



Scottish
Commission
on Social
Security

Scottish Commission on Social Security

Scrutiny report on draft regulations:

The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022

**Submitted to Scottish Government and the Scottish Parliament's
Social Justice and Social Security Committee on 6 September 2022.**

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Summary of Recommendations and Observations

Recommendation 1: In view of the delivery challenges across the public sector generated by significantly greater than expected take-up of the super-sponsor scheme, the Scottish Government and Social Security Scotland should place particular importance on planning for and monitoring of whether expectations in ‘Our Charter’¹ continue to be fulfilled.

Recommendation 2: While it may be hard to disentangle the specific impact of these draft Regulations from the provision of different kinds of support to displaced people previously resident in Ukraine, there is therefore a case for reviewing this, where possible identifying the impact on different partners and learning from experience, in preparation for any similar future occurrence, to ensure all partners have capacity to deliver.

Recommendation 3: Social Security Scotland is invited to set out how it intends to monitor its ability to get information to displaced people on devolved benefits so that they can get access them quickly.

Recommendation 4: Social Security Scotland is invited to share details of action taken to ensure displaced people previously resident in Ukraine are made aware of relevant Charter expectations and how to raise concerns if Charter expectations are not being met.

Recommendation 5: In view of difficulties in identifying exact numbers of displaced people previously resident in Ukraine accessing devolved social security, and noting exact numbers may not be required, Social Security Scotland should nonetheless consider the implications for learning directly from specific communities on their experiences of accessing support and put in place systems that can support continuous improvement directed towards these communities.

Observation 1: While time may well not permit the drawing up of impact assessments in advance of the laying of regulations of this kind, there may be a case for doing so retrospectively, as a means of drawing on learning as a preparatory measure should similar regulations be required in future.

Recommendation 6: The Scottish Government undertakes an equality analysis of the impact of these Regulations.

¹ [Social Security Scotland - Our Charter](#)

Recommendation 7: Social Security Scotland is invited to set out details of action taken to ensure accessibility of information to people arriving under these schemes who have additional disability-related communication barriers.

Observation 2: Independent, accessible and rapidly available advocacy on devolved social security may well be of particular importance to displaced people previously resident in Ukraine coming to Scotland.

Recommendation 8: Scottish Government carries out active, ongoing engagement with displaced people previously resident in Ukraine, not just in order to improve their awareness of devolved benefits, Charter expectations and advocacy support available but to monitor, evaluate and apply learning to future communications, take-up and delivery strategies.

1. Introduction

The Scottish Commission on Social Security (SCoSS) is pleased to report on The Social Security (Residence Requirements) (Ukraine) (Scotland) Regulations 2022² (henceforth referred to as ‘the Regulations’), that were laid in the Scottish Parliament on 21 March 2022 and came into force on 22 March 2022.

As a result of the invasion of Russian forces and war in Ukraine, which began in February 2022, almost 6 million people registered for national protection schemes in Europe³. Many are seeking sanctuary in surrounding states in the Baltics and further afield. Some are coming to the UK via schemes established by the Home Office. In Scotland, the super-sponsor scheme enables visa holders to be given permission to travel to the UK without being matched to a host. This was paused in July 2022 due to unexpectedly high demand (see Annex 1 for an overview of the various support schemes).

The need for the emergency Scottish legislation arose from the UK Government’s decision to remove certain residence-based qualifying conditions, thereby enabling displaced people coming to the UK under the approved schemes to access the benefits system immediately upon arrival,⁴ and regulations introduced by the Department for Work and Pensions (DWP) to implement this⁵. To ensure parity of access to devolved Scottish assistance, Scottish Ministers had to meet the same commencement date for the amendments to Scottish legislation as the UK legislation.

