

The following scheme provides the legal cover for award of support inline with the General Block Exemption Regulation. The scheme does not provide any additional funding or budget



Llywodraeth Cymru
Welsh Government

Welsh Government Support for making good the damage caused by COVID-19 Scheme

State aid reference no: **SA.XXXXXX**

1. **Member State**

United Kingdom

2. **Region**

Wales

3. **Title of aid Scheme**

Welsh Government Support for making good the damage caused by COVID-19 Scheme

4. **UK legal basis**

Powers of the Welsh Ministers which allow the Welsh Government to support enterprises under the Scheme are contained in:

- the Welsh Development Agency Act 1975 (section 1) (as amended);
- the Housing Grants, Construction and Regeneration Act 1996 (section 126); and
- The Industrial Development Act 1982 (section 7).

The legislation which gives effect to EC Law in Wales is:

- the European Communities Act (1972) (section 2(1)); and
- the Government of Wales Act 2006 (section 80).

5. **EC legal basis**

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All aid provided under this Scheme will be within the limits set out in Article 50 of Commission Regulation (EU) No 651/2014 of 17 June 2014 and amended by Commission Regulation (EU) No. 2017/1084 of 14 June 2017 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation). A full version of the Regulation can be found at:

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.187.01.0001.01.ENG

A full version of the amending Regulation can be found at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1084&from=EN>

Summary information relating to the Scheme has been registered with the Commission under reference **SA.XXXXX**.

6. Definitions

In this Scheme, the following expressions have the same meaning attributed to them as in the General Block Exemption. For ease of reference these have been replicated (definitions are presented alphabetically):

“Advisory services linked to cooperation” means consulting, assistance and training for the exchange of knowledge and experiences and for improvement of cooperation.

“Aid” means any measure fulfilling the criteria laid down in Article 107(1) of the Treaty.

“Aid scheme” means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount.

“Agricultural product” means the products listed in Annex 1 to the Treaty, except fishery and aquaculture products listed in Annex 1 to Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013.

“Assisted Area” means any of the regions in Wales designated as a 107 (3) (a) or 107 (3) (c) area as identified in the UK Regional Aid Map 2014-2020 (SA.38113 (2014/N)). Further information can be found at Annex 1.

“Coal” means high-grade, medium-grade and low-grade category A and B coal within the meaning of the international codification system for coal established by the United Nations Economic Commission for Europe and clarified in the Council decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines.

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“Date of granting the aid” means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.

“Employment directly created by an investment project” means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment.

“Fisheries and aquaculture sector” as covered by Regulation (EU) 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the market in fishery and aquaculture products, amending Council regulations (EC) 1184/2006 and (EC) 1224/2009 and repealing council regulation (EC) 1004/2000.

“Gross grant equivalent” means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charge.

“Individual aid” means ad hoc aid; and awards of aid to individual beneficiaries on the basis of an aid scheme.

“Intangible assets” means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property.

“Large enterprise” means any enterprise that is not an SME.

“Marketing of agricultural products” means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered to be marketing if it takes place in separate premises reserved for that purpose.

“Net increase in the number of employees” means a net increase in the number of employees in the establishment concerned compared with the average over a given period of time, and that any posts lost during that period must therefore be deducted and that the number of persons employed full-time, part-time and seasonal has to be considered with their annual labour unit fractions.

“Non-assisted areas” means any of the regions in Wales not designated as an Assisted Area.

“Organisational cooperation” means the development of joint business strategies or management structures, the provision of common services or services to facilitate cooperation, coordinated activities such as research or marketing, the support of networks and clusters, the improvement of accessibility and communication, the use of joint instruments to encourage entrepreneurship and trade with SMEs.

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“Primary agricultural production” means production of products of the soil and of stock farming, listed in Annex I to the Treaty, without performing any further operation changing the nature of such products.

“Processing of agricultural products” means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale.

“The Regional Aid Map” means the map approved by the Commission for the UK and published in accordance with paragraph 101 of the Guidelines on National Regional Aid for 2013-2020 (2006/C 54/08).

