

EXPLANATORY MEMORANDUM TO
THE FURTHER EDUCATION (STUDENT SUPPORT) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2022

S.R. 2022 No. 183

1. Introduction

- 1.1** This Explanatory memorandum has been prepared by the Department for the Economy (“the Department”) to accompany the Further Education (Student Support) (Amendment) Regulations (Northern Ireland) 2022, which is laid before the Northern Ireland Assembly.
- 1.2** The Statutory Rule is made under Articles 3(1), 3(2) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998 and is subject to the negative resolution procedure.
- 1.3** The rule will come into operation in accordance with regulation 1 of these Regulations.

2. Purpose

This rule provides support for students taking designated further education courses in respect of the academic year beginning on or after 1st September 2022 and makes amendments to the Further Education (Student Support) Regulations (Northern Ireland) 2012 (S.R. 2012 No.306) (“the Student Support Regulations”). The effect of the rule is to:

- a. remove any redundant provisions for academic year 2022/23 following the end of the Grace Period for the EU Settlement Scheme;
- b. clarify the position of Citizens Rights in relation to late applicants and joining family members;
- c. enact the inclusion of new eligible residency categories from academic year 2022/23 for those relocated under the Afghan Relocations and Assistance Policy Scheme (ARAP) and Afghan Citizens Resettlement Scheme (ACRS) Schemes (“the Afghan schemes”);
- d. enact the inclusion of British nationals who have relocated to the UK from Afghanistan under Operation Pitting; and
- e. enact the inclusion of persons who have relocated to the UK under the Ukraine Family Scheme, Home for Ukraine Resettlement Scheme and the Ukraine Extension Scheme (“the Ukraine Schemes”).

3. Background

The rule makes provision for support available in relation to an academic year beginning on or after 1st August 2022 and amends some of the provisions in the 2012 Regulations.

The policy and technical changes effected by this rule are:

3.1 Introducing a new Eligibility Category in the Regulations for those persons under the Afghan Relocations and Assistance Policy (ARAP) and the Afghan Citizens Resettlement (ACRS) Schemes

The ARAP is a UK Government bespoke policy, announced on 1 April 2021 to provide support to current and former locally employed staff in Afghanistan who face intimidation and have been assessed to be at real risk of harm in Afghanistan as a result of their employment with the UK government. Such a person would, if they were able to make their own way to the UK and apply for asylum, likely qualify for international protection, such as refugee status.

The ACRS was announced by the UK government in September 2021. The ACRS has been established to provide protection for Afghan citizens who have contributed to civil society or who face a particular risk from the Taliban, for example, because of their role in standing up for democracy and human rights, or because of their gender, sexuality or religion.

Individuals under these schemes will be eligible for Home Fee status and maintenance funding. This change will apply to new students starting full-time or part-time designated Further Education courses in the 2022/23 academic year.

3.2 Introducing a new Eligibility Category in the Regulations for British nationals who have relocated to the UK from Afghanistan under Operation Pitting

Operation Pitting was a British military operation whose purpose was to relocate British nationals and eligible Afghans from Afghanistan to the UK following the 2021 Taliban offensive. British nationals relocated from Afghanistan under Operation Pitting will be eligible for Home Fee status and maintenance support immediately, without being subject to a three-year ordinary residence requirement, as long as they were ordinarily resident on the first day of the first Academic Year of the Further Education course.

3.3 Introducing a new Eligibility Category in the Regulations for those persons who have relocated to the UK under the Ukraine Family Scheme, Home for Ukraine Scheme and the Ukraine Extension Scheme

A new eligibility category for persons entering the United Kingdom under the Ukraine Schemes has been introduced. These schemes are a bespoke response to the international circumstances in Ukraine and reflect the need to provide a place to stay for people fleeing the war.

Under current legislation this group of individuals are not entitled to support or automatic Home Fee status until they have been awarded settled status and have been ordinarily resident in the United Kingdom and Islands for the three years prior to the first day of the first academic year of their course. The inclusion of the Ukraine Schemes as an eligibility category will allow this group immediate access to Home Fee status and maintenance support bringing them in line with those in other protection-based categories, such as refugees and persons with humanitarian protection who are at risk if they return to their home country.