Thus, the purpose of the Regulations, as set out in the policy note⁶ is to:

- ensure the alignment of social security legislation for Scottish benefits still being delivered by the Department for Work and Pensions under Agency Agreement.
- amend additional forms of devolved assistance made under regulations stemming from the Social Security (Scotland) Act 2018 and the Social Security Act 1998, and in relation to the Council Tax

² [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

³ [Ukraine Refugee Situation \(unhcr.org\)](https://www.unhcr.org)

⁴ [Home Secretary statement on humanitarian support for Ukrainians - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁵ [The Social Security \(Habitual Residence and Past Presence\) \(Amendment\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁶ [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022: policy note - gov.scot \(www.gov.scot\)](https://www.gov.scot)

Reduction Scheme in Scotland.

Regulations 1 to 8 fall within SCoSS's remit to scrutinise, in accordance with 97(1)(a) of the Social Security (Scotland) Act 2018⁷ (hereafter referred to as 'the Act'). However Regulations 9 and 10 amend The Council Tax Reduction (Scotland) Regulations 2012⁸ and these fall outside the scope of Section 97(1)(a) and, therefore, our recommendations do not apply to either Regulation 9 or 10.

In the brief lead up to the Regulations being laid, the SCoSS Board was informed that the Scottish Government was awaiting Home Office immigration decisions before proceeding further with their own legislation which would, in turn, allow the Scottish Government to establish the legislative timeline.

The speed with which the Regulations needed to be laid unavoidably meant our scrutiny was carried out after the event. The draft Regulations were referred to us on 21 March 2022 (see Annex 2 for details of our approach to scrutiny and timeline). However, this means we have usefully been able to draw on experience of how the Regulations have played out in subsequent delivery and that is the focus of this report. We thank the Scottish Refugee Council and Social Security Scotland for insights offered, which have informed it.

As with all our scrutiny of Regulations this report provides commentary in connection with human rights and the social security principles set out in Section 1 of the Social Security (Scotland) Act 2018⁹, as operationalised via "Our Charter"¹⁰. We noted in our previous report on regulations pertaining to displaced persons from Afghanistan, the situation of displaced people has implications human rights¹¹, principles and for action to meet various Charter expectations, some in particular¹². These and other recommendations made in that report apply here too. We refer to them where relevant, along with any additional implications arising.

Since the Regulations came into force, an administrative oversight was

⁷ [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2018/11/section/97)

⁸ [The Council Tax Reduction \(Scotland\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2012/1000/section/1)

⁹ [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2018/11/section/97)

¹⁰ [Social Security Scotland - Our Charter](#)

¹¹ Further analysis of the human rights implications for displaced people can be found in Section 3 of our scrutiny report on the Afghanistan regulations¹¹.

¹² We noted in particular: Part 2, expectation 3: "adapt processes and ways of communicating as much as we reasonably can to meet your needs and preferences, for example by providing interpreters"; Part 2, expectation 5: "ensure that disabled people who need help with the application process can get independent advocacy"; Part 3, expectation 5: "ensure staff understand the needs of different people and the barriers they face - so that no-one experiences discrimination because of who they are".

brought to SCoSS's attention on 10 August 2022 that necessitates amendments to regulations. This concerns a specific cohort of people born in Northern Ireland and now returning to the UK from Ukraine. SCoSS subsequently drew officials' attention to some implications for other Irish citizens not born in Northern Ireland. Amendments to regulations will be required to address this and we understand that officials are taking action accordingly.

Having scrutinised the Regulations as laid there are no other obvious technical issues with them in regards to the removal of certain residence-based qualifying conditions allowing Ukrainian citizens coming to the UK to access the benefits system immediately upon arrival. However, in our report we highlight a number of important issues including the case for requirement for a retrospective analysis of the impact on delivery partners and of the implications for advancing equality and non-discrimination, ensuring information specifically on devolved benefits and the Social Security Charter reaches displaced people previously resident in Ukraine, and the need to understand the lived experiences of the people affected by these Regulations and how to encourage take up among displaced communities.

2. Delivery, partners and co-ordination

2.1 The importance of delivery

Clearly, successful delivery is necessary for the ultimate realisation of the policy intent, conformity with human rights and social security principles, notably principle (h) "the Scottish social security system is to be efficient and deliver value for money" which may have particular implications for delivery. Moreover, three of the four parts to the Charter concern delivery. In scrutinising Regulations, therefore, we always need to consider how and if they can be translated into delivery.

