

## **Explanatory Memorandum to the Education (Student Finance) (Ukrainian Nationals and Family Members) (Miscellaneous Amendments) (Wales) Regulations 2022**

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister for Education and Welsh Language's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Finance) (Ukrainian Nationals and Family Members) (Miscellaneous Amendments) (Wales) Regulations 2022. I am satisfied that the benefits justify the likely costs.

Jeremy Miles MS  
Minister for Education and Welsh Language  
07 July 2022

## **Part 1**

### **1. Description**

1.1 The Education (Student Finance) (Ukrainian Nationals and Family Members) (Miscellaneous Amendments) (Wales) Regulations 2022 (“the 2022 Regulations”) amend:

- the Education (Fees and Awards) (Wales) Regulations 2007;
- the Education (European University Institute) (Wales) Regulations 2014;
- the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015;
- the Education (Student Support) (Wales) Regulations 2017;
- the Education (Student Support) (Wales) Regulations 2018;
- the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018; and
- the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019.

1.2 The 2022 Regulations:

- make persons granted leave under the Ukraine Scheme, including those persons granted leave outside the immigration rules in connection with the Russian invasion of Ukraine, eligible for student support, home fee status, and the undergraduate tuition fee cap when starting or continuing a course on or after 1 August 2022; and
- make students undertaking an undergraduate distance learning course eligible to apply for Grants for Dependents.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the 2022 Regulations will come into force less than 21 days after the instrument has been laid. This legislation is necessary to ensure that Ukraine Nationals and their family members will be able to access student support from 1 August 2022 and to ensure parity of support for distance learners with those studying on other courses. Without this legislation these groups of students would remain ineligible for student support.

### **3. Legislative background**

3.1 The 2022 Regulations are made under sections 1 and 2 of the Education (Fees and Awards) Act 1983; sections 22(1)(a), 22(2)(a) and (d) and 42(6) of the Teaching and Higher Education Act 1998 (‘the 1998 Act’); and sections 5(5)(b) and 55(2) of the Higher Education (Wales) Act 2015.

- 3.2 Sections 1 and 2 of the Education (Fees and Awards) Act 1983 provide the Welsh Ministers with powers to make regulations requiring or authorising the charging of higher fees to certain students and authorising rules of eligibility in relation to certain awards in connection with education, training or research.
- 3.3 Section 22 of the 1998 Act provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. This power enables the Welsh Ministers to prescribe, amongst other things, the amount of financial support (grant or loan) and who is eligible to receive such support.
- 3.4 Section 5 of the Higher Education (Wales) Act 2015 allows the Welsh Ministers to make regulations prescribing (amongst others) the qualifying persons that will benefit from the fee limits set out in an institution's fee and access plan. This applies to those institutions in Wales regulated by the Higher Education Funding Council for Wales under the 2015 Act.
- 3.5 The functions of the Secretary of State in section 1 of the Education (Fees and Awards) Act 1983 were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by S.I. 2006/1458 with effect from 8 June 2006. The functions of the Secretary of State in section 2 of that Act were transferred to the National Assembly for Wales so far as exercisable in relation to Wales by S.I. 1999/672. Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act, so far as they relate to making provision in relation to Wales (except insofar as they relate to the making of any provision authorised by subsections (2)(a) of section 22, amongst others). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2)(a) of the 1998 Act (amongst others) to be exercisable concurrently with the National Assembly for Wales.
- 3.6 The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred to the National Assembly for Wales, so far as exercisable in relation to Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672).
- 3.7 The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
- 3.8 Each year, a number of functions of the Welsh Ministers in Regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.
- 3.9 This instrument will follow the negative procedure.

