

# Consideration of subordinate legislation by the Education, Children and Young People Committee

1. This note provides information about [The Student Support \(Scotland\) Regulations 2022](#).
2. These regulations may also be referred to by their Scottish Statutory Instrument number which is SSI 2022/157.
3. These regulations are being considered under the negative procedure.

## Timeline for considering these regulations

4. These regulations were laid before the Scottish Parliament on **6 May 2022**
5. They were considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on **17 May 2022**. The Committee had no comments and the report produced by the Committee is [available here](#).
6. They will be considered by the Education, Children and Young People Committee at its meeting on **8 June 2022**.
7. If the Committee wishes to produce a report on these regulations, it must do so by **13 June 2022**.

## Is there a requirement to hear evidence from the Cabinet Secretary on these regulations?

8. No.

## Purpose of the regulations:

9. These regulations consolidate the following:
  - The Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006 (“the SLTF Regulations”)
  - The Education Authority Bursaries (Scotland) Regulations 2007 (“the Bursaries Regulations”)

- The Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 (“the Nursing Regulations”)
- The Students’ Allowances (Scotland) Regulations 2007 (“the Allowances Regulations”)
- The Education (Student Loans) (Scotland) Regulations 2007 (“the Loans Regulations”)
- The Education Maintenance Allowances (Scotland) Regulations 2007 (“the EMA Regulations”)

10. The exercise undertaken has consolidated six regulations into a single instrument which sets out the general system of student support in Scotland and provides detail on the support available and for whom.

11. A copy of the Scottish Government’s Policy Note is included in [Annexe A](#).

### **Consultation**

12. The policy note states that there has been no formal consultation.

### **Impact Assessment**

13. The policy note states that an Equality Impact Assessment (“EQIA”) has been carried out for the amendments relating Afghan Nationals, student loan age cap, extension to relevant connection to Scotland, previous study and placements. EQIAs are being prepared for amendments relating to Ukrainian nationals and long residency. EQIAs for the other amendments were not considered necessary due to the nature of the amendments.

### **Financial Impact**

14. The policy note states that a Business and Regulatory Impact Assessment was not required as it has no impact upon business, charities or voluntary bodies.

### **Procedure**

15. These regulations are being considered by Education, Children and Young People Committee under the negative procedure.

16. This means that the regulations become law immediately, i.e. as soon as they have been laid before the Scottish Parliament. These regulations can, however, be annulled up to 40 days after this has happened.

17. Rule 10.4 of the Scottish Parliament’s standing orders states that any Member of the Scottish Parliament can lodge a Parliamentary motion within the 40-day time period seeking an annulment of regulations.

18. All regulations considered under the negative procedure are scrutinised by both the Delegated Powers and Law Reform Committee (on various technical grounds) and by a lead committee (on policy grounds).
19. If a motion to annul is lodged, the lead committee will consider this and then hold a vote. If the motion is disagreed to, then the regulations will remain in their current form.
20. If, however, the majority of MSPs on the lead committee agrees the regulations should be annulled, then a further motion is lodged by the Parliamentary Bureau. This is then voted on by the whole Parliament.
21. If that is also agreed to (i.e. the majority of MSPs agree with it), then Scottish Ministers must revoke (withdraw) the instrument. It will no longer be law and the Scottish Government must lay a new set of regulations before the Scottish Parliament.
22. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.
23. The Committee is invited to consider the instrument.

**Jane Davidson**  
**Committee Assistant**  
**Education, Children and Young People Committee**  
**31 May 2022**

## Annexe A

## POLICY NOTE

### THE STUDENT SUPPORT (SCOTLAND) REGULATIONS 2022 SSI 2022/157

The Student Support (Scotland) Regulations 2022 were made in exercise of the powers conferred by sections 49(3), 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.

The instrument is subject to negative procedure.

## Policy Objectives

These regulations consolidate the following:

- The Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006 (“the SLTF Regulations”)
- The Education Authority Bursaries (Scotland) Regulations 2007 (“the Bursaries Regulations”)
- The Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 (“the Nursing Regulations”)
- The Students’ Allowances (Scotland) Regulations 2007 (“the Allowances Regulations”)
- The Education (Student Loans) (Scotland) Regulations 2007 (“the Loans Regulations”)
- The Education Maintenance Allowances (Scotland) Regulations 2007 (“the EMA Regulations”)

## Purpose

The exercise undertaken has consolidated six regulations into a single instrument which sets out the general system of student support in Scotland and provides detail on the support available and for whom. Given the age of the previous six regulations – some having been in force for 16 years and been subject to multiple amendments - the consolidation provided an opportunity to review in detail the terms of all six and ensure that the new single instrument was fit for purpose.

The notable changes included are summarised in more detail below.

