



Highlands and Islands Enterprise  
Iomairt na Gàidhealtachd 's nan Eilean

## ECONOMIC DEVELOPMENT SUBSIDY SCHEME (EDSS) – Extended to 2027

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## 1. Introduction

### 1.1 Purpose of this scheme

Highlands and Islands Enterprise (HIE) was established to promote the economic and social development of the HIE area, to enhance employment and business skills, improve industrial efficiency, international competitiveness and the environment to achieve these. This scheme will be the principal instrument under which HIE will grant subsidy in pursuit of our strategic priorities of producing: Successful, productive and resilient businesses; Conditions for growth; and Strong, capable and resourceful communities.

### 1.2 Duration

The scheme takes effect from 1 January 2021 and the end date is extended to 31 December 2027.

### 1.3 Legal Basis for the scheme

This scheme is designed to comply with the UK-EU Trade and Cooperation Agreement 2020 (TCA), signed on 30 December 2020 (as implemented by section 29 of the European Union (Future Relationship) Act 2020, together with UK Government guidance on complying with the UK's international obligations on subsidy control as issued from time to time. In all cases a proposed subsidy will have been assessed to meet the definition of a “subsidy” and awards shall be compatible with the “principles” agreed in the TCA and associated UK subsidy guidance. The criteria and limitations of the scheme are designed to limit the effects of permitted subsidies to fall within a safe harbour (of effects) such that it is possible to award subsidies with a reduced set of compatibility checks against the TCA Principles. The TCA applies to subsidies to suppliers of goods and services.

The scheme may be modified or replaced after December 2022 once further UK legislation on subsidy control within the UK comes into effect.

HIE implements this scheme under our powers conferred in Section 8 of the Enterprise and New Towns (Scotland) Act 1990 as amended 1 April 2001 by Scottish Statutory Instrument 2001 No 126. HIE's wholly owned subsidiary, Wave Energy Scotland (SC493764), is also able to make awards under this scheme.

### 1.4 Types of Subsidy

HIE has powers to offer grant, loan, equity, and guarantees. Applicants must state their financial needs and preferences at application stage, but the final decision on the amount and type of any subsidy award will remain at HIE's discretion, informed by our strategic priorities and choices (more at 1.8) and the outcome of due diligence.

### 1.5 Geographic scope

The scheme applies to awards made by HIE to beneficiaries based, or with an operating presence, in the HIE area, or in Scotland or elsewhere which will facilitate HIE's functions under Section 8 of the Enterprise and New Towns (Scotland) Act 1990, and whose activity has, or could have, an effect on trade or investment with competitors in:

- any EU member State  
(For applicants based in Northern Ireland and concerned with producing goods, the EU State Aid rules and undertaking in difficulty test defined in Annex 1, number 11 will apply).
- third countries covered by Free Trade Agreements (FTAs) or World Trade Organisation (WTO) rules covered by the Agreement on Subsidies and Countervailing Measures (ASCM).

### 1.6 Eligible beneficiaries and sectors

Subsidy under this scheme is open to all types of commercial entity (regardless of their legal or profit-distributing status) engaged in the provision of goods or services affecting trade in all sectors other than those specified in 1.7.

Although excluded from the TCA, this scheme includes support to the audio-visual sector at measure 5.3.

### 1.7 Sectors and support NOT covered by this scheme

- Agriculture, Horticulture and Forestry, which are covered by the HIE Agriculture, Food and Drink Subsidy Scheme and WTO Agreement on Agriculture (AoA)
- Food and drink manufacturing – the processing of agricultural products, including second and further stage processing into food and beverages of all types comes under the AoA and are covered by the HIE Agriculture, Food and Drink Subsidy Scheme and WTO Agreement on Agriculture (AoA)
- Fishing, Aquaculture and fish processing, which are covered by the HIE Fishing and Aquaculture Subsidy Scheme and WTO ASCM agreement
- Subsidy awarded as UK *small amounts of financial assistance* (SAFA) that is covered by the exception at Article 364.4 of the TCA or its successor under the UK Subsidy Control Act 2022 – Minimal Financial Assistance (MFA)
- Prohibited subsidies i.e. –
  - Unlimited state guarantees where the amount or duration is not limited
  - Exports - subsidy must not be used to fund the direct operating costs of exports i.e. staff, materials or other revenue costs tied to the export performance of goods or services
  - Domestic content - HIE will not place an obligation on beneficiaries to favour UK suppliers and goods as a condition of the funding