These Regulations are the second set of emergency regulations related to displaced people from across the world in the space of a year, with significant implications for the Scottish Government and Social Security Scotland. It is clear from the evidence gathered that these scenarios result in delivery challenges, including for a wide range of delivery partners. While progress has been made in planning for such eventualities, it would be valuable to understand and analyse the impact of these events and consider a plan for similar future scenarios that allows

for the learning to be implemented in future. That would be consistent with principle (g) which outlines that opportunities are to be sought to continuously improve the Scottish social security system

The need to pause the Scottish Government's super sponsor scheme illustrates the point. It had been originally anticipated that 3,000 displaced people previously resident in Ukraine would be welcomed to Scotland under the scheme¹³. However, by 16 August 2022, 14,247 displaced people previously resident in Ukraine had arrived in Scotland, 76% of whom were sponsored by the Scottish Government under this scheme. In total, 29,803 visas have been issued naming a Scottish sponsor though 63% of these people have yet to arrive in Scotland¹⁴.

The super sponsor scheme should make a significant contribution to the rights of displaced people previously resident in Ukraine coming to Scotland and the removal of residency criteria for devolved social security for them is accommodated by these Regulations. This approach supports realisation of principle (b) (social security is itself a human right and essential to the realisation of other human rights), principle (e) (the Scottish social security system is to contribute to reducing poverty in Scotland) and principle (g) (i) (opportunities should be sought to continuously improve the Scottish social security system in ways which put the needs of those who require assistance first). The higher than anticipated demand, however, creates significant delivery challenges across the public sector, and it means those principles cannot be put into practice.

SCoSS recognises that not all displaced people previously resident in Ukraine are likely to be eligible for devolved benefits, so the impact on Social Security Scotland may be lower than for other parts of the public sector in Scotland. Nonetheless, assurance would be welcome that Social Security Scotland is equipped to deal with the potentially increased demand. In particular, a much bigger scale of demand may place pressure on capacity to meet Charter expectations.

Recommendation 1: In view of the delivery challenges across the public sector generated by significantly greater than expected take-up of the super-sponsor scheme, the Scottish Government and Social Security Scotland should place particular importance on planning for and monitoring of whether expectations in 'Our

¹³ [UK Government backs 'super sponsor' plan for Ukraine refugees | The National](#)

¹⁴ [Ukraine Sponsorship Scheme: Visa data by country, upper and lower tier local authority - GOV.UK \(www.gov.uk\)](#)

Charter¹⁵ continue to be fulfilled.

2.2 Co-ordination and impact on delivery partners

As we noted in our report on the Afghanistan Regulations, the extent to which Regulations of this sort support the realisation of other human rights, principle (b), may be contingent on the efficacy of co-ordination with other forms of support. A Scottish Government cross-government task force supports the Minister for Culture, Europe and International Development and has set up welcome hubs for those settling in Scotland from Ukraine. We were informed that the number of settings across Scotland hosting people from Ukraine was increasing all the time and these hubs were acting as focal points for accessing information on a wide range of support.

The task force coordinates directly with local authorities on processes and multiple partners clearly play a role in delivering the schemes, along with Social Security Scotland and local authorities. This is in keeping with the expectation in Our Charter¹⁶ that Social Security Scotland works with “other public services to support delivery of the National Outcomes”. Other partners, in this case, include DWP, the hotel sector, and third sector organisations. The latter have played a vital role in providing direct support to displaced people previously resident in Ukraine to enter Scotland and connection them with other services. That includes social security.

However, the Explanatory Note at the end of the draft Regulations states that “No Business and Regulatory Impact Assessment (BRIA) has been prepared for these Regulations as no impact on business, charities or voluntary bodies is foreseen”. Moreover, the Policy Note states that “The Scottish Government has no reason to consider that these amendments will have an adverse impact on the competitiveness of Scottish companies or the third sector within Scotland, the UK, or elsewhere in Europe or the rest of the world.”¹⁷ However, the impact of the schemes in Scotland on a range of bodies may be significant.

