

# SCOTTISH ENTERPRISE RESEARCH AND DEVELOPMENT AND INNOVATION SCHEME 2022 – 2025 – SC10672

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## 1. OBJECTIVE

- 1.1 The Scottish Enterprise Research and Development and Innovation Scheme 2022 - 2025 (the “**Scheme**”) aims to promote sustainable economic growth by encouraging enterprises in Scotland to undertake innovative research and technological development with commercial potential in order to stimulate growth, strengthen competitiveness and boost employment in Scotland.

## 2. LEGAL BASIS

- 2.1 Scottish Enterprise (“**SE**”) is established under the Enterprise and New Towns (Scotland) Act 1990 and provides support to enterprises across Scotland under the provisions of that Act.
- 2.2 Following the expiry of the Brexit transition period on 31 December 2020, the UK is no longer subject to EU State aid rules. The only exceptions to this are for aid that is caught by the NI Protocol and for awards of funding that include contributions from EU Structural Funds.
- 2.3 The Scheme is required to comply with the provisions on subsidy control listed below, insofar as they are relevant to the specific facts and circumstances of the proposed support:
- a) Part Two, Heading One, Title XI, Chapter 3 of the UK-EU Trade and Cooperation Agreement signed on 30 December 2020 (as implemented by section 29 of the European Union (Future Relationship) Act 2020) (the “**TCA**”);
  - b) the Northern Ireland Protocol to the UK-EU Withdrawal Agreement agreed on 17 October 2019 (as implemented by section 7A of the European Union (Withdrawal) Act 2018) (the “**NI Protocol**”);
  - c) Article 138 of the UK-EU Withdrawal Agreement agreed on 17 October 2019 in respect of EU Structural Funds (as implemented by section 7A of the European Union (Withdrawal) Act 2018) (“**Article 138**”);
  - d) WTO Agreement on Subsidies and Countervailing Measures (“**WTO ASCM**”);
  - e) Trade Agreements entered into between the UK and other countries; and
  - f) Relevant UK Government guidance.
- 2.4 From 1 January 2021, the Scheme operates under and satisfies as relevant and/or necessary:

- (i) the principles in Article 366 of Title XI of the TCA;
- (ii) Article 10 of the NI Protocol; and
- (iii) Article 138.

### **3. GENERAL PROVISIONS**

- 3.1 The Scheme runs from 23 December 2022 to 31 December 2025. SE may at any time extend the duration of the Scheme by amending the end date provided for in the Scheme, without limitation as to the number of extensions or total duration of the Scheme, provided that SE is satisfied that the Scheme remains both relevant and consistent with the legal requirements that apply to it. The anticipated amount budgeted by SE for the Scheme is £150 million. SE may at any time increase the total budget of the scheme, without limitation as to the number or aggregate value of such increases, provided that SE is satisfied that the budget increase is both required to meet the Scheme's objectives and consistent with the legal requirements that apply to it.
- 3.2 Terms used in this Scheme are defined in Appendix 2.
- 3.3 There is no automatic entitlement to support from SE and any funding is provided on a discretionary basis. Any award is subject to SE's assessment against the Scheme conditions, SE approval and acceptance of standard terms and conditions of grant. The amounts and subsidy intensities stated reflect the maximum potential levels of support that may be made available. There is no guarantee of funding under the Scheme and any funding which is made available may be made at lower intensities than those stated below.
- 3.4 Assistance may be offered through a range of instruments, products and services. Any award will be based on the merits of the proposed project. Requests for support will also be subject to an assessment of need for assistance, rigorous due diligence appraisal and internal approval by SE. Any business interested in assistance from SE under this Scheme should consult [www.scottish-enterprise.com](http://www.scottish-enterprise.com) or contact us on 0300 013 3385 or by e-mail to [enquiries@scotent.co.uk](mailto:enquiries@scotent.co.uk).
- 3.5 Subsidy may be awarded to enterprises of all sizes.
- 3.6 Applicants must submit a written application for assistance to SE before work on the project or activity has started, and the application must be approved in writing before work can commence on the project, unless otherwise agreed by SE. The application must include information on the applicant's name and size, a description of the project (including start and end date), the location of the project, a list of project costs and the type of subsidy (e.g. grant).
- 3.7 The applicant may be required to provide documentation to allow SE to assess whether the subsidy will achieve one or more of the following: a material increase in the scope of the project/activity; a material increase in the total amount spent by the prospective beneficiary on the project/activity; or a

material increase in the speed of completion. This is in order for SE to ensure that the subsidy will bring about a change in the economic behaviour of the beneficiary that is conducive to achieving objectives and that would not be achieved in the absence of subsidies being provided.