Certain subsidy limitations and conditions apply to the following subsidies and, at least for the initial period of this scheme, if our due diligence suggests the required subsidy cannot be covered by the measures within this scheme they may be dealt with separately as ad hoc cases outside of the scheme:

- air carriers
- large cross-border or international cooperation projects (which fall within the meaning of paragraph 13 of Article 367.4 of the TCA)
- rescue and restructuring of ailing or insolvent applicants
- energy and environment cases (which fall within the meaning of paragraph 14 of article 367.4 of the TCA) will be subject to additional scrutiny to ensure they meet the emerging Principles in the UK Subsidy Control Bill. In particular HIE will consider

- Subsidies in relation to energy and environment shall be aimed at and incentivise the beneficiary in —
  - (a) delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market, or
  - (b) increasing the level of environmental protection compared to the level that would be achieved in the absence of the subsidy.
- Subsidies in relation to energy and environment shall not relieve the beneficiary from liabilities arising from its responsibilities as a polluter under the law of England and Wales, Scotland or Northern Ireland
- Subsidies for the decarbonisation of emissions linked to industrial activities in the United Kingdom shall —
  - (a) achieve an overall reduction in greenhouse gas emissions, and
  - (b) reduce the emissions directly resulting from the industrial activities
- Subsidies for improvements of the energy efficiency of industrial activities in the United Kingdom shall improve energy efficiency by reducing energy consumption, either directly or per unit of production

### 1.8 Scheme Objectives

Successful applicants should be able to demonstrate the following **HIE Criteria**. These should be assessed through an appropriate level of due diligence according to the value of the ask and risk profile of the project.

- The outcomes will contribute to HIE’s strategic objectives and Operating Plan priorities
- The project will deliver commercial benefits to the applicant enterprise and to the HIE area and take into consideration assessment of the market and displacement effects and mitigations
- The project would not be able to proceed at all, or not at the same scale, quality or speed without public assistance (additionality) and the HIE contribution is the minimum necessary (including form of support) to incentivise the development
- The applicant has the capacity to implement the project effectively to enhance its future competitiveness
- The applicant is financially viable at the time of application and is unlikely to become insolvent or be at risk of going out of business in the short to medium term

### 1.9 Intensity levels and cumulation (aggregation of different subsidy awards)

- The maximum subsidy intensity (percentage intervention level) applies to the combined subsidy value of all forms of public support towards the same eligible project costs. This might include other UK public funders or EU funding and where a mix of grant and subsidised loan is being considered
- The subsidy value of loans is awarded based on the gross grant equivalent i.e. not the nominal value of the loan but a calculation of the level of subsidy it contains compared to a commercial loan.
- Subsidy under this scheme may be offered alongside other categories of subsidy under this Scheme, up to the maximum for each measure, provided they concern different eligible costs

### 1.10 Publication of subsidy awards for transparency

HIE is required to publicise all financial awards, regardless of the value, on its website. In addition, UK Government requires that UK Subsidy awards exceeding £100,000 given under this scheme are reported through the UK Subsidy Control Transparency Database to provide summary information to any interested party and to international trade partners, in accordance with existing trade agreements.

## 2. Support measures

Subsidy measures are grouped together into five **Chapters** involving similar objectives, criteria and specific features such as subsidy limits or conditions.

### Chapter 1 - Investment in Business Assets & Infrastructure

This chapter support our priorities of building successful, productive and resilient businesses and creating the conditions for growth and a green recovery.

#### Measure 1.1 Regional Investment

This subsidy is normally used to provide financial assistance to commercial enterprises for capital investments for their own use.

