

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

1. This note provides information about the [St Mary's Music School \(Aided Places\) \(Scotland\) Amendment \(No. 2\) Regulations 2022](#).
2. These regulations may also be referred to by their Scottish Statutory Instrument number which is SSI 2022/377.
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 **16 December 2022**
5. They were considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on [10 January 2023](#). No points were raised.
6. These regulations will be considered by the Education, Children and Young People Committee at its meeting on **18 January 2023**.
7. If the Committee wishes to produce a report on these regulations, it must do so by **6 February 2023**.

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

8. No.

Purpose of the regulations:

9. The purpose of the instrument is to make further amendments to the provisions relating to EEA and Swiss nationals to ensure that they remain eligible to apply to the aided places scheme ('the Scheme') for pupils attending St Mary's Music School ('the school') following the UK's Exit from the EU.
10. A copy of the Scottish Government's Policy Note is included in Annexe A.
11. The policy note states that the St Mary's Music School (Aided Places) (Scotland) Amendment (No. 2) Regulations 2022 ('the 2022 (No. 2) Regulations') amend the St Mary's Music School (Aided Places) (Scotland) Regulations 2015 ('the 2015 Regulations'), which provide the legislative framework for the administration of the Scheme.

12. The policy note also states that 2022 (No. 2) Regulations make amendments to the eligibility criteria for the Scheme in relation to EEA and Swiss nationals which are set out in paragraph 2 of schedule 1 of the 2015 Regulations.

Consultation

13. The policy note states that whilst there is no statutory obligation to consult in relation to the Scheme, the School has been consulted on the amendments made by the Regulations throughout the process and raised no objections.

Impact Assessment

14. The policy note states Equality Impact Assessments (“EQIA”) and Children’s Rights and Wellbeing Impact Assessments (“CRWIA”) have been carried out for the amendments relating to Evacuated or Assisted British Nationals from Afghanistan and for UK nationals from Ukraine. Impact assessments for the other amendments were not considered necessary due to the nature of the amendments.

Financial Impact

15. The policy note states that the Minister for Children and Young People confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary and that there is no financial impact on the school.

Procedure

16. These regulations are being considered by the Education, Children and Young People Committee under the negative procedure.
17. 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.
18. 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.
19. 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).
20. 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.
21. 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.

22. 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.
23. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.
24. The Committee is invited to consider the instrument.

Jane Davidson
Committee Assistant
Education, Children and Young People Committee
10 January 2023

Annexe A

POLICY NOTE

St Mary's Music School (Aided Places) (Scotland) Amendment (No. 2) Regulations 2022

SSI 2022/377

1. The above instrument was made in exercise of the powers conferred by section 73(f) and 74(1) of the Education Scotland Act 1980.
2. The instrument is subject to negative procedure.

Purpose of the instrument.

3. The purpose of the instrument is to make further amendments to the provisions relating to EEA and Swiss nationals to ensure that they remain eligible to apply to the aided places scheme ('the Scheme') for pupils attending St Mary's Music School ('the School') following the UK's Exit from the EU.

Policy Objectives

4. The St Mary's Music School (Aided Places) (Scotland) Amendment (No. 2) Regulations 2022 ('the 2022 (No. 2) Regulations') amend the St Mary's Music School (Aided Places) (Scotland) Regulations 2015 ('the 2015 Regulations'), which provide the legislative framework for the administration of the Scheme.
5. The 2022 (No. 2) Regulations make amendments to the eligibility criteria for the Scheme in relation to EEA and Swiss nationals which are set out in paragraph 2 of schedule 1 of the 2015 Regulations. These amendments provide that EEA and Swiss nationals entitled to apply to the EU Settlement Scheme are eligible to apply to the Scheme as long as they are resident in the British Islands on the relevant date, which is 1st January in the year that their aided place would start. The residency requirement does not apply to children who are frontier workers or family members of frontier workers. The amendments also provide that Irish nationals and UK nationals who have been resident in either the British Islands or the Republic of Ireland for 2 years immediately preceding the relevant date are eligible for an aided place.

Consultation

6. There is no statutory obligation to consult in relation to the Scheme, however, the School has been consulted on the amendments made by the Regulations throughout the process and raised no objections.

Impact Assessments

7. It is considered that a Business and Regulatory Impact Assessment is not

required for these amendment Regulations as there is no change in cost to the School and no impact on demand for places.

8. An Equalities Impact Assessment was undertaken for The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2022 and and, since these amendments are not the result of any change in policy, it is considered that no new equalities issues arise.

Financial Effects

9. There will be no financial impact on the School.

Scottish Government

Learning Directorate

December 2022