

Irish worker and family

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

(a) on the *first day of the academic year* you are paying fees for, you must be one of the following (you can be (i) or (ii) or (iii) or (iv)):

(i) an Irish citizen, and resident in the UK as a worker

Here UKCISA uses the term 'worker' to include employed people and self-employed people.

A description of who is covered by the term 'worker' can be found in the Assessing Eligibility Guidance produced by Student Finance England:

- “the term ‘worker’...must be interpreted broadly and not restrictively”
- “a person who enters the UK with the principal intention of pursuing a course of study, but who also pursues effective and genuine employment activities in the UK, is not precluded from having the status of a worker”
- “the services performed...must have some economic value and form part of the normal labour market”
- “a person is not precluded from being classified as a ‘worker’ where their work is part-time...low wage...below the minimum subsistence wage...on-call...or short-term”
- “a person is not required to complete a minimum period of employment before being able to attain the status of a worker”
- “the activity performed...must...be effective and genuine, to the exclusion of activities of such a small scale as to be regarded as purely marginal and ancillary”
- “work is marginal if it is minimal, negligible or insignificant”
- “work will be ancillary if it is done pursuant to some other relationship between the person providing the services and the person receiving the benefit of those services, such as where a lodger performs a small task for his landlord”
- “[England’s] Department for Education has set an indicative threshold of 10 hours of paid work per week either in term time or during holidays. Where a student works 10 or more hours per week and is paid for that work under an employment contract, that is a strong indicator the student is a worker. It is important to note that where this threshold is not met, a person may still qualify as a worker”
- “consistent work for an employer over several years but only for a few hours a week, this could indicate they were a worker”
- “Self-employed persons... are in a slightly different position to other workers. It is common for self-employed workers to have periods where no work is carried out. Irregular or intermittent work will not preclude a person from being

properly regarded as self-employed (or as a worker). It must be considered whether the person is experiencing a temporary lull in work or whether the change in their working patterns means that they are no longer in continuing self-employment.”

- “Where a person has ceased work before undertaking higher education studies, the person will be able to retain their status as a worker...provided there is a link or connection between the previous work activities performed...in the United Kingdom, and the course of study...As an exception, such a connection may not be required where the person has involuntarily become unemployed and is obliged by labour market conditions to undertake occupational retraining in another field of activity...It is not necessary however to show any link or connection where the person works at the same time as studying”

For a more detailed explanation of the UK Government’s view of who is defined as a worker, read the following sections in the UK Home Office’s ‘Frontier worker permit scheme caseworker guidance’ at www.gov.uk/government/publications/frontier-worker-permit-scheme-caseworker-guidance: ‘Workers’, ‘Self-employed persons’ and ‘Assessing whether the EEA citizen has retained worker or retained self-employed person status’ (which provides for situations where a person has temporarily stopped work). The section headed ‘Coronavirus (COVID-19)’ includes some special policies that might also be relevant to some people. Even though the guidance is targeted at ‘frontier workers’, it tells us who the UK Government thinks counts as a worker in general.

or

(ii) a family member of a person described in (i)

For this category, ‘family member’ means their:

- *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
- the dependent direct *ascendant* of:
 - the person; or
 - the person's spouse / civil partner

or

(iii) an Irish citizen, who meets the definition of a ‘frontier worker’ from the fees regulations

The definition of a ‘frontier worker’ from the fees regulations is a person who:

- is a worker or self-employed person in the UK, and
- resides in an EEA country or Switzerland and goes back to their residence there at least once a week

See the note under (a)(i) if you do not know whether you will count as a worker or self-employed person.

or

(iv) a family member of a person described in (iii)

See the note under (a)(ii) for who counts as a 'family member', for this category.

(b) you must be *ordinarily resident* in Northern Ireland on the *first day of the first academic year of the course* (unless you meet the definition of a 'frontier worker' from the fees regulations, or you are the family member of a frontier worker)

See the note under (a)(iii) for the definition of a 'frontier worker' from the fees regulations.

If you are someone who has or will move from England, Scotland, Wales, the Channel Islands or the Isle of Man to Northern Ireland, there is an extra consideration. You must not be someone who made that move for the purpose of undertaking a course. If that was your purpose for moving, the regulations dictate that you are treated as though you are still ordinarily resident in the place you moved from, and not in Northern Ireland (so you fail to meet requirement (b)).

(c) you must have been *ordinarily resident* in the *UK / EEA / Switzerland / Gibraltar* for the full three-year period before the *first day of the first academic year of the course*

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'.

If you or a relevant family member become an Irish worker part-way through your course, you might become entitled to pay 'home' fees. You should seek advice on this from your institution, from your Students' Union, or by telephoning UKCISA's student advice line.