- 3.8 SE is required to provide annual returns to the Scottish and UK Governments detailing subsidy provided under this Scheme, and to maintain detailed records regarding individual subsidies provided under the Scheme. Such records must contain all information necessary to establish that the conditions of the Scheme are fulfilled, including information on the status of any economic actor whose entitlement to subsidy or a bonus depends on its status as an SME, information on the incentive effect of the subsidy, and information making it possible to establish the precise amount of eligible costs for the purpose of applying the rules of the Scheme. The information which must be provided to SE and/or retained by the subsidy recipient, and the length of time for which records must be maintained, will be set out in any offer of grant made under the Scheme. SE will maintain detailed records regarding subsidy provided under the Scheme and will provide reports to the Scottish and UK Governments on subsidies awarded under the Scheme. SE will maintain records with all information necessary to establish that the conditions laid down in the Scheme are fulfilled. Information to be provided to SE and/or retained by the subsidy recipient will be set out in any offer of grant.
- 3.9 All grants identified as being over the reporting threshold at any given time must be registered as specified by reporting requirements in force at the relevant time. Details of grants may also be published on SE's website.
- 3.10 SE may at any time modify any or all of the legislative references in this Scheme, provided that i) SE deems it necessary to ensure that appropriate recognition is given to any updated legislation applicable in the UK, and ii) SE is satisfied that such modification is both required to meet the Scheme's objectives and consistent with the legal requirements that apply to it.

#### **4. TYPES OF SUBSIDY UNDER THE SCHEME**

*Note: The information below is intended to be a helpful summary of the types of subsidy which may be granted under the Scheme. It should be noted that the subsidy amounts stated reflect the maximum levels of support permitted under the Scheme at a single point in time and SE may set lower subsidy intensities for specific support, specific products or programmes created under the Scheme, taking into account the strategic rationale and market failure being addressed through the subsidy.*

##### **Section A: Subsidy for research and development projects**

- 4.1 Any subsidy for research and development projects shall be provided in accordance with the conditions set out in this section.

- 4.2 Support can be provided for:
- fundamental research;
  - industrial research;
  - experimental development; and
  - feasibility studies.

4.3 The eligible costs of research and development projects shall be allocated to a specific category of research and development and are as set out below:

- a) personnel costs: researchers, technicians and other supporting staff to the extent employed on the project.
- b) costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible.
- c) costs for of buildings and land, to the extent and for the duration period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible.
- d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project.
- e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

4.4 The eligible costs for feasibility studies are the costs of the study.

4.5 Subsidy intensities for research and development projects are set out in the table below:

	Large economic actor	Medium economic actor	Small economic actor	Bonus if effective collaboration or wide dissemination of results (up to a maximum of 80%)
Fundamental research	100%	100%	100%	-
Industrial research	50%	60%	70%	15%
Experimental development	25%	35%	45%	15%
Feasibility studies	50%	60%	70%	-

4.6 The maximum amount of subsidy that can be granted under this provision is:

- where the project is predominantly fundamental research: £36 million per economic actor per project;
- where the project is fundamentally industrial research: £18 million per economic actor per project;
- where the project is fundamentally experimental development: £13.5 million per economic actor per project; and
- £6.75 million per study in the case of subsidy for feasibility studies.

4.7 The maximum amounts above for fundamental research, industrial research and experimental development may be:

- doubled if the project is a EUREKA project or implemented by a Joint Undertaking established on the basis of Article 185 or 187 of the Treaty; or
- increased by 50% if subsidy is granted in the form of a repayable advance.

**Section B: *Investment subsidy for research infrastructures***

4.8 Any subsidy for the construction of upgrade of research infrastructures that perform economic activities shall be provided in accordance with the provisions of this section.

4.9 Eligible costs are investment costs in tangible and intangible assets.

4.10 The subsidy intensity shall not exceed 50% of the eligible costs.

4.11 Access to infrastructure shall be open to several users and be granted on a transparent and non-discriminatory basis. The price charge for operation or use of the infrastructure shall correspond to a market price. Economic actors which have financed at least 10% of the investment costs of the infrastructure may be granted preferential access under more favourable conditions. In order to avoid overcompensation, such access shall be proportional to the economic actor's contribution to the investment costs and these conditions shall be made publicly available.

