

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT SUPPORT, etc) (AMENDMENT) REGULATIONS**  
**(NORTHERN IRELAND) 2022**

**S.R. 2022 No. 201**

**1. Introduction**

- 1.1** This Explanatory memorandum has been prepared by the Department for the Economy (“the Department”) to accompany S.R. 2022 No. 201, which is laid before the Northern Ireland Assembly.
- 1.2** The Statutory Rule is made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998 and Articles 4(8) and 14(4) of the Higher Education (Northern Ireland) Order 2005 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 higher education courses in respect of the academic year beginning on or after 1st September 2022 and makes amendments to the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009 (S.R. 2009 No.373) (“the Student Support Regulations”). It also makes amendments to the Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 328) (“the QCP Regulations”). The effect of the rule is to include two new eligibility categories in the Student Finance regulations for:

- a. British nationals:
  - i. evacuated under Operation Pitting; or
  - ii. assisted by Her Majesty’s Government to leave Afghanistan after Operation Pitting, with the assistance commencing before 6th January 2022; and
- b. those granted leave to enter or remain in the United Kingdom under the Ukrainian Family Scheme, the Homes for Ukraine Sponsorship Scheme or the Ukraine Extension Scheme (“the Ukraine Schemes”).

These amendments will allow individuals evacuated or assisted from Afghanistan to access student finance and home fee status without being subject to a three-year ordinary residence requirement and bring parity with other persons arriving from Afghanistan who have been identified by the Home Office as being at risk. It will also allow those awarded leave under the Ukrainian

Schemes to qualify for home fees and student support in line with those in other protection-based categories.

It also makes certain other technical changes or corrections.

### **3. Background**

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

The policy and technical changes effected by this rule are:

#### **3.1 New eligibility category for British nationals evacuated or assisted in leaving Afghanistan**

A new eligibility provision is being introduced in the Student Finance Regulations so that British nationals evacuated under Operation Pitting or assisted by Her Majesty's Government to leave Afghanistan with that assistance commencing before 6th January 2022, may qualify for student support and home fee status for courses beginning on or after 1st August 2022 without requiring them to meet the normal three year ordinary residence requirement.

Operation Pitting was a British military operation, the purpose of which was to evacuate British nationals and Afghans from Afghanistan between 14th and 28th August 2021, following the Taliban offensive. Assistance was also provided to British nationals and Afghans by the UK Government to leave Afghanistan after Operation Pitting (with assistance starting by 6th January 2022 at the latest).

Legislative changes have already been made to create new eligibility categories for persons relocated to the United Kingdom under the Afghan Relocation and Assistance Policy (ARAP) and the Afghan Citizens Resettlement Scheme (ACRS) (see The Education (Student Support, etc.) (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/75) to make them eligible for home fee status and student support.

The British nationals referred to above are not eligible for bespoke resettlement support under the ARAP and ACRS immigration schemes as these schemes are primarily designed to grant rights of entry to, and residence in, the United Kingdom for third country nationals. For the purpose of the Regulations, British national encompasses a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a British subject under the British Nationality Act 1981 or a British protected person within the meaning of that Act. However, evidence suggests they have very similar needs to Afghans and their family members who were evacuated and relocated to the United Kingdom. As a consequence, the Cabinet Committee on Afghan Resettlement agreed that this group of British nationals should receive equivalent operational and funding support to individuals resettled under ACRS and ARAP.

Under current legislation British nationals who are settled in the United Kingdom normally need to have been ordinarily resident in the United Kingdom and Islands for three full years prior to the first day of the first academic year of their course in order to qualify for student support and home fee status. The new eligibility category will remove this requirement enabling this specific group of British nationals to qualify for support and home fees for courses beginning on or after 1st August 2022. They will need to continue to show they have been ordinarily resident in the United Kingdom and Islands since they were evacuated or assisted from leaving Afghanistan.

This amendment will create parity for British nationals arriving from Afghanistan who have been identified by the Home Office as being at risk and put them on an equal footing with other protected categories (such as refugees).

This change will apply to new students starting full-time or part-time undergraduate and postgraduate courses from the 2022/23 academic year.

### **3.2 New eligibility category for those entering the United Kingdom under the Ukrainian Family Scheme, the Homes for Ukraine Sponsorship Scheme and the Ukraine Extension Scheme (the Ukraine Schemes)**

This rule also introduces a new eligibility category for persons entering the United Kingdom under the Ukraine Schemes. 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 is 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. Including this as an eligibility category will allow this group immediate access to student support and home fee status 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.

This change will apply to new and continuing students studying on full-time and part-time undergraduate and postgraduate courses and will come into effect from 1 August 2022.

### **3.8 Miscellaneous**

This rule makes necessary corrections and technical amendments.

## **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 Ukraine 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 financial implications of the student support package for academic year 2022/23 have been costed and take into account the financial restrictions in the current CSR period.

**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**

This rule does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

**11. Parity or Replicatory Measures**

Historically, the Department's Regulations were made in broad parity with England and Wales but following the wholesale changes that were implemented in England and Wales from academic year 2012/13 as a result of the Browne Review; this is no longer necessarily the case.

**12. Additional information**

If you require any further details regarding this Rule you can send an e-mail to [studentsupport@economy-ni.gov.uk](mailto:studentsupport@economy-ni.gov.uk)