Recommendation 2: While it may be hard to disentangle the specific impact of these draft Regulations from the provision of different kinds of support to displaced people previously resident in Ukraine, there is therefore a case for reviewing this, where possible identifying the impact on different partners and learning from experience, in

¹⁵ [Social Security Scotland - Our Charter](#)

¹⁶ [Social Security Scotland - Our Charter](#)

¹⁷ [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022: policy note - gov.scot \(www.gov.scot\)](#)

preparation for any similar future occurrence, to ensure all partners have capacity to deliver.

It may also be worth noting that Charter expectation 3:10 says “encourage other organisations working in social security to adopt the approach described in Our Charter”. The inter-agency approach required to deliver the policy intent may provide an opportunity to take that forward.

3. Raising awareness

3.1 Devolved benefits

Social Security Scotland officials noted that local delivery officers are “well engaged with hubs and local authorities housing refugees”. They have temporarily redeployed staff to support resettlement, made local delivery teams available to assist applications and ensured key factsheets are available in Ukrainian and Russian¹⁸. However from information received from stakeholders it seems the priority focus for hubs has been to convey information from DWP on accessing reserved Universal Credit. While this may be understandable, it is clearly important that Social Security Scotland ensures the support provided by devolved benefits receives due attention alongside. There were indications that the majority of displaced people were aware of the support they could get through Universal Credit and a growing number are becoming more aware of devolved benefits and their possible eligibility. This will be important to monitor going forward.

Recommendation 3: Social Security Scotland is invited to set out how it intends to monitor its ability to get information to displaced people on devolved benefits so that they can get access them quickly.

3.2 Social Security Charter

A key goal of the Social Security Charter is to help ensure that the way in which devolved social security is delivered is appropriate to the needs of those who apply for it (see also principles (g) and (i)). That being so, we pointed out in our report on the regulations concerning people from

¹⁸ For example, Social Security Scotland’s local delivery service factsheet is available in Ukrainian and Russian. [Social Security Scotland](#)

Afghanistan¹⁹, certain Charter expectations are likely to be particularly relevant to displaced people.

It is thus important that people are made aware, not just of their rights to devolved assistance but also the expectations in the Charter concerning how it will be delivered, and what they can do if those expectations are not met. Among others, Charter expectations include part 3:2 “encourage you to provide feedback, explain how you can complain and do everything we can to make things right.” Clearly displaced people need to know how to do that.

Whilst there remains a wider question on the level of awareness about the Charter more generally it is reasonable to assume that the majority of displaced people previously resident in Ukraine will arrive in Scotland with little knowledge of the devolved social security system, Social Security Scotland and how they can expect to be treated. This increases the priority Social Security Scotland should place on sharing this information with displaced people previously resident in Ukraine.

Recommendation 4: Social Security Scotland is invited to share details of action taken to ensure displaced people previously resident in Ukraine are made aware of relevant Charter expectations and how to raise concerns if Charter expectations are not being met.

4. Monitoring: challenges and implications

The capability to carry out monitoring and evaluation is of vital importance to the achievement of principle (g) “opportunities are to be sought to continuously improve the Scottish social security system in ways which (i) put the needs of those who require assistance first and (ii) advance equality and non-discrimination” and principle (b) “social security is itself a human right and essential to the realisation of other human rights”²⁰

During our discussion with Social Security Scotland officials they noted difficulties in identifying the exact numbers of displaced people previously resident in Ukraine accessing the Scottish social security system, particularly in relation to the “super sponsor scheme”. Social Security Scotland do not specifically ask on application forms if a client is part of

¹⁹ [151121-Residence-Requirements-Afghanistan-Regulations-Report-FINAL.pdf \(socialsecuritycommission.scot\)](#)

²⁰ [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](#)

one of the resettlement schemes as a matter of course, though their immigration status would be highlighted if they are applying for a disability benefit. For low income benefits, where someone is not in receipt of a qualifying benefit, or if they fall into another exception group (e.g. under the age of 18 or have a partner who receives a qualifying benefit) this information may not be provided. It is clearly important to consider how many people have been affected by these Regulations and their general impact in order to learn lessons for the future, so that these can be applied in similar situations.