4.12 Where a research infrastructure pursues both economic and non-economic activities, the financing, costs and revenues of each type of activity shall be accounted for separately on the basis of consistently applied and objectively justifiable cost accounting principles.

4.13 Where a research infrastructure receives public funding for both economic and non-economic activities, a monitoring and claw-back mechanism shall be put in place in order to ensure that the applicable subsidy intensity is not exceeded as a result of an increase in the share of economic activities compared to the situation at the time of awarding the subsidy.

4.14 The maximum amount of subsidy that can be granted under this provision is £18 million per infrastructure.

**Section C: *Subsidy for innovation clusters***

- 4.15 Any subsidy for innovation clusters shall be granted exclusively to the legal entity operating the innovation cluster (cluster organisation) in accordance with the conditions set out in this section.
- 4.16 Operating subsidy may be granted for the operation of innovation clusters for a maximum period of ten years to cover the personnel and administrative costs relating to:
- a) animation of the cluster to facilitate collaboration, information sharing and the provision or channelling of specialised and customised business support services;
  - b) marketing of the cluster to increase participation of new economic actors or organisations and to increase visibility;
  - c) management of the cluster's facilities; organisation of training programmes, workshops and conferences to support knowledge sharing and networking and transnational cooperation.
- 4.17 Investment subsidy may be granted for the construction or upgrade of innovation clusters. The eligible costs shall be the investment costs in intangible and tangible assets.
- 4.18 The subsidy intensity of investment subsidy for innovation clusters shall not exceed 50% unless the cluster is located in an assisted area as set out in Appendix 1, where it may be increased by 5%.
- 4.19 The subsidy intensity of operating subsidy shall not exceed 50% of the total eligible costs during the period over which the subsidy is granted.
- 4.20 Access to the cluster will be open to several users and granted on a transparent and non-discriminatory basis. Economic actors which have financed at least 10% of the investment costs of the innovation cluster may be granted preferential access under more favourable conditions. In order to avoid overcompensation, such access shall be proportional to the economic actor's contribution to the investment costs and these conditions shall be made publicly available.
- 4.21 Fees charged for using cluster facilities and participating in activities shall correspond to market price or reflect their costs.
- 4.22 The maximum amount of subsidy that can be granted under this provision is £6.75 million per cluster.

**Section D: Innovation subsidy for SMEs**

- 4.23 Any innovation subsidy for SMEs will be provided in accordance with the conditions set out in this section.
- 4.24 Eligible costs are:
- costs for obtaining, validating and defending patents and other intangible assets;

- costs for secondment of highly qualified personnel from a research and knowledge-dissemination organisation or a large enterprise, working on research, development and innovation activities in a newly created function within the beneficiary and not replacing other personnel; and
- costs for innovation advisory and support services.

4.25 The subsidy intensity shall not exceed 50% of the eligible costs.

4.26 The maximum amount of subsidy that can be granted under this provision is £4.5 million per economic actor per project.

4.27 In the particular case of subsidy for innovation advisory and support services the subsidy intensity can be increased up to 100% of the eligible costs provided that the total amount of subsidy for innovation advisory and support services does not exceed £180,000 per economic actor within any three year period.

**Section E: Subsidy for process and organisational innovation**

4.28 Any subsidy for process and organisational innovation shall be provided in accordance with the conditions set out in this section.

4.29 Eligible costs shall be the following:

- a) personnel costs;
- b) costs of instruments, equipment, buildings and land to the extent and for the period used for the project;
- c) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions; and
- d) additional overheads and other operating costs, including costs of materials, supplies and similar products, incurred directly as a result of the project.

4.30 The subsidy intensity shall not exceed 15% of eligible costs for large economic actors and 50% of eligible costs for SMEs.

4.31 Subsidy to large economic actors shall only be compatible if they effectively collaborate with SMEs in the subsidised activity and the collaborating SMEs incur at least 30% of the total eligible costs.

4.32 The maximum amount of subsidy that can be granted under this provision is £6.75 million per economic actor per project.

**Section F: Subsidy for research and development in the fishery and aquaculture sector**

4.33 Subsidy for research and development in the fishery and aquaculture sector will comply with the conditions set out below.