#### Eligible activities and eligible firms

Eligible activities are:

- Initial investment in new economic activity (large firms)
  - an investment in tangible and intangible assets related to the setting up of a new establishment, or to the diversification of the activity of an establishment, under the condition that the new activity is not the same or a similar activity to the activity previously performed in the establishment; or
  - the acquisition of the assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller, under the condition that the new activity to be performed using the acquired assets is not the same or a similar activity to the activity performed in the establishment prior to the acquisition
- For large firms a “new establishment” shall concern new economic activity (refer to Annex 1, No. 22 for the definition of new economic activity). Note that “establishment” in the context of initial investment is understood as a production unit and not a legal entity
- The beneficiary (at group level) shall confirm that it has not carried out a relocation of the same or similar activity from another part of the UK or another country to the proposed new operation in the HIE area in the two years preceding its application for regional investment subsidy. The applicant shall give a commitment not to carry out such a transfer for a period of two years after the initial investment for which the subsidy is requested is completed. For definition of *same or similar* see definition No. 21 in Annex 1. A “transfer” is deemed to have taken place if the product or service in the initial and in the subsidised establishment serves at least partly the same purpose and meets the demands or needs of the same types of customers and jobs are lost in the “same or similar” activity in one of the initial establishments of the beneficiary
- Initial investment (SMEs only) in tangible assets related to the setting up of a new establishment.
- Acquisition by an SME of assets belonging to an establishment that has closed or would have closed had it not been purchased and is bought by an investor unrelated to the seller (refer to Annex 1 No. 20 for definition of “initial investment”). Note that “establishment” in the context of initial investment is understood as a production unit and not a legal entity
- The extension of an existing establishment by **SMEs only**



- The diversification of the output of an establishment into new additional products, under the condition that the new activity is not the same or a similar activity to the activity (SMEs & large firms)
- The fundamental change in the overall process of an existing establishment (SMEs only)
- The acquisition of the capital assets directly linked to an establishment which has closed or would have closed had it not been purchased, and the assets are bought by an independent investor (SMEs & large firms)
- In the case of business succession of a small enterprise in favour of family of the original owner(s) or in favour of former employees, the condition that the assets shall be bought by an independent investor shall be waived

### **Sensitive sectors**

Under the previous EU State aid regime a number of sectors were excluded from receiving Regional Aid under Article 14 of the GBER i.e. steel, shipbuilding, coal, transport and related infrastructure, cruise boats (including tourism excursion boats) plus energy generation, distribution and infrastructure.

UKG in their subsidy guidance to public authorities acknowledges that there are a small number of 'historically sensitive' sectors which have previously been the focus of WTO action. Current UK guidance (and the UK Subsidy Control Act) does not preclude subsidy to these sectors but identifies the added risk of a dispute under WTO rules, although it also says these are rare. In assessing potential subsidy to these sectors HIE will consider the following risk characteristics and mitigations:

- a) Does the sector normally compete with international competitors? Consider the number of international competitors, their size and importance to their country's economy.
- b) Could HIE subsidy impact the sales volume, prices or profits of international producers of similar goods, in the UK or foreign markets? This involves displacement considerations including the impact on international investment in respect to the TCA. The size, maturity and growth potential of the global market will be material in relation to the scale of the proposed subsidy.
- c) What is the likelihood of the HIE intervention triggering an international dispute? A proportionate approach will be taken in conducting analysis to determine WTO and Free Trade Agreement risk and HIE will consult with UKG Department for Business, Energy and Industrial Strategy if in any doubt.

### **Eligible Costs (one or more of the following)**

- Tangible assets – land, buildings, equipment, including professional fees and similar costs arising out of tangible assets which are recorded on the balance sheet
- Equipment purchased by large firms shall be new. Where second hand equipment is purchased by SMEs it shall be purchased at market prices which should be objectively verified
- Costs related to the lease of tangible assets may be taken into account under the following conditions:
  - (a) for land and buildings, the lease must continue for at least five years after the expected date of completion of the investment project for large enterprises, or three years in the case of SMEs
  - (b) for plant or machinery, the lease must take the form of financial leasing and must contain an obligation for the beneficiary of the subsidy to purchase the asset upon expiry of the term of the lease.
- For subsidy for the diversification of an existing establishment, the eligible costs must exceed by at least 200% the book value of the assets that are reused, as registered in the fiscal year preceding the start of works