The Scottish Government accepted our observation pertaining to the needs of refugees and the requirement for staff to understand the barriers they faced, highlighting that a lessons learnt exercise was being conducted to formalise tailored support for future Afghan refugees. This is to be welcomed.

Recommendation 5: In view of difficulties in identifying exact numbers of displaced people previously resident in Ukraine accessing devolved social security, and noting exact numbers may not be required, Social Security Scotland should nonetheless consider the implications for learning directly from specific communities on their experiences of accessing support and put in place systems that can support continuous improvement directed towards these communities.

5. Opening up access and advancing equality and non-discrimination

5.1 Equality Analysis

As we noted in our report on the Afghanistan regulations, there are questions about equality and non-discrimination and whether scope exists for the Scottish Government to advance equitable treatment of displaced people.

The purpose of an Equality Impact Assessment is to identify and pre-empt inadvertent inequality arising, which is why the assessment needs to be completed in advance of policy development, not retrospectively, wherever possible. We note that no Equality Impact Assessment had been carried out regarding the Regulations and that time factors would, presumably, have made this impossible in advance of laying them. There are understandable challenges to producing any form of impact assessment in

advance of emergency legislation.

Nonetheless, there are significant equalities issues for displaced people coming to Scotland, and there are already more than one set of emergency regulations relating to displaced people. There could still be merit in carrying out an equality analysis of some kind, to identify equalities issues as a baseline for continuous improvement. This also applies to the other forms of impact assessment the Scottish Government carries out as a routine part of its policy development.

One way or another, equalities issues need to be identified and addressed to prevent discrimination (Part 3, expectation 5 of Our Charter)²¹ and in pursuance of principle (g). Undertaking these impact assessments retrospectively could be beneficial in designing appropriate regulatory and delivery functions for similar situations in the future.

Observation 1: While time may well not permit the drawing up of impact assessments in advance of the laying of regulations of this kind, there may be a case for doing so retrospectively, as a means of drawing on learning as a preparatory measure should similar regulations be required in future.

Recommendation 6: The Scottish Government undertakes an equality analysis of the impact of these Regulations.

5.2 Communications

Displaced people previously resident in Ukraine will have specific communications needs, such as for language support, and this may have a particular bearing on Social Security Charter expectations including those on adapting processes and methods of communication²². Section 5 of the Act also covers the provision of accessible information²³. We welcome confirmation from Social Security Scotland that it is producing factsheets in Ukrainian and Russian. However, given that access to disability benefits may well be a significant issue for displaced disabled people previously resident in Ukraine, it is clearly important to ensure other forms of communication barriers are similarly addressed and accessible forms of communication are produced in Ukrainian and

²¹ [Social Security Scotland - Our Charter](#)

²² [Social Security Scotland - Our Charter](#)

²³ [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](#)

Russian.

Recommendation 7: Social Security Scotland is invited to set out details of action taken to ensure accessibility of information to people arriving under these schemes who have additional disability-related communication barriers.

5.3 Support and advocacy

The Charter also includes expectations on independent advocacy provision for disabled people (Part 1, expectation 6 of Our Charter), and ensuring staff understand the needs of different people and the barriers they face, so that no-one experiences discrimination. This puts into practice the provisions in section 10 of the Act ensuring the right of access of disabled people to independent advocacy in connection with the determination of social security.

We were informed that hosts of displaced people previously resident in Ukraine are helping the people they sponsor to apply for social security support where they can, but that a high volume of calls to helplines (such as that run by the Scottish Refugee Council) for welfare rights advice suggest that many are not aware of the social security system or find it complex to navigate. We were also informed that the majority of displaced people moving to Scotland require independent support to engage directly with benefits system because of its complexity.