4.34 Eligible costs shall be as follows:



- a) personnel costs: researchers, technicians and other supporting staff to the extent employed on the project.
- b) costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible.
- c) costs for of buildings and land, to the extent and for the duration period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible.
- d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project.
- e) additional overheads and other operating expenses, including costs or materials, supplies and similar products, incurred directly as a result of the project.

4.35 The subsidy intensity shall not exceed 100% of eligible costs.

4.36 Subsidised projects shall be of interest to all economic actors in the sector or sub-sector involved.

4.37 Information on the project must be published by the recipient on the internet before it starts, to include:

- a) that the subsidised project will be carried out;
- b) the goals of the subsidised project;
- c) the approximate date for the publication of the results expected from the subsidised project and its place of publication on the internet; and
- d) a reference that the results of the project will be available to all economic actors active in the particular sector or sub-sector concerned at no cost.

4.38 Results shall also be made available on the internet following completion of the project and remain available for a period of at least 5 years from completion.

4.39 Subsidy will be granted directly to the research and knowledge dissemination organisation involved in the project.

4.40 Subsidy cannot involve direct granting of non-research related subsidy to an economic actor producing, processing or marketing fishery or aquaculture products.

## **5. EXCLUSIONS**

### ***Export subsidy***

- 5.1 The Scheme does not apply to:
- subsidies that are contingent in law or in fact, whether solely or as one of several other conditions, upon export performance relating to goods or services; or
  - subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods or services.

### **Sectoral**

- 5.2 The Scheme applies to all sectors of the economy, with the exceptions of:
- activities in the processing and marketing of agricultural products where subsidy is aimed at directly influencing the price or quantity of primary production (i.e. where the amount of the subsidy is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the economic actors concerned or the subsidy is conditional on being partly or entirely passed on to primary producers); and
  - subsidy to facilitate the closure of uncompetitive coal mines.

### **Recovery of illegal subsidy / Ailing or insolvent economic actors**

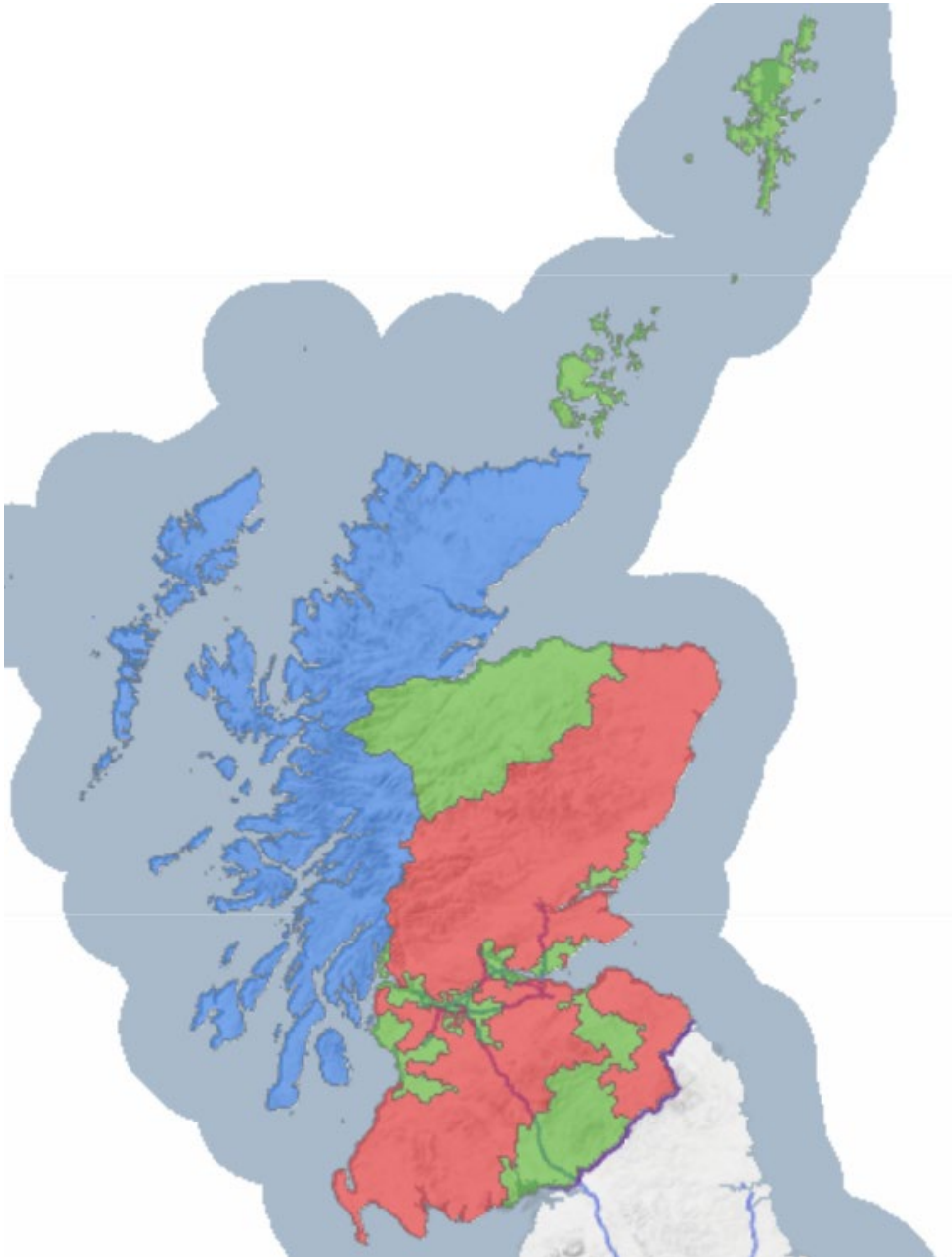
- 5.3 The following are explicitly excluded from the Scheme:
- payment of subsidy in favour of an economic actor which is subject to an outstanding recovery order following i) a previous Commission decision declaring an aid illegal and incompatible with the common market or ii) an order requiring recovery of subsidy issued by any domestic UK court or tribunal; and
  - subsidies for restructuring an ailing or insolvent economic actor without a credible plan being in place to return the economic actor to viability. For the purposes of this paragraph, an ailing or insolvent economic actor is one that would almost certainly go out of business in the short to medium term without the subsidy.

