

SCOTTISH ENTERPRISE TRAINING, DISADVANTAGED WORKERS AND WORKERS WITH DISABILITIES SCHEME 2014 - 2023 - SC10428

LEGAL BASIS

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.

Until such time as the UK adopts a domestic subsidy control regime, Scottish Enterprise (“**SE**”) is required to comply with the provisions on subsidy control as provided for in:

- (a) Chapter 3 of Title XI 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**”) and/or
- (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**”) and/or
- (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**”) (as relevant).

From 1 January 2021, the Scottish Enterprise Training, Disadvantaged Workers and Workers with Disabilities Scheme 2014 - 2023 (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.

Until 31 December 2020, the Scheme operated under Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty as published in the Official Journal of the European Union on 26 June 2014 (the “**Regulation**”). During that time the Scheme reference number was SA.39218 and the legal basis for the Scheme was the European Communities Act 1972 and the Enterprise and New Towns (Scotland) Act 1990, as amended 1 April 2001, by Scottish Statutory Instrument 2001 No. 126.

Although the Scheme no longer legally operates under the Regulation, the Regulation remains relevant to interpretation of the Scheme and terms from the Regulation are referred to throughout.

OBJECTIVES

This Scheme covers discretionary funding awarded to enterprises to assist them with activities in the areas outlined below. The principal objectives of the Scheme are to encourage investment in training by companies in Scotland and promote the recruitment and employment of disadvantaged workers and workers with disabilities.

GENERAL PROVISIONS

There is no automatic entitlement to support from SE. Assistance may be offered through a range of products and services delivered by SE, based on the merits of the proposed project, and an assessment of need for assistance. Any funding is subject to rigorous due diligence appraisal and internal approval by SE, and all projects shall be assessed against the detailed conditions of the Regulation. Any business interested in assistance from SE relating to the Scheme outlined below should consult www.scottish-enterprise.com, or contact us by phone on **0845 607 8787** or by e-mail to enquiries@scotent.co.uk.

Aid can be awarded to enterprises of all sizes.

Applicants must submit an 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.

Where the applicant is a large company, additional conditions will be applied to ensure that the aid has an incentive effect. The applicant must provide documentation which establishes that the aid 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 beneficiary on the project/activity; or a material increase in the speed of completion. This documentation will be verified by SE before the application is approved.

SE is required to provide annual returns to the Scottish and UK Governments detailing aid provided under this Scheme, and to maintain detailed records regarding individual aid provided under the Scheme. Such records must contain all information necessary to establish that the conditions laid down in the Regulation are fulfilled, including information on the status of any undertaking whose entitlement to aid or a bonus depends on its status as an SME, information on the incentive effect of the aid, and information making it possible to establish the precise amount of eligible costs for the purpose of applying the Regulation. Records must be maintained for 10 years from the date on which the last aid was granted under the Scheme. The information which must be provided to SE and/or retained by the aid recipient will be set out in any offer of grant made under the Scheme.

TRANSPARENCY OF AID

Only aid for which it is possible to calculate the precise amount of the aid at the point at which it is awarded will be provided under the Scheme. Subject to the detailed provisions of the Regulation, such aid may include: i) aid comprised in grants and interest rate subsidies; ii) aid comprised in loans; iii) aid comprised in guarantees; and iv) aid in the form of tax advantages.

DEFINITIONS

For the purposes of the Scheme:

- Any reference to an “**Article**” shall mean an Article of the Regulation
- The definitions set out in Article 2 of the Regulation shall apply to the descriptions of the types of aid outlined below.

TYPES OF AID UNDER THE SCHEME

The information below is intended to be a helpful summary of the types of aid which may be granted under the Scheme. Any award will, however, be subject to assessment against the detailed conditions of the Regulation. It should be noted that the aid amounts stated reflect the maximum levels of support permitted under the Regulation and SE may set lower aid intensities and/or thresholds for specific products or programmes created under the Scheme, taking into account the strategic rationale and market failure being addressed through the aid. Additionally, the maximum amounts set out in respect of each type of aid below cannot be circumvented by artificially splitting up projects or activities.

Training Aid

Any training aid shall be provided in accordance with the conditions set out in Article 31.

Aid shall not be granted for training which undertakings carry out to comply with national standards on training.

