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course

- be ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins
- have been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

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6B. A person who is settled in United Kingdom, 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.

### **For student support**

Persons in category 6B must:

- have been ordinarily resident immediately before IP completion day:
  - in the territory comprising Gibraltar, the EEA and Switzerland
  - 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 Switzerlandand 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
- be ordinarily resident in the United Kingdom on the day on which the course begins
- have 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

## **EU nationals**

### **Those in category 7 are eligible for part support**

7. A person with protected rights who is:

- (a) an EU national on the first day of the first academic year of the course
- (b) a family member of a person mentioned in (a)

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- (c) a family member of a relevant person of Northern Ireland

### **For home fee status**

Persons in category 7 must:

- be undertaking the course in the United Kingdom
- subject to (1), have been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

(1) This condition does not apply to a family member of a person who:

- is an EU national or a relevant person of Northern Ireland
- has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

### **For student support**

Persons in category 7 must:

- be undertaking a designated course in Wales
- have 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

## **Those in category 8 are eligible for full support**

8. A person with protected rights who is an EU national on the first day of the

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first academic year of the course.

### **For home fee status**

Persons in category 8 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course
- have 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

### **For student support**

Persons in category 8 must:

- be ordinarily resident in Wales on the first day of the first academic year of the course
- have 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

## **United Kingdom nationals**

### **Those in category 9 are eligible for full support for courses beginning before 1 January 2028**

9. A person who is a United Kingdom national on the first day of the first academic year of the course, or a family member of such a person.

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## For home fee status

Persons in category 9 must:

- be undertaking the course in the United Kingdom
- have been ordinarily resident immediately before IP completion day:
  - in the territory comprising the European Economic Area, Switzerland and the EU overseas territories
  - in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course

- subject to (1), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

(1) This condition does not apply to the family member of a United Kingdom national, where that United Kingdom national:

- had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38
- has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

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## For student support

Persons in category 9 must:

- be undertaking a designated course in Wales
- have been ordinarily resident immediately before IP completion day:
  - in the territory comprising the EEA and Switzerland
  - in the United Kingdom, where that ordinary residence began after 31 December 2017 immediately following a period of ordinary residence in the territory comprising the EEA and Switzerlandand 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
- have 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

## Those in category 10 are eligible for home fee status only

10. A person who is a United Kingdom national on the first day of the first academic year of the course, or a family member of such a person.

## For home fee status

Persons in category 10 must:

- be undertaking the course in the United Kingdom
- have been ordinarily resident in the specified British overseas territories for at least part of the three-year period preceding the first day of the first academic year of the course
- have been ordinarily resident in the territory comprising the United Kingdom,

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the Islands and the specified British overseas territories throughout the three-year period preceding the first day of the first academic year of the course

## **Those in category 11 are eligible for part support**

11. A family member of a person who is a United Kingdom national on the first day of the first academic year of the course.

### **For home fee status**

Persons in category 11 must:

- be undertaking the course in the United Kingdom
- have been ordinarily resident in the territory comprising the United Kingdom and Islands the three-year period preceding the first day of the first academic year of the course

### **For student support**

Persons in category 11 must:

- be undertaking a designated course in Wales  
have been ordinarily resident in the territory comprising the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course

## **Persons resident in Gibraltar**

## **Those in category 12 are eligible for part support for**

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## **courses beginning before 1 January 2028**

12. A person who is:

- (a) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar
- (b) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar
- (c) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement
- (d) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement

### **For home fee status**

Persons in category 12 must:

- be undertaking the course in the United Kingdom
- subject to (1), have been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

(1) This condition does not apply to a family member of a person who:

- is an EU national or a relevant person of Northern Ireland
- has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

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## **For student support**

Persons in category 12 must:

- be undertaking a designated course in Wales
- have 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

## **Children of Swiss nationals**

### **Those in category 13 are eligible for full support**

13. A person with protected rights who 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.

## **For home fee status**

Persons in category 13 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course
- have been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

## **For student support**

Persons in category 13 must:

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- be ordinarily resident in Wales on the first day of the first academic year of the course
- have 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

## Children of Turkish workers

### Those in category 14 are eligible for full support

14. A person who is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day; and, immediately before IP completion day, was the child of T and was ordinarily resident in the United Kingdom.

#### For home fee status

Persons in category 14 must:

- be ordinarily resident in the United Kingdom on the first day of the first academic year of the course
- have been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course

#### For student support

Persons in category 14 must:

- be ordinarily resident in Wales on the first day of the first academic year of

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the course

- have 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

## Notes

Person with protected rights 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

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

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

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- (c) Article 10 (personal scope) of the Swiss citizens' rights agreement

(See section 39(1) of the European Union (Withdrawal Agreement) Act 2020 for the definition of each of these agreements).

The residence scheme immigration rules are as defined in section 17 of the European Union (Withdrawal Agreement) Act 2020.

Grace period has the meaning given by regulation 3 of the 2020 Citizens' Rights Regulations.

The 2020 Citizens' Rights Regulations means the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

Relevant person of Northern Ireland has the meaning given in residence scheme immigration rules.

Overseas territories means the EU overseas territories and the specified British overseas territories.

Specified British overseas territories means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands Gibraltar, Montserrat; Pitcairn; Henderson; Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan da Cunha); and Turks and Caicos Islands.

IP completion day was 31 December 2020.

EU overseas territories means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.

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