- Intangible assets, up to 100% of eligible costs for SMEs and not exceeding 50% of eligible costs for large firms
- Wage costs - two years of estimated wage costs of net additional employment created directly by the investment project. Net additional jobs are additional jobs created by comparison with the number of jobs present in the previous 12 months before the investment began (on the basis of FTE jobs). Any jobs lost during the first three years on the same site as the project must be deducted from those created to arrive at the net additional number of jobs created. Jobs to be counted are those created in the first three years following completion of the investment. The wage cost is the gross wage paid to the employee before tax plus compulsory social security charges
- Acquisition of an existing establishment - only the costs of buying the assets from third parties unrelated to the buyer shall be taken into consideration, except in the case of business succession (see last sentence in this paragraph). The transaction shall take place under market conditions. If State aid or subsidy has already been granted for the acquisition of assets prior to their purchase, the costs of those assets shall be deducted from the eligible costs related to the acquisition of an establishment. Where a member of the family of the original owner, or an employee, takes over a small enterprise, the condition that the assets be bought from third parties unrelated to the buyer shall be waived
- The acquisition of shares does not constitute initial investment
- Additional investment costs to upgrade existing assets. The additional costs of upgraded assets are those costs in excess of the cost of replacement on a like for like basis
- Subsidy may be calculated based on assets only, wages only or a combination of the two, but see subsidy limits section below