## **6. CUMULATION OF SUBSIDY**

- 6.1 Subsidy provided under the Scheme may be cumulated with other permitted subsidy provided through this or another SE scheme (or another registered scheme) as long as those subsidy measures concern different identifiable eligible costs.
- 6.2 Subsidy provided under this Scheme may only be cumulated with other permitted subsidy, where, in respect of the same totally or partially overlapping eligible costs, such cumulation does not result in the highest permissible subsidy intensity or subsidy amount under this Scheme being exceeded.
- 6.3 All sources of public funding shall be taken into account when considering cumulation and in determining that the relevant subsidy intensity or subsidy amount is not exceeded.

## APPENDIX 1

### ASSISTED AREAS MAP



The map above shows in green and blue the areas of Scotland which are assisted areas. An interactive version of the map can be accessed at [Regional Selective Assistance 2022-2025 Map \(arcgis.com\)](#).

Red areas are not eligible for increases.

## APPENDIX 2

### DEFINITIONS

**‘advisory services linked to cooperation’** means consulting, assistance and training for the exchange of knowledge and experiences and for improvement of cooperation;

**‘agricultural product’** means the products listed in Annex I to the Treaty, except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013, both as amended from time to time;

**‘arm's length’** means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent enterprises and contain no element of collusion. Any transaction that results from an open, transparent and non-discriminatory procedure is considered as meeting the arm's length principle;

**‘Article 138’** means Article 138 of the UK-EU Withdrawal Agreement agreed on 17 October 2019 in respect of EU Structural Funds (as implemented by section 7A of the European Union (Withdrawal) Act 2018);

**‘assisted areas’** means areas identified as green areas and blue areas in Appendix 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;

**‘date of granting the subsidy’** means the date when the legal right to receive the subsidy is conferred on the beneficiary;

**‘economic actor’** means an entity or a group of entities constituting a single economic entity, regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market;

**‘effective collaboration’** means collaboration between at least two independent parties to exchange knowledge or technology, or to achieve a common objective based on the division of labour where the parties jointly define the scope of the collaborative project, contribute to its implementation and share its risks, as well as its results. One or several parties may bear the full costs of the project and thus relieve other parties of its financial risks. Contract research and provision of research services are not considered forms of collaboration;

**‘enterprise’** has the same meaning as ‘economic actor’;

**‘experimental development’** means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services; Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes.

Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements

**‘feasibility study’** means the valuation and analysis of the potential of a project, which aims at supporting the process of decision-making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success;

**‘fundamental research’** means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct commercial application or use in view;

**‘highly qualified personnel’** means staff having a tertiary education degree and at least 5 years of relevant professional experience which may also include doctoral training;

**‘industrial research’** means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation;

**‘intangible assets’** means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;

**‘innovation advisory services’** means consultancy, assistance and training in the fields of knowledge transfer, acquisition, protection and exploitation of intangible assets, use of standards and regulations embedding them;

**‘innovation clusters’** means structures or organised groups of independent parties (such as innovative start-ups, small, medium and large enterprises, as well as research and knowledge dissemination organisations, not-for-profit organisations and other related economic actors) designed to stimulate innovative activity through promotion, sharing of facilities and exchange of knowledge and expertise and by contributing effectively to knowledge transfer, networking, information dissemination and collaboration among the economic actors and other organisations in the cluster;

**‘innovation support services’** means the provision of office space, data banks, libraries, market research, laboratories, quality labelling, testing and certification for the purpose of developing more effective products, processes or services;

**‘large economic actors’** means economic actors not fulfilling the criteria in Appendix 3 to be classified as a small or medium sized economic actor;

**‘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;

**‘NI Protocol’** means the Northern Ireland Protocol to the UK-EU Withdrawal Agreement agreed on 17 October 2019 (as implemented by section 7A of the European Union (Withdrawal) Act 2018);

**‘operating profit’** means the difference between the discounted revenues and the discounted operating costs over the economic lifetime of the investment, where this difference is positive. The operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, but exclude depreciation charges and the costs of financing if these have been covered by investment subsidy. Discounting revenues and operating costs using an appropriate discount rate allows a reasonable profit to be made.

**‘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;

**‘organisational innovation’** means the implementation of a new organisational method in an economic actor’s business practices, workplace organisation or external relations, excluding changes that are based on organisational methods already in use in the economic actor, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation,

localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;

**‘personnel costs’** means the costs of researchers, technicians and other supporting staff to the extent employed on the relevant project or activity;

**‘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;

**‘process innovation’** means the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment or software), excluding minor changes or improvements, increases in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;

**‘research and knowledge-dissemination organisation’** means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities the financing, the costs and the revenues of those economic activities must be accounted for separately. Economic actors that can exert a decisive influence upon such an entity, in the quality of, for example, shareholders or members, may not enjoy preferential access to the results generated by it;

**‘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 infra-structures 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 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC);

**‘SE’** means Scottish Enterprise, established under the Enterprise and New Towns (Scotland) Act 1990;

**‘secondment’** means temporary employment of staff by a beneficiary with the right for the staff to return to the previous employer;

**‘small and medium sized economic actors’ or ‘SMEs’** means economic actors fulfilling the criteria in Appendix 3 to be classified as either a small or a medium sized economic actor;

**‘subsidy’** means financial assistance which:

1. is given directly or indirectly from public resources by a public authority, including:
  - a. a direct or contingent transfer of funds such as direct grants, loans or loan guarantees;
  - b. the forgoing of revenue that is otherwise due; or
  - c. the provision of goods or services, or the purchase of goods or services;
2. confers an economic advantage on one or more economic actors:
3. is specific insofar as it benefits, as a matter of law or fact, certain economic actors over others in relation to the production of certain goods or services; and
4. has, or could have, an effect on trade or investment between the United Kingdom and a country or territory outside the United Kingdom.

**‘subsidy intensity’** means the gross subsidy amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;

**‘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;

**‘TCA’** means the UK-EU Trade and Cooperation Agreement signed on 30 December 2020 (as implemented by section 29 of the European Union (Future Relationship) Act 2020);

**‘the map’** means the map identifying assisted areas set out in Appendix 1 to this Scheme; and

**‘Treaty’** means the Treaty on the Functioning of the European Union.



## **APPENDIX 3**

### **SME DEFINITION**

#### **Section A: Economic actors**

- 1.1 An economic actor is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

#### **Section B: Staff headcount and financial thresholds determining economic actor categories**

2

- 2.1 The category of micro, small and medium-sized economic actors ('SMEs') is made up of economic actors which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
- 2.2 Within the SME category, a small economic actor is defined as an economic actor which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
- 2.3 Within the SME category, a micro-economic actor is defined as an economic actor which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