Independent advocacy could be of specific value to displaced people previously resident in Ukraine, or their hosts who are attempting to navigate the Scottish social security system with little or no experience. This has particular relevance to the achievement of principle (e) in the Act (the Scottish social security system is to contribute to reducing poverty in Scotland). Where these Regulations are concerned, independent advocates could play a significant role in supporting displaced people previously resident in Ukraine to understand their rights and ensure that they are being upheld with reference to their residency status.

Social Security Scotland has noted that there had been discussions with Voiceability, the body charged with providing independent advocacy on behalf of the Scottish Government, about direct referrals. In response to a question from the SCoSS board, Voiceability noted that it was actively seeking opportunities to engage with displaced people from Ukraine as part of its awareness raising and outreach work.. There may be some

useful join-up between this work and that of other bodies who are experiencing an increased demand for welfare advice support.

Observation 2: Independent, accessible and rapidly available advocacy on devolved social security may well be of particular importance to displaced people previously resident in Ukraine coming to Scotland.

6. Take up

Any and all of the above factors could have a bearing on take-up. It is therefore worth reflecting on their implications in that context. For example, as noted in the last iteration of the Scottish Government's Benefit Take Up Strategy, the Government has identified that translation issues are a particular barrier to accessing social security benefits for refugees in Scotland²⁴. Whilst we welcome efforts made to translate key factsheets into alternative language, it is worth investigating whether further action could be taken to explain the rights of displaced people previously resident in Ukraine, in Ukrainian and at welcome hubs, in order to maximise take up.

Recommendation 8: Scottish Government carries out active, ongoing engagement with displaced people previously resident in Ukraine, not just in order to improve their awareness of devolved benefits, Charter expectations and advocacy support available but to monitor, evaluate and apply learning to future communications, take-up and delivery strategies.

²⁴ [Social Security \(Scotland\) Act 2018: benefit take-up strategy - October 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/benefit-take-up-strategy-2021/pages/100/index.aspx)

Annex 1 – Overview of support schemes

UK Government support schemes

Immigration and visa issues are reserved to the UK Government. As part of the effort to support Ukrainian families and returning UK nationals the UK Government introduced a humanitarian support package, announced in a statement made by the Home Secretary to the UK Parliament on 1 March 2022²⁵. This includes a series of schemes operating from 18 March 2022, under which anyone seeking to utilise the provisions made in the Regulations would enter the UK through:

- The Ukraine Extension Scheme²⁶ which applies to Ukrainian people with permission to be in the UK on 18 March 2022 (or who previously had permission to stay in the UK that has expired on or after 1 January 2022). A successful application allows the person to apply for an extended visa allowing them to live, work and study in the UK for up to three years.
- The Ukraine Family Scheme²⁷ has allowed for British nationals and people settled in the UK to bring a wider group of family members to the UK, with eligibility expanded to parents, grandparents, adult offspring, siblings and their immediate family members. Those coming to the UK are allowed to stay for a maximum of three years and are able to work and access public funds, including the social security system.
- The Homes for Ukraine Scheme²⁸ was also established for visa applications from Ukrainian applicants who have named people in the UK willing to sponsor them. The rules of the scheme allow for individuals or organisations who want to offer a home to people fleeing Ukraine to become a sponsor (with certain restrictions)²⁹. This process is managed by the Department for Levelling Up, Housing and Communities (DLUHC).

²⁵ [Home Secretary statement on humanitarian support for Ukrainians - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/2022-03-01-home-secretary-statement-on-humanitarian-support-for-ukrainians)

²⁶ [Apply to stay in the UK under the Ukraine Extension Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/apply-to-stay-in-the-uk-under-the-ukraine-extension-scheme)

²⁷ [Apply for a Ukraine Family Scheme visa - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/apply-for-a-ukraine-family-scheme-visa)

²⁸ [Homes for Ukraine scheme: frequently asked questions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/homes-for-ukraine-scheme-frequently-asked-questions)

²⁹ Anyone in the UK can apply on the basis that they can offer a spare room or home for at least 6 months, they are a British citizen or have leave to remain in the UK for at least 6 months and they do not have a criminal record.