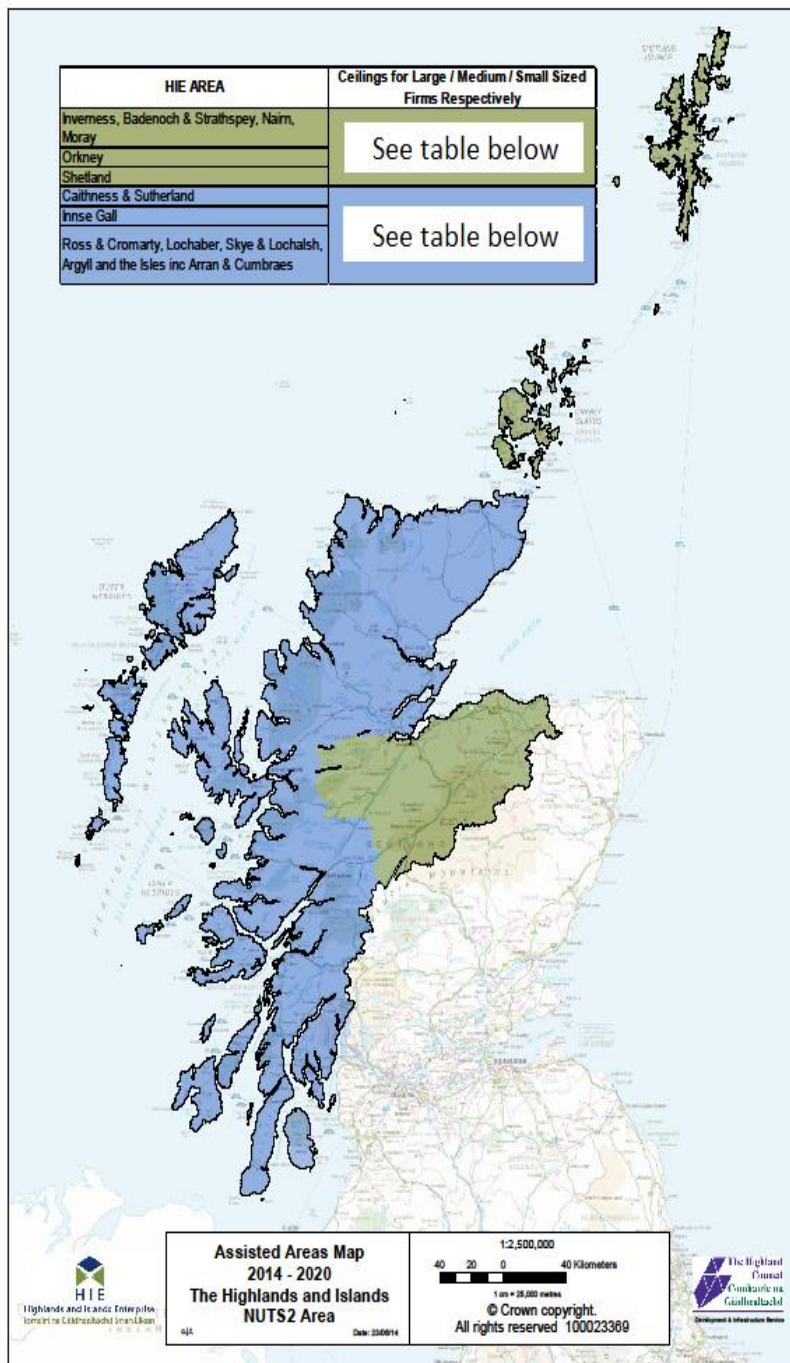
### **Types of assistance**

Grant, loan, equity, guarantees

### **Additional eligibility conditions**

- a) Subsidy provided for tangible assets that are sold or moved out with the assisted area shall be repaid (in full) if the sale or transfer takes place within the following periods: For large firms, within 5 years of the completion of the investment. For SMEs, within 3 years from the completion of the investment.
- b) When wage costs are used as the eligible costs, the employment created shall be maintained during a minimum of 5 years for large firms and 3 years for SMEs.
- c) Intangible assets shall be used exclusively in the establishment being assisted by the beneficiary receiving the subsidy.
- d) Intangible assets shall be those that are regarded as amortizable assets in the formal accounts of the beneficiary.
- e) Intangible assets must be purchased from unrelated third parties under market conditions,
- f) Intangible assets shall be included in the assets of the beneficiary, for at least 5 years for large firms and for at least 3 years for SMEs.
- g) The project must not have commenced expenditure on implementation before an application for assistance towards the project has been submitted to HIE.
- h) For SMEs new or second-hand assets shall be purchased at market prices
- i) For large firms, equipment purchases shall be new.

## Assisted Areas Map



### AA Map of defined Assisted Areas in the HIE region - extended to 31/12/2027.

The basis for the Regional Investment subsidy ceilings is the UK Assisted Areas (AA) Map, which provides limits in line with EU subsidies and in proportion to the relative economic disadvantage suffered by regions. It has the objective of allowing subsidies to enable initial investments in assets that facilitate growth by subsidy levels that do not unduly distort trade with other regions.

The UK AA is the same as applied under EU Regional Aid 2014-2020, which was extended to 31/12/2021 by the EU in 2020 and has been extended by the UK government for use in the UK's post BREXIT Subsidy Control arrangements.

This map and the associated subsidy ceilings therefore apply to subsidies under measure 1.1, they do NOT apply to any other measure in this scheme.

## Subsidy limits

The table below gives the maximum subsidy levels in grant/grant equivalent as a percentage of the total value of eligible costs in the project whether or not the grant is paid out against all of the eligible costs. The calculation of subsidy limits may be based on assets only, wages only or a combination of the two provided that the resulting subsidy does not exceed the most favourable amount from the calculation based on either wages or assets. The subsidy limits vary for small, medium or large sized enterprises using the EU definition.

Project location	Small	Medium	Large
Non pre-defined Article 107(3)c Assisted Area (Shetland, Orkney, Inverness & Nairn, Badenoch & Strathspey, and Moray)	35%	25%	15%
Pre-defined Article 107(3)c Assisted Area (Caithness & Sutherland, Lochaber, Skye & Lochalsh, Ross & Cromarty, Western Isles, Argyll, Arran & the Cumbraes)	40%	30%	20%

**Private sector financing** (including own funds and borrowing from the private sector) must be at least 25% of eligible costs, meaning that any combination of public funding by way of grants, loans and equity shall not exceed 75% of eligible project costs.

## Scheme subsidy ceiling

The ceiling on the subsidy amount for this measure is the same as the new EU Regional Aid Guidelines (January 2022) in terms of the Adjusted Subsidy Amount formula.

**Large projects (costs over £42.5m)** - reduced subsidy ceilings apply to the part of the project costs which exceed £42.5m (see definition Annexe 1 No. 23), requiring calculation of the “Adjusted Subsidy Amount” (below and Annexe No. 24) and taking account of other aided or subsidised initial investments (Annex 1 No. 20) that would count as a “Single Investment Project”.

## Specific definitions

- **Single Investment Project** - any initial investment started by the same beneficiary (at group level) within a period of three years from the date of the start of works on another aided or subsidised investment in the same level three region of the Nomenclature of Territorial Units for statistics (NUTS 3) shall be considered part of a single investment project. The NUTS areas for the HIE area are:
  - UKM61 = Caithness & Sutherland and Ross & Cromarty, UKM62 = Inverness & Nairn and Moray, Badenoch & Strathspey
  - UKM63 = Lochaber, Skye & Lochalsh, Argyll & Bute, Arran & the Cumbraes.
  - UKM64 = Eilean Siar (Western Isles)
  - UKM65 = Orkney
  - UKM66 = Shetland

Where the single investment project is a large investment project (costs over £42.5m), the total subsidy amount for the single investment project shall not exceed the “adjusted subsidy amount”.

