

Brexit protected rights: EU national / EU family / Family of relevant person of Northern Ireland

In order to qualify for 'home' fees under this category, all of the following criteria (a) to (d) must be met:

(a) on the *first day of the academic year* you are paying fees for, you must be a 'person with protected rights'

Read about who counts as a '*person with protected rights*' on the Definitions page (it does include people who have pre-settled status or settled status under the EU Settlement Scheme, as well as others).

Note: Once you have qualified for the 'Brexit protected rights: EU national / EU family / Family of relevant person of Northern Ireland' category for one year of your course, requirement (a) is more flexible for later years of your course. So for later years of your course, it is acceptable if you have lost your pre-settled or settled status under the EU Settlement Scheme, as long as you have some kind of leave to remain (or British or Irish citizenship) on the first day of whatever academic year you are paying fees for. This is a special adjustment to requirement (a) that the regulations make. It is available for academic years that start on or after 1 August 2024.

(b) you must fall into (i) or (ii) or (iii):

(i) You are an *EU* national on the *first day of the first academic year of the course*.

or

(ii) All three following bullet points are true:

- on the *first day of the academic year* you are paying fees for, you are a family member of another person; and
- that other person is or was an *EU* national on the *first day of the first academic year of the course*; and
- that *EU* national is in the UK as a self-sufficient person, student, or worker, on the *first day of the academic year* you are paying fees for.

or

(iii) Both the following two bullet points are true:

- on the *first day of the academic year* you are paying fees for, you are a family member of a *relevant person of Northern Ireland*; and
- the relevant person of Northern Ireland is in the UK as a self-sufficient person, student, or worker, on the *first day of the academic year* you are paying fees for.

For this whole category, 'family member' means:

- *spouse / civil partner*
- *direct descendant* of the person, or of their spouse / civil partner, who is:
 - under 21 years old; or
 - 21 or over and a *dependant* of the person or of the person's spouse / civil partner
- additionally (but if the person is a student and is not a worker, then the person must be self-sufficient), the dependent direct *ascendant* of:
 - the person; or
 - the person's spouse / civil partner

(c) a three-year residence test is met. There are two alternative ways of meeting it, you can choose either (i) or (ii) below:

(i) You meet the three-year residence test yourself. You will meet the test yourself if:

- you have been *ordinarily resident* in the *UK / EEA / Switzerland / overseas territories* (these include Gibraltar) for the full three-year period before the *first day of the first academic year of the course*; and
- the main purpose for your residence in the UK/EEA/Switzerland/overseas territories residence area must not have been to receive full-time education during any part of that three-year period.

Tip: if you were in full-time education at some point during the three years, then ask yourself: If I had not been in education, where would I have been? If the answer is that you would have been somewhere in the large area that consists of the UK/EEA/Switzerland/overseas territories anyway, then you meet this 'main purpose' test.

Note: A person who makes a late application to the EU Settlement Scheme (EUSS) will have any period of residence in the UK and Islands between missing the deadline for the EUSS and making their EUSS application treated as lawful residence, even if it was unlawful. This means the residence can count as 'ordinary residence'.

or

(ii) You are the family member of an EU national or the family member of a *relevant person of Northern Ireland* ('RPNI'), and the EU national or RPNI meets the three-year residence test. For this to be acceptable:

- the EU national or RPNI that you are a family member of must have been ordinarily resident in the *UK / EEA / Switzerland / overseas territories* (these include Gibraltar) for the full three-year period before the *first day of the first academic year of the course*; and

- the EU national or RPNI that you are a family member of must be in the UK as a self-sufficient person, student, or worker, on the *first day of the academic year* you are paying fees for.

Note: A person who makes a late application to the EU Settlement Scheme (EUSS) will have any period of residence in the UK and Islands between missing the deadline for the EUSS and making their EUSS application treated as lawful residence, even if it was unlawful. This means the residence can count as 'ordinary residence'.

(d) you must undertake the course in the UK

Note, if you are a frontier worker, you will 'retain' the status of a worker or self-employed person in the UK even if you stop work, if any single one of the following bullet points is true:

- you are temporarily unable to do the work because of illness or accident, or
- you met the definition of a 'frontier worker' in the UK for at least one year immediately before that, and you are involuntarily unemployed, and you are seeking employment or self-employment in the UK, and you are registered as a jobseeker with a relevant unemployment office or recruitment agency (if you fall into this bullet, you will retain your status for 6 months, but after that you will have to provide 'compelling evidence' that you are continuing to seek employment or self-employment in the UK if you want to retain your status longer than 6 months), or
- you met the definition of a 'frontier worker' in the UK for less than one year immediately before that, and you are involuntarily unemployed, and you are seeking employment or self-employment in the UK, and you are registered as a jobseeker with a relevant unemployment office or recruitment agency (if you fall into this bullet point, you will only retain your status for 6 months), or
- you are involuntarily unemployed, and are doing vocational training, or
- you have voluntarily stopped work, to start vocational training related to your previous work, or
- you are temporarily unable to work in the UK due to pregnancy or childbirth. If it is more than 12 months since you stopped work, then you will additionally need to show that you are seeking employment or self-employment in the UK, and you are registered as a jobseeker with a relevant unemployment office or recruitment agency. One point worth knowing is that periods on paid maternity leave don't count as being 'temporarily unable to work' – instead they count as work.