Scottish Government ‘super sponsor scheme’

During the development of the UK Government schemes, the Scottish and Welsh Governments called for the UK Government to waive all visa requirements for Ukrainian nationals seeking refuge in the UK. They raised concerns about the Homes for Ukraine scheme, particularly the requirement for a displaced person to seek out a private sponsor before being able to receive a visa and the possible implications for the protection of vulnerable people. Both Governments highlighted their intent to ensure that displaced people previously resident in Ukraine were cleared to enter each country quickly and housed temporarily, while they worked with local partners to provide longer term accommodation, safeguarding and access to services³⁰.

On 18 March, the Scottish Government announced that they had agreed a “super sponsor scheme” with the UK Government to sit alongside the Homes for Ukraine scheme. This removed the need for applicants to be matched to a host prior to being given permission to travel to the UK (though they still require a visa to be approved by the UK Government in order to gain entry). The Scottish Government directly offers sponsorship to people fleeing the conflict in Ukraine to resettle in Scotland, meaning that people can travel immediately and be provided with temporary accommodation, meals and a range of support and advice including in relation to applying for social security benefits.

By 16 August 2022, 10,975 people of the 14,247 displaced people previously resident in Ukraine who had arrived in Scotland (76%) were sponsored by the Scottish Government under the “super sponsor scheme”. 29,803 visas have been issued naming a Scottish sponsor though 63% of these people have yet to arrive in Scotland³¹. This is significantly higher than the 3,000 displaced people previously resident in Ukraine who it was originally anticipated would be welcomed to Scotland under the scheme³².

³⁰ [Wales and Scotland want to be Ukrainian refugee ‘super sponsors’ - Wales Online](#)

³¹ [Ukraine Sponsorship Scheme: Visa data by country, upper and lower tier local authority - GOV.UK \(www.gov.uk\)](#)

³² [UK Government backs 'super sponsor' plan for Ukraine refugees | The National](#)

Annex 2 – Approach to Scrutiny

In keeping with our role to scrutinise social security regulations, this report has provides commentary in connection with, human rights, and the social security principles set out in Section 1 of the Social Security (Scotland) Act 2018³³, as operationalised via *Our Charter*³⁴.

Due to the pace at which emergency Regulations were made, the Regulations were referred to SCoSS on the 21 March 2022 and came into force on 22 March 2022, in line with the equivalent reserved provisions. The policy note highlights that the impact of not introducing these regulations would have been that displaced people previously resident in Ukraine arriving in Scotland would be required to satisfy habitual residence and past presence tests which can take up to 6 months, whilst those in the rest of the UK would have access to benefits immediately upon arrival³⁵.

The speed with which these Regulations needed to be put into place had direct implications for our approach to scrutiny and this report has, therefore, been produced retrospectively. In line with the requirements of section 97(9)(b) of the 2018 Act the Government is required to explain why regulations are laid before SCoSS has completed its scrutiny. This is included in the policy note³⁶. SCoSS was supportive of the Scottish Government aims and appreciated the need to act swiftly to support displaced people previously resident in Ukraine. We were, therefore, content to undertake our scrutiny of the regulations retrospectively.

SCoSS was first informed on Thursday 3 March 2022 of the urgent need to legislate. A follow-up meeting was held with the SCoSS Chairperson and lead officials on 8 March 2022 to discuss the latest information available. SCoSS was informed of the need for a further amendment to the Regulations, as part of The Social Security (Miscellaneous Amendment) (Scotland) Regulations 2022, on 10 August 2022. We are grateful for the efforts made by officials to keep us apprised of developments and to answer our questions in what has been a rapidly evolving situation, involving multiple agencies

This is the second time that SCoSS has been obliged to report after the laying of emergency Regulations. The Social Security (Residence

³³ [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

³⁴ [Social Security Scotland - Our Charter](#)

³⁵ [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022: policy note - gov.scot \(www.gov.scot\)](#)

³⁶ [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022: policy note - gov.scot \(www.gov.scot\)](#)

Requirements) (Afghanistan) (Scotland) Regulations 2021³⁷ came into force on 15 September 2021 and SCoSS published its scrutiny report³⁸ on 15 November 2021.