Eligible costs are:

- trainers' personnel costs, for the hours during which the trainers participate in the training;
- trainers' and trainees' operating costs directly relating to the training project such as travel expenses, accommodation costs, materials and supplies directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the training project;
- costs of advisory services linked to the training project;
- trainees' personnel costs and general indirect costs (administrative costs, rent and overheads) for the hours during which the trainees participate in the training.

Aid intensities and bonuses are set out in the table below and subject to a maximum of 70%:

	Large company	Medium company	Small company	Bonus where training workers with disabilities or disadvantaged workers
Aid intensity	50%	60%	70%	10%

Where aid is granted in the maritime transport sector, the aid intensity may be increased to 100% of the eligible costs provided that:

- the trainees are not active members of the crew but are supernumerary on board; and
- the training is carried out on board of ships entered in Union registers.

The maximum amount of aid that can be granted under this provision is EUR 2 million per training project.

Aid for the recruitment of disadvantaged workers in the form of wage subsidies

Any aid for recruitment of disadvantaged workers in the form of wage subsidies shall be provided in accordance with the conditions set out in Article 32.

Eligible costs are the wage costs over a maximum period of 12 months following recruitment of a disadvantaged worker. Where the worker is severely disadvantaged, wage costs for a maximum period of 24 months may be considered eligible.

If the period of employment is shorter than 12 or 24 months respectively, the aid shall be reduced pro rata accordingly.

Where recruitment does not represent a net increase, compared with the average over the previous 12 months, in the number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction in working time or lawful dismissal for misconduct and not as a result of redundancy.

Except in the case of lawful dismissal for misconduct, the disadvantaged workers shall be entitled to continuous employment for a minimum period consistent with the national legislation concerned or any collective agreements governing employment contracts.

The aid intensity shall not exceed 50% of eligible costs.

The maximum amount of aid that can be granted under this provision is EUR 5 million per undertaking per year.

Aid for the employment of workers with disabilities in the form of wage subsidies

Any aid for employment of workers with disabilities in the form of wage subsidies shall be provided in accordance with the conditions set out in Article 33.

Eligible costs are the wage costs over any given period during which the worker with disabilities is employed.

Where recruitment does not represent a net increase, compared with the average over the previous 12 months, in the number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction in working time or lawful dismissal for misconduct and not as a result of redundancy.

Except in the case of lawful dismissal for misconduct, the workers with disabilities shall be entitled to continuous employment for a minimum period consistent with the national legislation concerned or any collective agreements which are legally binding for the undertaking and governing employment contracts.

The aid intensity shall not exceed 75% of eligible costs.

The maximum amount of aid that can be granted under this provision is EUR 10 million per undertaking per year.

Aid for compensating the additional costs of employing workers with disabilities

Any aid for compensating the additional costs of employing workers with disabilities shall be provided in accordance with the conditions set out in Article 34.

Eligible costs are:

- costs of adapting the premises;
- costs of employing staff solely for time spent on the assistance of the workers with disabilities and of training such staff to assist workers with disabilities;
- costs of adapting or acquiring equipment, or acquiring and validating software for use by workers with disabilities, including adapted or assistive technology facilities, which are additional to those which the beneficiary would have incurred had it employed workers who are not workers with disabilities;
- costs directly linked to transport of workers with disabilities to the working place and for work related activities;
- wage costs for the hours spent by a worker with disabilities on rehabilitation;
- where the beneficiary provides sheltered employment, the costs of constructing, installing or modernising the production units of the undertaking concerned, and any costs of administration and transport, provided that such costs result directly from the employment of workers with disabilities.

The aid intensity shall not exceed 100 % of the eligible costs.

The maximum amount of aid that can be granted under this provision is EUR 10 million per undertaking per year.

Aid for compensating the costs of assistance provided to disadvantaged workers

Any aid for compensating the costs of assistance provided to disadvantaged workers shall be provided in accordance with the conditions set out in Article 35.

Eligible costs are the costs of:

- employing staff solely for time spent on the assistance of the disadvantaged workers over a maximum period of 12 months following recruitment of a disadvantaged worker or over a maximum period of 24 months following recruitment of a severely disadvantaged worker;
- training such staff to assist disadvantaged workers.

The assistance provided shall consist of measures to support the disadvantaged worker's autonomy and adaptation to the work environment, in accompanying the worker in social and administrative procedures, facilitation of communication with the entrepreneur and managing conflicts.

The aid intensity shall not exceed 50% of eligible costs.

The maximum amount of aid that can be granted under this provision is EUR 5 million per undertaking per year.