#### **Section C: Types of economic actor taken into consideration in calculating staff numbers and financial amounts**

3

- 3.1 An 'autonomous economic actor' is any economic actor which is not classified as a partner economic actor within the meaning of paragraph 3.2 or as a linked economic actor within the meaning of paragraph 3.3.
- 3.2 'Partner economic actors' are all economic actors which are not classified as linked economic actors within the meaning of paragraph 3.3 and between which there is the following relationship: an economic actor (upstream economic actor) holds, either solely or jointly with one or more linked economic actor within the meaning of paragraph 3.3, 25 % or more of the capital or voting rights of another economic actor (downstream economic actor).

However, an economic actor may be ranked as autonomous, and thus as not having any partner economic actors, even if this 25 % threshold is reached or exceeded by the following investors, provided that those

investors are not linked, within the meaning of paragraph 3.3, either individually or jointly to the economic actor in question:

- a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same economic actor is less than EUR 1 250 000;
- b) universities or non-profit research centres;
- c) institutional investors, including regional development funds;
- d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.

3.3 'Linked economic actors' are economic actors which have any of the following relationships with each other:

- a) an economic actor has a majority of the shareholders' or members' voting rights in another economic actor;
- b) an economic actor has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another economic actor;
- c) an economic actor has the right to exercise a dominant influence over another economic actor pursuant to a contract entered into with that economic actor or to a provision in its memorandum or articles of association;
- d) an economic actor, which is a shareholder in or member of another economic actor, controls alone, pursuant to an agreement with other shareholders in or members of that economic actor, a majority of shareholders' or members' voting rights in that economic actor.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 3.2 are not involving themselves directly or indirectly in the management of the economic actor in question, without prejudice to their rights as shareholders.

Economic actors having any of the relationships described in the first subparagraph of paragraph 3.2 through one or more other economic actors, or any one of the investors mentioned in paragraph 3.2, are also considered to be linked.

Economic actors which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked economic actors if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

3.4 Except in the cases set out in paragraph 3.2, second subparagraph, an economic actor cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

- 3.5 Economic actors may make a declaration of status as an autonomous economic actor, partner economic actor or linked economic actor, including the data regarding the thresholds set out in Section B. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the economic actor may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one economic actor or jointly by economic actors linked to one another.

#### **Section D: Data used for the staff headcount and the financial amounts and reference period**

4

- 4.1 The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
- 4.2 Where, at the date of closure of the accounts, an economic actor finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Section B, this will not result in the loss or acquisition of the status of medium-sized, small or micro- economic actor unless those thresholds are exceeded over two consecutive accounting periods.
- 4.3 In the case of newly-established economic actors whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

#### **Section E: Staff headcount**

5

- 5.1 The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the economic actor in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:
- a) employees;
  - b) persons working for the economic actor being subordinated to it and deemed to be employees under national law;
  - c) owner-managers;
  - d) partners engaging in a regular activity in the economic actor and benefiting from financial advantages from the economic actor.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

## **Section F: Establishing the data of an economic actor**

6

6.1 In the case of an autonomous economic actor, the data, including the number of staff, are determined exclusively on the basis of the accounts of that economic actor.

6.2 The data, including the headcount, of an economic actor having partner economic actors or linked economic actors are determined on the basis of the accounts and other data of the economic actor or, where they exist, the consolidated accounts of the economic actor, or the consolidated accounts in which the economic actor is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner economic actor of the economic actor in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any economic actor, which is linked directly or indirectly to the economic actor in question, where the data were not already included through consolidation in the accounts.

6.3 For the application of paragraph 6.2, the data of the partner economic actors of the economic actor in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of economic actors which are linked to these partner economic actors, unless their accounts data are already included through consolidation.

For the application of the same paragraph 6.2, the data of t exist. To these are added, pro rata, the data of any possible partner economic actor of that linked economic actor, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 6.2.

6.4 Where in the consolidated accounts no staff data appear for a given economic actor, staff figures are calculated by aggregating proportionally the data from its partner economic actors and by adding the data from the economic actors to which the economic actor in question is linked.

*Note: SE may at any time modify the content of this Appendix, provided that SE is satisfied that such modification is both required to meet the Scheme's objectives and consistent with the legal requirements that apply to it.*

