

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 Regulations 2022 \(legislation.gov.uk\)](#)
2. These regulations may also be referred to by their Scottish Statutory Instrument number which is SSI 2022/173.
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 **23 May 2022**
5. They were considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on **7 June 2022**.
6. At that meeting, the Committee [agreed](#) to draw the instrument to the attention of the Parliament on the grounds that the meaning of the residency criteria applying to children of EEA nationals in new paragraph 2(ba) of schedule 1 of the 2015 Regulations, inserted by regulation 2(2)(a) of the instrument, could be clearer.
7. The DPLR Committee nevertheless welcomed the Scottish Government's commitment to clarify the ambiguity at the next available opportunity and, in any event, in time for the following school year.
8. These regulations will be considered by the Education, Children and Young People Committee at its meeting on **15 June 2022**.
9. If the Committee wishes to produce a report on these regulations, it must do so by **27 June 2022**.

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

10. No.

Purpose of the regulations:

11. The purpose of the instrument is to update references to EEA nationals to maintain eligibility following the end of the UK Exit from the EU

'Implementation Period'; to revise the income levels which determine eligibility for financial assistance under the Aided Places Scheme, in order to reflect recent inflation; and to add a new paragraph to extend eligibility to displaced Ukrainian nationals taking part in a UK government relocation scheme.

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

Consultation

13. The policy note states that there is no statutory requirement to carry out a consultation, but the school has been consulted throughout the process.

Impact Assessment

14. The policy note states that an Equality Impact Assessment has been undertaken and makes note of the minor amendments to maintain or ensure eligibility for EEA nationals and relevant Ukrainian nationals.

15. The policy note states 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.

Financial Impact

16. The policy note states there is no expected financial impact on the school, as the total fees remitted are not altered by the 2022 Regulations and demand for places is not expected to be affected.

17. Parents and guardians of pupils at the school can expect to see their contribution to fees reduce by a modest amount depending on their income level. The amendments are to the lower income levels so while they will benefit all families with incomes above the previous lowest threshold, the greatest benefit is for lower- and middle-income earners.

18. There will be a moderate cost to the Scottish Government of the uprating of the first three income bands, the income levels at which parental contributions are made are raised. This cost will be accommodated within the Scottish Government Learning Directorate's budget for 2022-23.

Procedure

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

20. 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.

21. 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.
22. 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).
23. 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.
24. 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.
25. 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.
26. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.
27. The Committee is invited to consider the instrument.

Jane Davidson
Committee Assistant
Education, Children and Young People Committee
7 June 2022

Annexe A

POLICY NOTE

ST MARY'S MUSIC SCHOOL (AIDED PLACES)
(SCOTLAND)
AMENDMENT REGULATIONS 2022
SSI 2022/173

28. *The above instrument was made in exercise of the powers conferred by section 73(f) and 74(1) of the Education Scotland Act 1980.*

29. The instrument is subject to negative procedure.

Purpose of the instrument.

30. The purpose of the instrument is to update references to EEA nationals to maintain eligibility following the end of the UK Exit from the EU 'Implementation Period'; to revise the income levels which determine eligibility for financial assistance under the Aided Places Scheme, in order to reflect recent inflation; and to add a new paragraph to extend eligibility to displaced Ukrainian nationals taking part in a UK government relocation scheme.

Policy Objectives

31. The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2022 ('the 2022 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 aided places scheme ('the Scheme') for pupils attending St Mary's Music School ('the School').

32. The 2022 Regulations update the references to applicants who are European Economic Area nationals ('EEA nationals') following the end of the EU Exit transition period. The Regulations ensure that EEA nationals who were in the British Islands prior to the Implementation Period completion day (that is, before 11pm on 31 December 2021 when the transition period ended), and who would have met the aided places scheme residency criterion in paragraph 2(1)(b) of schedule 1 of the 2015 Regulations had the UK's status not changed, remain eligible to apply to the scheme. The impact of updating these references is that eligibility for EEA nationals who were in the UK before the end transition period will be maintained.

33. Further, a new paragraph has been added to regulation 2 of schedule 1 to make reference to potential applicants to the Scheme who have arrived in the UK through a UK government scheme for Ukrainian displaced persons. Schedule 1 section 2 (1)(c) provides for eligibility of a child who is a refugee or the child of a refugee who has been granted leave to enter or remain in the British Islands as a refugee. A child who is a Ukrainian national or the child of a Ukrainian national arriving in the UK through the UK government schemes is not treated as a refugee but a displaced person and would not otherwise be eligible to apply for the Scheme.
34. Opportunity is also being taken to uprate the income bands for the remission of fees. The Scheme currently provides financial assistance to up to 55 pupils in relation to the remission of tuition and boarding fees; as well as associated expenses by way of uniform and travel grants, meal allowances, and the remission of charges for field study courses. This is a means tested scheme which, in most cases, requires a contribution to be paid by the parent(s) or legal guardian(s) of pupils attending the School. The 2022 Regulations amend the basis on which parental contribution should be calculated by altering certain income levels which determine the level of assistance provided by the Scheme.
35. Existing income bands and monetary values of the first three income bands have been uprated in line with the Consumer Price Index increase seen over the preceding three years (calculated using the figures from April 2019 to February 2022, resulting in an uplift of approximately 8.2%). These values are periodically increased to help ensure that parental contributions remain in proportion to continued increases in the costs of living and were last increased in 2015 and 2019. These amendments will provide a modest reduction in parental contribution for those on lower incomes.

Consultation

36. There is no statutory obligation to consult in relation to the Scheme, however, the School has been consulted throughout the process and raised no objections.

Impact Assessments

37. 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.
38. An Equalities Impact Assessment has been undertaken and makes note of the minor amendments to maintain or ensure eligibility for EEA nationals and relevant Ukrainian nationals.

Financial Effects

39. There is no expected financial impact on the School, as the total fees remitted are not altered by the 2022 Regulations and demand for places is not expected to be affected.
40. Parents and guardians of pupils at the school can expect to see their contribution to fees reduce by a modest amount depending on their income level. The amendments are to the lower income levels so while they will benefit all families with incomes above the previous lowest threshold, the greatest benefit is for lower- and middle-income earners.
41. There will be a moderate cost to the Scottish Government of the uprating of the first three income bands, the income levels at which parental contributions are made are raised. This cost will be accommodated within the Scottish Government Learning Directorate's budget for 2022-23.
42. There will be no financial impact on the School.

Scottish Government
Learning Directorate
May 2022