- **Adjusted subsidy amount** the maximum permissible subsidy for a large investment project should be calculated according to the following formula:

$$\text{Maximum subsidy amount} = R \times (A + 0.5 \times B + 0.34 \times C)$$

where: R is the maximum subsidy intensity applicable in the area concerned, excluding the increased subsidy intensity for SMEs. A is the initial £42.5 million of eligible costs, B is the part of eligible costs between £42.5 million and £85 million, and C is the part of eligible costs above £85 million.

## Measure 1.2 Local infrastructure investment

Financial assistance for creating business infrastructures for use by others for commercial purposes.

These subsidies enable the provision of infrastructures for use by others on terms comparable to other regions and as such provide no financial advantage to the users over competitors in other regions. The subsidy levels can therefore extend to higher levels than under Measure 1.1, and the calculation of subsidy limits is based on the minimum necessary to allow a normal return on the investment when the assets are charged-for at commercial rates.

### Eligible activities and special conditions

Financing for the construction or upgrade of local infrastructures, which concerns infrastructure that contribute at a local level to improving the business and consumer environment and modernising and developing the industrial base. The infrastructure shall be made available to interested users on an open, transparent and non-discriminatory basis. The price charged for the use, or the sale of, the infrastructure shall correspond to market price. Any concession or other entrustment to a third party to operate the infrastructure shall be assigned on an open, transparent and non-discriminatory basis, having due regard to the applicable procurement rules.

### Eligible sectors

This Measure should not be used for airport infrastructure, maritime port infrastructure or sport and multifunctional leisure and recreation infrastructures but measures 1.4, 1.5 and 5.2 respectively cover these types of local infrastructures. The Measure may be used for shipyards which are below the thresholds for shipbuilding and ship repair (see Annex 1 No. 47 for definition).

**Dedicated infrastructure** may not be assisted under this Measure, but it may be assisted under Measure 1.1 (capital investment by commercial enterprises). Dedicated Infrastructure means facilities that are built for enterprises that have been identified prior to construction and that have been tailored to their needs.

### Subsidy limits

The subsidy amount shall not exceed the difference between the eligible costs and the operating profit of the investment. Subsidies under the scheme are capped when either the subsidy is £10m or more, or the project costs are £20m or more.

The operating profit shall be deducted from the eligible costs ex ante, on the basis of reasonable projections, or through a claw-back mechanism. Thus, it is possible to use either an up-front definition of subsidy levels as an alternative to a claw-back based on actual revenues and costs. Reasonable projections should be verified by appropriate analysis, using experts if necessary and retained on the appraisal file.

### **Eligible costs**

The eligible costs shall be the investment costs in tangible and intangible assets.

### **Types of assistance**

Grant, equity, loan or guarantees.

## **Measure 1.3 Ports and harbours Infrastructure**

### **Eligible activities**

Capital investment in the construction, replacement or upgrade of port infrastructure. A port is defined as “an area of land and water made up of such infrastructure and equipment necessary to permit the reception of waterborne vessels, their loading and unloading, the receipt, storage and delivery of goods, the embarkation and disembarkation of passengers and crew and the infrastructure necessary for transport operators within the port”. This means ports and harbours engaged in commercial and industrial activities where the port authority or harbour trust will gain an economic advantage from the development.

*[N.B. marinas and slipways that are available free of charge for local or community use or where the level of berthing use by visitors from other Member States represents a very small percentage of the annual visitor numbers are unlikely to meet the definition of a “subsidy” under this scheme.*

### **Special conditions**

The subsidised infrastructure shall be made available to all interested users on an equal and non-discriminatory basis on market terms. Any concession or other entrustment to a third party to construct, upgrade, operate or rent subsidised port infrastructure shall be assigned on a competitive, transparent, non-discriminatory and unconditional basis. The definitions for terms used in this measure can be found in Annex 1 No. 58-69.