### *Relocated Afghan Nationals*

The following change has been introduced for individuals relocated to the UK following the recent unrest in Afghanistan to enable them to have access to financial support in order to study courses of further or higher education.

Afghan nationals who have been relocated to the UK and granted leave under the Afghan Citizens Resettlement Scheme or the Afghan Relocations and Assistance Policy Scheme will have access to home fee status and student support. The support has been extended to the spouse, civil partner of the individual being granted leave on the same basis.

#### Ukrainian Nationals

The following changes have been introduced for individuals who have applied for leave to enter the United Kingdom following the Russian invasion of Ukraine on 24 February 2022 to enable them to have access to financial support in order to study courses of further or higher education.

Ukrainian nationals who have applied to the United Kingdom Home Office in terms of the Ukraine Family Scheme, Ukraine Sponsorship Scheme, Ukraine Extension Scheme or for leave outside the immigrations rules (as defined by section 33(1) of the Immigration Act 1971 where the person was residing in Ukraine immediately before 1 January 2022) and left Ukraine in connection with the Russian invasion, will have access to home fee status and student support.

#### Extension of criteria for relevant connection with Scotland

The eligibility criteria applied to students qualifying through their relevant connection with Scotland has been extended to provide parity with support previously provided to the spouse, civil partner or child of an EU national. The extension includes the spouse, civil partner or child of a person settled in the UK within the meaning given by section 33(2A) of the Immigration Act 1971 on the relevant date. Those individuals who meet the new criteria will be eligible for student support.

#### Long Residency

Regulations in relation to long residency have been updated to ensure that individuals who were aged under 18 and eligible for support retain their funding entitlement once they reach the age of 18 and are undertaking a further period of study.

This update only applies to students who were in receipt of support in the academic year immediately preceding the relevant date.

The regulations also provide that the assessment date is the 'relevant date' as defined in the interpretation section. This provides four dates throughout the year in which the student may have their eligibility assessed against depending on their course start date.

### Student Loan Age Cap

The age cap has been increased to 61 years in recognition that the state pension age has increased since the last time that the age cap was reviewed. There remains a five year gap between the loan age cap and state pension age to allow for loan repayments to be undertaken.

### Temporary Protection

Paragraph 7 (Temporary Protection) of Schedule 1 of the Bursary Regulations, SLTF Regulations, Loan Regulations, Allowances Regulations and Nursing Regulations have not been replicated in Schedule 1 of the new consolidated instrument. The UK Government have confirmed that it has no plans to bring in a Temporary Protection status for the same or similar purposes as the EU Council Directive 2001/55/EC. The Regulations therefore do not provide a provision for this particular status.

## Explanation of the regulations

Part 2 of the Regulations (Allowances) enable allowances to be paid to persons attending courses of education who fulfil certain criteria as to eligibility. They prescribe the conditions and requirements subject to which allowances may be paid.

Part 3 of the Regulations (Paramedic science, nursing and midwifery allowances) enable allowances to be paid to persons attending courses of education in paramedic science, nursing and midwifery in Scotland and prescribe the conditions and requirements subject to which allowances may be paid.

Part 4 of the Regulations (Student loans) provides for loans for tuition fees for eligible students attending designated courses provided by an institution located in the UK but outside of Scotland. The Part also provides for loans for maintenance for eligible students attending designated courses of higher education.

Part 5 of the Regulations (Bursaries) regulate the exercise by education authorities of their powers under section 49 of the Education (Scotland) Act 1980 to pay bursaries to persons undertaking courses of study. They prescribe that bursaries may only be paid to persons who fulfil certain criteria as to eligibility and they prescribe the conditions and requirements subject to which allowances may be paid.

Part 6 of the Regulations (Education maintenance allowances) regulate the exercise by Scottish Ministers of their powers under section 73(f) of the Education (Scotland) Act 1980 to pay education maintenance allowances to persons aged 16 to 19 years who are attending courses of education. They prescribe that education maintenance allowances may only be paid to persons who fulfil certain

criteria as to eligibility and they prescribe the conditions and requirements subject to which such education maintenance allowance may be paid.

## Consultation

A consultation was not considered necessary due to the nature of the amendments.

## Impact Assessments

An Equality Impact Assessment (“EQIA”) has been carried out for the amendments relating Afghan Nationals, student loan age cap, extension to relevant connection to Scotland, previous study and placements. EQIAs are being prepared for amendments relating to Ukrainian nationals and long residency. EQIAs for the other amendments were not considered necessary due to the nature of the amendments.

## Financial Effects

A Business and Regulatory Impact Assessment (“BRIA”) is not necessary as the instrument has no impact upon business, charities or voluntary bodies.

Scottish Government  
Directorate for Advanced Learning and  
Science May 2022