As part of our Afghanistan scrutiny report, in addition to commenting on the specifics of those Regulations, we reviewed the general approach of devolved social security pertaining to any displaced people who come to Scotland. Many of the issues and recommendations we raised in that report thus also apply to these Regulations. We have therefore signposted relevant issues raised in that report throughout this one, as appropriate. In particular, points raised in our analysis that have relevance to these regulations include:

Further analysis of the human rights implications for displaced people can be found in Section 3 of our scrutiny report on the Afghanistan regulations³⁹.

As the Social Security (Scotland) Act 2018 is currently framed, Ministers are obliged to refer to SCoSS draft Regulations falling under Chapter 2 Part 2 and section 79 of the Act, and SCoSS is obliged to scrutinise and submit them in the form of a report (see section 97). As we observed in our report on the Afghanistan regulations there is still value in our reflecting on any issues within the Regulations, and drawing on any relevant learning as delivery of support in relation to Regulations 1 to 8 is rolled out, in order to identify issues at an early stage. The policy intent will only be realised if the Regulations can be translated into effective delivery. Regulations that on paper appear consistent with the social security principles and human rights may play out in ways that are not. Our comments in this report therefore aim to support the realisation of the Regulations through delivery. In order to better understand the circumstances of displaced people previously resident in Ukraine, and refugees more generally, entering Scotland and the support available to them, SCoSS representatives were pleased to meet and have an informative discussion with the Scottish Refugee Council on 13 June 2022. SCoSS was also pleased to have had the opportunity to learn more about the delivery perspective during one of our regular meetings with Social Security Scotland.

SCoSS would like to express its thanks to the Scottish Refugee Council

³⁷ [The Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021 \(legislation.gov.uk\)](https://legislation.gov.uk)

³⁸ [Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021: scrutiny report \(socialsecuritycommission.scot\)](https://socialsecuritycommission.scot)

³⁹ [Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021: scrutiny report \(socialsecuritycommission.scot\)](https://socialsecuritycommission.scot)

and Social Security Scotland for the insights offered, which we have drawn upon to inform this report.

Scrutiny timeline

08 March 2022	Initial informal discussion with Scottish Government officials
15 March 2022	SCoSS Chair discussion with Chief Executive Social Security Scotland as part of quarterly meeting.
21 March 2022	Ukraine emergency Regulations laid in Parliament.
21 March 2022	Draft Regulations referred to SCoSS by the Minister for Social Security and Local Government.
22 March 2022	Ukraine Regulations into force.
24 March 2022	SCoSS Board Meeting discussion with officials.
29 March 2022	Questions issued to Social Security officials regarding draft regulations.
13 April 2022	SCoSS ad hoc Board Meeting discussion.
28 April 2022	SCoSS ad hoc Board Meeting discussion with officials.
13 June 2022	SCoSS and Scottish Refugee Council discussion.
14 June 2022	SCoSS and Social Security Scotland discussion.
4 July 2022	SCoSS ad hoc Board Meeting discussion.
4 August 2022	Report considered as part of SCoSS Board meeting.
10 August 2022	SCoSS board informed of requirement to make a further amendment to the Regulations.
19 August 2022	SCoSS board discussion with officials on approach to further amendment to the Regulations.
23 August 2022	Ad hoc meeting to discuss report, observations and recommendations.
September 2022 (TBC)	Further amendment to be referred to SCoSS by the Minister for Social Security and Local Government
TBC	Laying of The Social Security (Miscellaneous Amendment) (Scotland) Regulations 2022.
TBC	Final Scrutiny report laid by SCoSS.
TBC	SCoSS website publication of report.
TBC	Feedback to stakeholders on their input.