### **Eligible costs**

The eligible costs shall be the costs, including planning costs of:

- a) construction, replacement or upgrade of port infrastructure i.e. –
  - facilities for transport related port services e.g. berthing or mooring of ships, quay walls, jetties or floating pontoon ramps in tidal areas
  - internal basins, backfills and land reclamation
  - alternative fuel infrastructure (to supply vessels with electricity, hydrogen or biofuels – more at Annexe 1 No. 67)
  - facilities for collecting ship-generated waste or cargo residues
- b) construction, replacement or upgrade of access infrastructure i.e. –
  - roads, railway tracks, channels and locks; and
- c) dredging –
  - removal of sediments from the bottom of the waterway access to, or within, a port

- new channels or maintenance dredging are eligible subject to the limits below. A dredging project is defined as all dredging carried out within a one calendar year period

#### **Ineligible costs**

- Costs relating to non-transport related activities, including industrial production facilities active in a port, offices or shops. Industrial facilities may be considered under Chapter 1 Measure 1.2 Local infrastructure provided they are not bespoke and will be made openly available at market rates
- Port superstructures defined as surface arrangements

#### **Subsidy limits**

The subsidy amount shall not exceed the difference between the eligible costs and the operating profit of the investment or dredging. The operating profit shall be deducted from the eligible costs ex-ante, on the basis of reasonable projections, or through a claw-back mechanism. Reasonable projections should be verified by appropriate analysis, using independent experts if necessary, and retained on the project file.

The subsidy intensity per investment for port infrastructure, point a) above, shall not exceed:

- I. 100% of the eligible costs where the total eligible project costs are up to £20M
- II. 85%\* of the eligible costs where the total eligible project costs are above £20M and up to £50M
- III. 65%\* of the eligible costs where the total eligible project costs are above £50M and up to £130M
- IV. The maximum amount of subsidy shall be £130m under this Scheme

The subsidy intensity per investment for access infrastructure and dredging, points b) and c) above, shall not exceed 100% of the eligible project costs up to £130M.

For subsidy not exceeding £5M, the maximum amount of subsidy may be set at 80% of eligible project costs as an alternative to applying the methods above.

#### **Types of assistance**

Grant, loan, equity, guarantees

### **Measure 1.4 Regional Airport Infrastructure**

#### **Eligible activity**

Regional airports play a valuable enabling role in improving access and local development opportunities. There are, however, limits to the subsidy intensity in order to limit trade distortion with EU ports, based on the size of the airport expressed in annual freight traffic, passenger numbers and the forecast operating profits.

Subsidy can take the form of investment subsidy or operating subsidy.

Investment subsidy is available to airports with:

- Less than an average of 200,000 tonnes annual freight traffic during the two financial years preceding the year in which subsidy is actually granted and where the subsidy is not expected to raise the average annual freight traffic above 200,000 tonnes within the two financial years following the granting of the subsidy; and



- Up to 200,000 average annual passengers during the two financial years preceding the year in which subsidy is actually granted if the subsidy is not expected to raise the average annual passenger numbers above 200,000 within the two financial years following the granting of the subsidy; or
- Up to 3 million annual average passengers during the two financial years preceding the year in which subsidy is actually granted provided –
  - the airport is located more than 100kms or 60 minutes travel time by car, bus, or rail from an existing airport with scheduled air services; and
  - the subsidy is not expected to raise the average annual passenger numbers above 3 million within the two financial years following the granting of the subsidy; and
  - the investment concerned shall not exceed what is necessary to accommodate the medium-term growth in traffic based on reasonable traffic forecasts

Operating subsidy is available to airports with:

- Up to 200,000 average annual passengers during the two financial years preceding the year in which subsidy is actually granted

### **Special conditions**

The airport shall be open to all potential users. In the case of physical limitation of capacity, the allocation shall take place on the basis of pertinent, objective, transparent and non-discriminatory criteria. Granting of operating subsidy shall not be made conditional on making arrangements with specific airlines relating to airport charges, marketing payments or other financial aspects of the airline's operations at the airport concerned.

### **Ineligible activity**

- Subsidy to an airport that exceeds the size limits specified in the eligible activity section above
- Subsidy to assist the relocation of an existing airport or to create a new passenger airport, including the conversion of an existing airfield into a passenger airport
- Operating subsidy shall not be paid out in any calendar year during which annual passenger numbers for the airport exceed 200,000

### **Eligible costs**

Costs for investment in airport infrastructure, including planning costs are eligible. Airport infrastructure is defined as infrastructure and equipment for the provision of services by the airport to airlines and various service operators including:

- runways
- terminals
- aprons
- taxiways
- centralised ground handling infrastructure
- any other facilities that directly support the airport services