Individuals will be granted leave to remain in the UK for three years and will be eligible for Home Fee status and maintenance support to study a Further Education course at a Further Education college in Northern Ireland.

3.4 Changes to the EU Settlement Scheme Grace Period

EU, other EEA and Swiss Nationals applying for support for courses starting in academic year 2021/22 will generally not be entitled to Home Fee status and maintenance support unless they are in scope of the Withdrawal Agreements and applied for settled or pre-settled status under the EU Settlement Scheme (EUSS) on or before 30 June 2021. In accordance with the Withdrawal Agreements, the Further Education Student Support Regulations provide for students in scope of citizens' rights to be treated as eligible during the Grace Period (the period from the end of the transition period until 30 June 2021), even if no application to the EUSS had yet been made.

This rule makes changes to the Further Education Student Support Regulations for EU, other EEA and Swiss nationals starting Further Education courses in 2022/23 by removing this provision as it is redundant now the Grace Period has ended. Those who have made an application for Home Fee status and maintenance support on or before 30 June 2021 and who have been granted settled or pre-settled status, or who are awaiting the outcome of their application or the outcome of an appeal, will be eligible under the terms of the Withdrawal Agreements, see below. Those who did not make an application by 30 June 2021, or who have had an application declined, will not generally be eligible for Home Fee status and maintenance support.

3.5 Joining Family members and Late applicants to the EUSS

These amending regulations make provision as regards eligibility for Home Fee status and maintenance support for persons covered by the EU Withdrawal Agreement. Specifically, it ensures that the Regulations fully reflect the requirements of:

- article 18(3) of the EU Withdrawal Agreement (and corresponding articles in the other withdrawal agreements), which confer protections on a person, including a person who has submitted a late application under article 18(1)(d), while their application is pending and during any appeal against a refusal of their application (equivalent updates are also made to the eligibility category covering those with settled status under the EUSS); and
- article 18(2) of the EU Withdrawal Agreement (and corresponding articles in the other withdrawal agreements), which confer protections on a person within the deadline for making an application, including a person purporting to be a joining family member during the initial three months following their arrival in the UK.

They also make corresponding updates for persons covered by equivalent provisions in the EEA-EFTA separation agreement and the Swiss citizens' rights agreement.

4. Consultation

There is no statutory requirement to consult on those elements of these Regulations which do not give effect to policy changes but facilitate policy implementation or statutory obligations or where Executive commitment was given in relation to over-arching policy such as the ARAP and ACRS Schemes.

5. Equality Impact Assessment

A Section 75 Equality of Opportunity Screening exercise has been carried out and it is our view that the proposals will not have an adverse impact on any of the Section 75 categories.

6. Rural Needs Impact Assessment

A Rural Needs Impact Assessment has been prepared.

7. Regulatory Impact Assessment

A Regulatory Impact Assessment has not been prepared for this rule as it has no adverse impact on business, charities or voluntary bodies.

8. Financial Implications

The numbers of other EU and international students impacted by these changes is low and the costs for those coming to Northern Ireland under the Afghan and the Ukraine Schemes has still to be determined but it is expected that there will not be any no significant changes in budgets. years.

9. Section 24 of the Northern Ireland Act 1998

The Departmental Solicitor's Office has confirmed that the making of this rule complies with Section 24 of the NI Act.

10. EU Implications

Not applicable

11. Parity or Replicatory Measures

Similar technical amendments have been made in England. The corresponding English Statutory Instruments are [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2021](#) (S.I. 2021 No 929) laid before Parliament on 11 August 2021 and came into force on 1 September 2021; [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 3\) Regulations 2021](#) (S.I. 2021/1348), laid before Parliament on 2 December 2021 and came into force on 23 December 2021; [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2022](#) (S.I. 2022/57) laid before Parliament on 24 January 2022 and came into force on 15 February 2022; and [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2022](#) (S.I. 2022/534), laid before Parliament on 13 May 2022 and came into force on 3 June 2022.

12. Contact

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