Investment aid to SMEs

Any investment aid to SMEs shall be provided in accordance with the conditions set out in Article 17.

The eligible costs shall be either or both of:

- costs of investment in tangible and intangible assets
- estimated wage costs of employment directly created by the investment project, calculated over 2 years.

To be eligible, an investment shall be either:

- an investment in tangible or intangible assets relating to the setting-up of an establishment, the extension of an existing establishment, diversification of the output of an establishment into new additional products or a fundamental change in the overall production process of an existing establishment; or
- the acquisition of assets belonging to an establishment, where the following conditions are fulfilled:
 - the establishment has closed or would have closed if it had not been purchased
 - the assets are purchased from third parties unrelated to the buyer (except where a member of the family of the original owner, or an employee, takes over a small enterprise)
 - the transaction takes place under market conditions.

Intangible assets shall fulfill all of the following conditions:

- they shall be used exclusively in the establishment receiving the aid;
- they shall be regarded as amortizable assets;
- they shall be purchased under market conditions from third parties unrelated to the buyer; and
- they shall be included in the assets of the undertaking for at least three years.

Employment directly created by the investment project:

- shall be created within three years of completion of the investment
- shall result in a net increase in the number of employees compared with the average over the previous 12 months
- shall be maintained for at least 3 years from the date the post was first filled

The aid intensity shall not exceed:

- 20% for small enterprises; and
- 10% for medium sized enterprises.

The maximum amount of aid that can be granted under this provision is EUR 7.5 million per undertaking per investment project.

Aid for consultancy in favour of SMEs

Any aid for consultancy in favour of SMEs shall be provided in accordance with the conditions set out in Article 18.

Eligible costs shall be the costs of consultancy services provided by external consultants.

The aid intensity shall not exceed 50% of eligible costs.

The services concerned shall not be a continuous or periodic activity nor relate to a company's usual operating costs (e.g. routine tax consultancy, legal services or advertising).

The maximum amount of aid that can be granted under this provision is EUR 2 million per undertaking per project.

Aid to SMEs for participation in fairs

Any aid for SMEs for participation in fairs shall be provided in accordance with Article 19.

Eligible costs shall be the costs incurred for renting, setting up and running the stand for the participation of an undertaking in any particular fair or exhibition.

The aid intensity shall not exceed 50% of eligible costs.

The maximum amount of aid that can be granted under this provision is EUR 2 million per undertaking per year.

Aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation (“ETC”) projects

Any aid for cooperation costs incurred by SMEs participating in ETC projects shall be provided in accordance with Article 20.

Eligible costs shall be:

- costs for organisational cooperation including costs of staff and offices to the extent linked to the ETC project
- costs of advisory and support services linked to cooperation and delivered by external consultants and service providers (so long as not of a continuous or periodic nature and not related to usual operating costs)
- travel expenses, costs of equipment and investment expenditure directly related to the ETC project, as well as depreciation of tools and equipment used in the project.

The aid intensity shall not exceed 50% of eligible costs.

The maximum amount of aid that can be granted under this provision is EUR 2 million per undertaking per project.

EXCLUSIONS

Export Aid

The Regulation and accordingly the Scheme does not apply to:

- 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 contingent upon the use of domestic over imported goods.

Sectoral

The Scheme applies to all sectors of the economy, with the exception of:

- activities in the processing and marketing of agricultural products where aid is aimed at directly influencing the price or quantity of primary production (i.e. where the amount of the 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 undertakings

concerned or the aid is conditional on being partly or entirely passed on to primary producers).

- aid to facilitate the closure of uncompetitive coal mines.

Recovery of Illegal Aid / Undertakings in Difficulty

The following are explicitly excluded from the Scheme:

- payment of aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the common market; and
- aid to undertakings in difficulty.

CUMULATION OF AID

Aid provided under the Scheme may be cumulated with other forms of aid exempted under the Regulation and provided through this or another SE scheme as long as those aid measures concern different identifiable eligible costs.

Aid provided under this Scheme may only be cumulated with other aid exempted under the Regulation and/or the de minimis regulation, where, in respect of the same totally or partially overlapping eligible costs, such cumulation does not result in the highest aid intensity or aid amount applicable under the Regulation and/or relevant scheme(s) being exceeded.

All sources of public funding shall be taken into account when considering cumulation and in determining that the relevant aid intensity or aid amount is not exceeded.