“Relocation” means a transfer of the same or similar activity or part thereof from an establishment in one contracting party to the EEA Agreement (initial establishment) to the establishment in which the aided investment takes place in another contracting party to the EEA Agreement (aided establishment). There is a transfer if the product or service in the initial and in the aided establishments serves at least partly the same purposes and meets the demands or needs of the same type of customers and jobs are lost in the same or similar activity in one of the initial establishments of the beneficiary in the EEA.

“Repayable advance” means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend upon the outcome of the project.

“Research Infrastructure” means facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or sets of instruments, knowledge based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software, and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be ‘single-sited’ or ‘distributed (an organised network of resources) in accordance with Article 2(a) of Council Regulation (EC) No 723/2009 of 25.6.2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC).

“SME” means an enterprise that falls within the criteria and parameters of the definition of micro, small and medium-sized enterprises contained in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC), which took effect on 1 January 2005.¹

¹ http://europa.eu/eur-lex/pri/en/oj/dat/2003/l_124/l_12420030520en00360041.pdf

See also the New SME Definition User Guide and Model Declaration

http://ec.europa.eu/enterprise/enterprise_policy/sme_definition/sme_user_guide.pdf

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“Start of works” means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and construction feasibility studies are not considered start of works. For take-overs ‘start of works’ means the moment of acquiring assets directly linked to the acquired establishment.

“Support services linked to cooperation” means the provision of office space, websites, data banks, libraries, market research, handbooks, working and model documents.

“Tangible assets” means assets consisting of land, buildings and plant, machinery and equipment.

“Undertaking in difficulty” means an undertaking in respect of which at least one of the following circumstances occurs:

- (a) In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, "limited liability company" refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU and "share capital" includes, where relevant, any share premium.
- (b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, "a company where at least some members have unlimited liability for the debt of the company" refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- (c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

“wage cost” means the total amount actually payable by the beneficiary of the aid in respect of the employment concerned comprising over a defined period of time the gross wage before tax and compulsory contributions such as social security, child care and parent care costs.

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7. Objective of the Scheme

The COVID-19 outbreak is a public health emergency that is a major shock to Wales' economy. This scheme is designed to support efforts to mitigate the negative repercussions.

8. Government body authorised to implement the Scheme

Welsh Government

9. Scope of the scheme

This scheme will be open to all undertakings in Wales excluding those active in the following sectors:

- **Fisheries and aquaculture**
- **Primary agricultural production**
- **The processing and marketing of agricultural products** where (1) the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the enterprise concerned or (2) where the aid is conditional on being partly or entirely passed on to primary producers.

Where an undertaking is active in both an excluded sector and a non-excluded sector, aid may be given to fund non-excluded activities with the condition that activities in the excluded sector do not benefit from aid granted under this scheme.

In addition, aid will not be allowed in the following circumstances:

- Aid to export related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
- Aid to facilitate the closure of uncompetitive coal mines, as covered by Council Decision No 2010/787;
- Where aid is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State;
- Where the granting of aid is subject to the obligation for the beneficiary to use nationally produced goods or services;
- Aid contingent upon the use of domestic over imported goods;

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- Where the aid comprised regional investment aid to a beneficiary that has closed down the same or similar activity in the European Economic Area in the two years preceding its application for regional investment aid or which, at the time of the aid application, has concrete plans to close down such activity within a period of up to two years after the initial investment for which aid is requested is completed in the area concerned;
- Where the aid measure restricts the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

Aid may not be given where the proposed recipient is:

- Subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market; or
- Where aid is granted to an undertaking in difficulty (see definition)

10. Duration of the Scheme

Aid under this Scheme may be granted until 31 December 2020.

11. Budget for aid under the Scheme

Although there is no defined budget for aid under this scheme, it has been estimated that the total expenditure from 1st March 2020 – 31st December 2020 will be in the region of £100 million and will comprise a combination of domestic resources and European structural funds.

Should the budget for this scheme increase the Welsh Government will inform the European Commission.