#### **4. Purpose and intended effect of the legislation**

- 4.1 The Welsh Ministers make Regulations to provide the basis for the system of financial support for students ordinarily resident in Wales, and other students studying in Wales, who are taking designated courses of higher education in the UK.
- 4.2 The conflict in Ukraine has resulted in Ukrainians and their family members seeking sanctuary in Wales. As a Nation of Sanctuary, the Welsh Government reviews the provision of public services to those seeking sanctuary as the situation requires. The Welsh Government is committed to doing everything it can to support people fleeing the war in Ukraine and providing sanctuary and safety in Wales, including supporting those who wish to continue or commence studies.
- 4.3 Three immigration routes have been made available to those displaced by the conflict in Ukraine: the Ukraine Family Scheme, the Homes for Ukraine Sponsorship Scheme and the Ukraine Extension Scheme. These are known collectively as the Ukraine Scheme. A fourth route is also available, where leave outside the immigration rules is granted. For convenience, where this document refers to the Ukraine Scheme, this includes leave outside the immigration rules.
- 4.4 The 2022 Regulations amend existing student support Regulations to make those with leave under the Ukraine Scheme eligible for home fee status, the tuition fee cap, and student support, in line with others in protection-based categories in the Regulations.
- 4.5 The Ukraine Scheme extends to those who are already present in the UK who may be granted leave under the Ukraine Extension Scheme. These persons may be eligible for home fee status, the tuition fee cap, and student support after leave has been granted.
- 4.6 Grants for Dependants are grant payments for those with dependants and comprise the Parents' Learning Allowance, the Adult Dependents' Grant, and the Childcare Grant. An undergraduate student undertaking a distance learning course is not currently eligible. The 2022 Regulations amend existing student support Regulations to make students on distance learning courses eligible for these grants.
- 4.7 These amendments will be made for new and continuing students from the 2022/23 academic year.

#### **5. Consultation**

- 5.1 There is no statutory requirement to consult on these Regulations and no consultation has been undertaken.

### **Part 2 – Regulatory Impact Assessment (RIA)**

An RIA has been conducted for the 2022 Regulations.

## **6. Options**

### *Option 1: Business as usual*

6.1 If the 2022 Regulations are not made then people coming to Wales under the Ukraine Scheme would remain ineligible for student support. Undergraduate distance learning students would remain ineligible for Grants for Dependants.

### *Option 2: Make the Regulations*

6.2 Making these Regulations ensures that the consequences outlined above are avoided. This is the preferred option.

## **7. Costs and benefits**

### *Option 1: Business as usual*

7.1 Leaving the existing Regulations in place would mean no additional costs are incurred via the student support system.

### *Option 2: Make the Regulations*

## **Ukraine scheme**

7.2 Making these Regulations ensures parity for Ukrainians and their family members with others in protection-based categories in the Regulations in relation to student support. Access to student support reinforces the Welsh Government's commitment, as a Nation of Sanctuary, to support people fleeing the war in Ukraine. Those eligible under the Ukraine schemes will have the opportunity to undertake higher education whilst in the UK, which will assist them in re-building their life and in securing their well-being.

7.3 Data on the number of visas issued is published by the Home Office<sup>1</sup>. As of 7 June 2022, the number of visas issued was:

- 41,000 Ukraine Family Scheme visas; and
- 83,400 Ukraine Sponsorship Scheme visas (5,231 of these where the sponsor was from Wales)

7.4 The following estimated costs are based on 150 Ukrainian refugees commencing study at undergraduate level. The take-up rate of higher education to refugees is highly uncertain, however this estimate is a small addition (0.2%) in the context of the total student support budget.

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<sup>1</sup> <https://www.gov.uk/government/publications/ukraine-family-scheme-application-data>

<b>Cost of student support for 150 refugees, 1 year</b>	
Loans	£2,240,000
Grant	£625,000
<b>Total Outlay</b>	<b>£2,865,000</b>

## **Grants for Dependants**

7.5 Making these Regulations will ensure parity of support for distance learners with those studying on other courses. This extension of support will assist in widening participation in education by students with dependants, and deliver on a Welsh Government 'Programme for Government' commitment to widen access to childcare amongst those in education.

7.5 Estimated additional costs for extending grants for dependants to include distance learners are outlined in the table below, an 8% increase (£1.09m) to the grants for dependant's budget in 2022-23. The number of distance learners has been increasing in recent years, a pattern which was also seen pre-pandemic. In 2022/23 there are estimated to be 12,680 distance learners who receive student finance. It is estimated that an extra 570 (or 4%) of these learners will become eligible for the GFD.

<b>Estimated additional costs for expanding Grants for Dependants eligibility to Distance Learner Course students, £m</b>	
Financial year	Increase to outlays (£m)
2022-23	£1.09
2023-24	£1.92
2024-25	£2.42

*Source: analysis of SLC data*

*2022-23 cost is lower as change introduced for part of the financial year only.*

*Number of distance learners eligible for Grants for Dependants estimated using rates for all students.*

*There has been very high growth in numbers of distance learners in recent years (during and pre-COVID) so the additional cost of extending the eligibility is very likely to rise over time, assuming those courses continue to rise in popularity.*

## **8. Competition Assessment**

The making of the 2022 Regulations has no impact on the competitiveness of businesses, charities, or the voluntary sector.

## **9. Post-Implementation Assessment**

The Regulations governing the student support system are revised annually and are continually subject to detailed review, both by policy officials and delivery partners in their practical implementation of the Regulations.

