

Residence in British Overseas Territories, course starts on or after 1 August 2022

**(use this category only if the academic year you are paying fees
for starts on or after 1 August 2024)**

The requirements for this category were different in academic years that started before 1 August 2024. So if you started before 1 August 2024, it is important you also look at the following category: 'Residence in British Overseas Territories, course starts on or after 1 August 2022 (use this category only if the academic year you are paying fees for starts before 1 August 2024)'.

If you started your course before 1 August 2022, look at the category titled 'Residence in British Overseas Territories, course starts before 1 August 2022', instead of this category. It shows you the stricter requirements that apply if your course started before 1 August 2022.

You can use this category for all the academic years that start on or after 1 August 2024, even if you paid 'overseas' fees for an earlier year of the course.

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

(a) you must fall into (i) or (ii):

(i) you must be 'settled' in the UK on the *first day of the academic year* you are paying fees for

To be 'settled' you must be both ordinarily resident in the UK and without any immigration restriction on the length of your stay in the UK. The regulations take this definition of 'settled' from immigration law (section 33(2A) of the Immigration Act 1971).

Tip: If you fail to meet (i) because you do not come to the UK in time for the first day of the academic year, see if you fit (ii) instead. For (ii), there is no requirement for anyone to arrive in the UK in time for the first day of the academic year.

You have no immigration restriction on the length of your stay in the UK if you fall into one of the following groups (A or B or C or D or E):

A. British Citizen

If your passport describes you as a 'British Citizen', you have no immigration restriction on the length of your stay in the UK.

A special note for British Overseas Territories Citizens (BOTCs)

Many British Overseas Territories Citizens (BOTCs) are also British Citizens. The easiest way to show you are a British Citizen is to have a passport that lists your nationality as 'British Citizen'. If you do not have one, England's Department for Education indicates in its Assessing Eligibility Guidance 2024/25 (paragraph 3.1) that any of the following will be acceptable instead:

- a British Overseas Territories Citizen passport issued before 21 May 2002; or
- a British Dependent Territories Citizen passport issued before 21 May 2002; or
- a British Overseas Territories Citizen passport issued on or after 21 May 2002, but only if you also provide evidence that either:
 - you or your parent was born in a British overseas territory (check the list of 'qualifying territories' at www.gov.uk/types-of-british-nationality/british-overseas-territories-citizen); or
 - you or your parent was registered or naturalised as a citizen (for example, as a British Subject, a Citizen of the UK and Colonies, a British Citizen, a British Dependent Territories Citizen, or a British Overseas Territories Citizen) before 21 May 2002.

B. 'Indefinite Leave to Remain' or 'Indefinite Leave to Enter' ('ILR'/'ILE')

If you have Indefinite Leave to Enter (ILE) or Indefinite Leave to Remain (ILR) in the UK, you have no immigration restriction on the length of your stay in the UK.

If you have been given 'settled status' under the EU Settlement Scheme, you have ILE or ILR.

If you have ILE or ILR in Jersey, Guernsey, or the Isle of Man, then this is considered to be ILE or ILR in the UK whenever you are in the UK.

Note: Once you have qualified for the 'Residence in British Overseas Territories, course starts on or after 1 August 2022' category for one year of your course, group B is less strict for later years of your course. So for later years of your course, it is acceptable if the indefinite leave has ended, as long as the person who had it has 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 the usual requirement that the regulations make (in regulation 4(6A) of the Higher Education (Fee Limit Condition) (England) Regulations 2017, as amended by regulation 41 of the Education (Student Fees, Awards and Support) (Amendment) Regulations 2024). It is available for academic years that start on or after 1 August 2024.

C. Right of Abode

If you have a Certificate of Entitlement to the Right of Abode in the UK in your passport, you have no immigration restriction on the length of your stay in the UK.

D. Republic of Ireland citizen

If you are a citizen of the Republic of Ireland, you have no immigration restriction on the length of your stay in the UK. You are also an EU national and an EEA national.

E. Non-British Citizen serving in the British armed forces

If you are not a British Citizen and you are serving in the British armed forces, you are treated as having no immigration restriction on the length of your stay in the UK, while you serve in the British armed forces. This is because of section 8(5) of the Immigration Act 1971.

Examples of where status is not 'settled'

You are not 'settled' if you:

- have a time limit on the length of your stay in the UK, as shown by your current immigration permission (you have 'limited leave'); or
- are exempt from immigration control (unless you fit box E). For example, you are living in the UK as a diplomat or a member of their household/family; or
- have a type of British passport that does not give you British Citizenship (for example a British National (Overseas) passport), and you do not have Indefinite Leave

or

(ii) Both of the 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 fits box A or B or C or D or E above on the *first day of the academic year* you are paying fees for

Note: In contrast to (i), there is no need for that other person to have come to the UK, and no need for that other person to be ordinarily resident in the UK. This is a special exception that is specially provided in the regulations, exclusively for (ii).

For this category, 'family member' means their:

- *spouse* or *civil partner*
- *direct descendant*, or the direct descendant of their spouse or civil partner, who is:
 - under 21 years old; or
 - 21 or over and a *dependant* of them, or of their spouse or civil partner

(b) you must have been ordinarily resident in the 'specified British overseas territories' and/or *UK and Islands* for the full three-year period before the *first day of the first academic year of the course*. For example, if your course begins in October 2024 you must have been ordinarily resident in the 'specified British overseas territories' and/or UK and Islands from 1 September 2021 to 31 August 2024

The 'specified British overseas territories' are:

- 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, Ascension and Tristan da Cunha
- Turks and Caicos Islands

Note that it is not necessary to have had 'settled' immigration status for the full three years. It can be obtained as late as 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’.

(c) the main purpose for your residence in the large area described in (b) 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 ‘specified British overseas territories’/UK/Islands anyway, then you meet criterion (c).

(d) you must have been *ordinarily resident* in the ‘specified British overseas territories’ at some point during the three-year period

(e) you must undertake the course in the UK