12. Form of aid

All aid awarded under the Scheme will be transparent and in line with criteria set out in Article 5 of the General Block Exemption Regulation. Aid may be awarded by way of:

- Grants;
- Loans;
- Guarantees;
- Tax Advantages.

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13. Eligible activities to be supported under the scheme

Detailed descriptions of the eligible activities that can be supported are set out in Schedule 1.

14. Incentive effect

Aid recipients must demonstrate that the aid is required for projects to proceed by submitting a written application before work on the project activity has started. The application will as a minimum contain the following information:

- (a) Name and size of the undertaking receiving the aid;
- (b) Description of the project, including its start and end dates;
- (c) Location of the project;
- (d) List of project costs;
- (e) Form of and amount of public funding needed for the project.

15. Cumulation

In determining whether the individual notification thresholds and the maximum aid intensities are respected, the total amount of public support for the activity or project shall be taken into account, regardless of whether that support is financed from local, regional, national or Community sources.

Aid provided under this Scheme will not be cumulated with other forms of aid nor with aid classed as de minimis aid in regard to the same eligible costs if the result would breach the applicable aid intensities.

A mechanism is in place as part of the application process to ensure that cumulation of aid does not exceed the maximum allowable aid intensities of the Scheme. Due diligence checks will be carried out during the awarding process.

16. Monitoring and Reporting requirements

All recipients of aid under the Scheme will be informed that aid has been provided under the Scheme, registered under **SA.XXXXX** pursuant to Article 50 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation) and its amending Regulation Commission Regulation (EU) No 2017/1084.

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Records will be kept for 10 years from the date the last award of aid under the Scheme. Records will be sufficiently detailed to establish that the conditions of the Scheme are met.

Details of any award exceeding €500,000 given under this scheme will be made publicly available via a State aid website within 6 months of granting.

An annual report on the expenditure under this Scheme will be provided to the Commission.

The Welsh Government shall provide the Commission with all the information and documentation the Commission considers necessary to monitor the application of this Regulation, within 20 days of such request from the Commission.

Contact information:

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Schedule 1: Aid to make good the damage caused by COVID-19

Aid in form of direct grants or tax advantages

1. Beyond the existing possibilities based on Article 107(3)(c) TFEU, temporary limited amounts of aid to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity can be an appropriate, necessary and targeted solution during the current circumstances.
2. The Commission will consider such State aid compatible with the internal market on the basis of Article 107(3)(b) TFEU, provided that all the following conditions are met:
 - a. the aid does not exceed EUR 500 000 per undertaking in the form of direct grants or tax or payments advantages; all figures used must be gross, that is, before any deduction of tax or other charge;
 - b. the aid is granted in the form of a scheme with a defined budget;
 - c. the aid may be granted to undertakings which were not in difficulty² on 31.12.2019 but entered in difficulty thereafter as a result of the COVID-19 outbreak;
 - d. the aid is not for export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
 - e. the aid is not contingent upon the use of domestic over imported goods;
 - f. The aid is granted no later than 31 December 2020;
 - g. The information required in Annex III of the Commission Regulation (EU) No. 651/2014 of 17 June 2014³ is published on the comprehensive State aid website for each individual aid within 6 months from the moment of granting.

Aid in the form of loan guarantees

3. In order to ensure access to liquidity to undertakings facing a sudden shortage, public guarantees on loans for a limited period and loan amount can be an appropriate, necessary and targeted solution during the current circumstances.
4. The Commission will consider such State aid in the form of public guarantees on loans compatible with the internal market on the basis of Article 107(3)(b) TFEU provided all the following conditions are met:

² As defined in Article 2 (18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

³ OJ L 187 26.6.2014, p. 1

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- a. For SMEs, Member States may grant a reduction of 50% of the annual premium to be paid for new guarantees granted in accordance with the safe-harbour for credit margins set out in the Annex;
- b. For large undertakings, Member States may grant a reduction up to 15% of the annual premium for new guarantees granted in accordance with the safe-harbour for credit margins set out in the Annex;
- c. When the aid element in guarantee schemes is calculated through methodologies already accepted by the Commission following their notification under a regulation⁴ adopted by the Commission in the field of State aid, Member States may also grant a similar reduction of up to 50% of the annual premium to be paid for new guarantees for SMEs and up to 15% for large undertakings as long as the minimum annual premium is 5bps.
- d. The amount of the loan principal does not exceed:
 - i. the double of the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertakings site but formally in the payroll of subcontractors) for 2019 or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or
 - ii. In duly justified cases and based on a liquidity plan setting out the beneficiary's liquidity needs⁵, the amount of the loan may be increased to cover the liquidity needs for the coming 18 months for SMEs and for the coming 12 months for large enterprises.
- e. The duration of the guarantee is limited to maximum two years and the guarantee does not exceed 90% of the loan;
- f. The guarantee may relate to both investment and working capital loans;
- g. The guarantee may be granted to an undertaking that was not in difficulty⁶ on 31 December 2019 but entered in difficulty thereafter because of the COVID-19 outbreak;
- h. The guarantee is granted by 31 December 2020 at the latest;

⁴ Such as the General Block Exemption Regulation, or Regulation (EC) No 1628/2006 or Regulation (EC) No 1857/2006, provided that the approved methodology explicitly addressed the type of guarantees and the type of underlying transactions at stake.

⁵ The liquidity needs may include both working capital and investment costs.

⁶ As defined in Article 2 (18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

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- i. The information required in Annex III of the Commission Regulation (EU) No. 651/2014 of 17 June 2014 is published on the comprehensive State aid website for each individual guarantee within 6 months from the moment of granting.

Aid in the form of subsidised interest rates

5. In order to ensure access to liquidity to undertakings facing a sudden shortage, subsidised interest rates for a limited period and loan amount can be an appropriate, necessary and targeted solution during the current circumstances.
6. The Commission will consider State aid in the form of subsidies to public or private loans compatible with the internal market on the basis of Article 107(3)(b) TFEU provided all the following conditions are met:
 - a. The loans are granted at an interest rate which is at least equal to the base rate (1 year IBOR or equivalent as published by the Commission⁷) applicable on 1 January 2020 plus the credit margins corresponding to the risk profile of the recipient as set out in the Annex that may be further reduced by 50% for SMEs and 15% for large undertakings;
 - b. The minimum all in interest rate (base rate plus the credit margins) should be at least 10bps per year;
 - c. The aid element consists of the reduction of 50% for SMEs and 15% for large undertakings of the credit margins corresponding to the risk profile of the recipient as set out in the Annex and of the difference between the base rate calculated in line with paragraph 6(a) above and the applicable base rate⁸ at the time of granting of the loan;
 - d. The reduced interest rates may be applied for interest payments for the first two years of the loan contract; the credit margins corresponding to the risk profile as set out in the Annex must apply for the duration of the loan contract after the first two year;
 - e. The loan contracts are concluded by 31 December 2020;
 - f. The amount of the loan does not exceed:
 - i. the double of the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the company site but formally in the payroll of subcontractors) for 2019 or for the last year available. In the case of undertakings created on or after 1

⁷ Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p.6.) and published on the website of DG Competition at https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html.

⁸ 1 year IBOR or equivalent as calculated by the Commission in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p.6.) and published on the website of DG Competition at https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html.

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January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or

- ii. In duly justified cases and based on a liquidity plan setting out the beneficiary's liquidity needs⁹, the amount of the loan may be increased to cover the liquidity needs for the coming 18 months for SMEs and for the coming 12 months for large enterprises;
- b. The loan may relate to both investment and working capital needs;
- c. The loan is granted to undertakings which was not in difficulty¹⁰ on 31 December 2019 but entered in difficulty thereafter because of the COVID outbreak;
- d. The information required in Annex III of the Commission Regulation (EU) No. 651/2014 of 17 June 2014 is published on the comprehensive State aid website for each individual loan within 6 months from the moment of granting.

⁹ The liquidity needs may include both working capital and investment costs.

¹⁰ As defined in Article 2 (18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.