### **Ineligible costs**

- Infrastructure and equipment primarily necessary for pursuing non-aeronautical activities
- Costs related to commercial infrastructure such as shops are not included



## Types of assistance

Grant or loan

### Subsidy limits

For investment subsidy, the subsidy amount shall not exceed the difference between the eligible costs and the operating profit of the investment. “Operating profit” is defined as the difference between the discounted revenues and discounted operating costs over the economic life of the investment where this difference is positive. Applying an appropriate discount rate allows a reasonable profit to be made (see Annex 1 No. 33 for more). The operating profit shall be deducted from the eligible costs ex-ante, on the basis of reasonable projections, or through a claw-back mechanism. Reasonable projections should be verified by appropriate analysis, using independent experts if necessary.

For operating subsidy, the amount of subsidy shall not exceed what is necessary to cover the operating losses and a reasonable profit over the relevant period. The subsidy shall be subsidy in the form of periodic instalments fixed ex ante, which shall not be increased during the period for which subsidy is granted. Alternatively, the subsidy amount can be defined ex post based on observed operating losses once actual results are demonstrated through independently verified management accounts or audited accounts.

The subsidy intensity in terms of grant or grant equivalence for subsidy to regional airports shall not exceed the following:

Airport size (based on average annual passenger traffic in the two financial years preceding the year the grant is paid out)	Comment	Subsidy as % of total eligible costs
Up to one million	Investment subsidy in: Orkney, Shetland, Inverness & Nairn, Badenoch & Strathspey, Moray; or	75%
	Caithness & Sutherland, Lochaber, Skye & Lochalsh, Ross & Cromarty, Western Isles, Argyll, Arran & the Cumbraes	95%
One million to three million	Investment subsidy in: Orkney, Shetland, Inverness & Nairn, Badenoch & Strathspey, Moray; or	50%
	Caithness & Sutherland, Lochaber, Skye & Lochalsh, Ross & Cromarty, Western Isles, Argyll, Arran & the Cumbraes	70%
Up to 200,000	Operating subsidy	Not exceeding subsidy needed to cover operating losses and a reasonable profit over the relevant period.

## Chapter 2 - Support for Business Growth

This chapter supports our priorities of building successful, productive and resilient businesses, supporting entrepreneurial people and culture and developing a skilled workforce.

### Measure 2.1 Consultancy support for SMEs

For the use of external consultants

#### **Eligible beneficiaries**

Small and Medium sized Enterprise under the EU definition.

#### **Eligible activities**

Subsidy towards purchase consultancy to improve or develop their business.

#### **Subsidy Limits**

The subsidy in grant or grant equivalence terms shall not exceed 50% of eligible costs up to a maximum of £2m per project.

#### **Eligible Costs**

The eligible costs shall be the costs of services provided by external consultants.

#### **Types of Assistance**

Grant, loan or access to subsidised state funded consultants.

#### **Conditions attaching to the Subsidy**

Services purchased from consultants shall not be a continuous or periodic activity nor relate to the enterprise's usual operating costs, such as routine tax consultancy services, regular legal service, advertising or payroll services.

### Measure 2.2 Trade fair support for SMEs

For attendance at trade fairs

#### **Eligible beneficiaries**

Small and Medium sized Enterprise under the EU definition.

#### **Eligible activities**

Subsidy to enable participation in trade fairs (including repeat participations).

#### **Subsidy Limits**

The subsidy in grant or grant equivalence terms shall not exceed 50% of eligible costs, up to a maximum of £2m per enterprise per year.

#### **Eligible Costs**

The eligible costs shall be the costs incurred for renting, setting up and running the stand for the participation of an enterprise in any particular fair or exhibition. This includes necessary travel and accommodation to enable attendance.

## Types of Assistance

Grant, loan or access to subsidised state funded trade fairs.

### Measure 2.3 Support for the start-up of new small enterprises and small innovative enterprises

#### 2.3.1 Support for the start-up of new small enterprises

##### Eligible beneficiaries

Eligible beneficiaries shall be small enterprises up to five years following their registration which fulfil the following conditions:

- It has not taken over the activity of another enterprise
- It has not yet distributed profits
- It has not been formed through a merger unless the date of registration of the older enterprise in the merger would be less than 5 years from the date the subsidy will be actually granted

For eligible enterprises that are not subject to registration the five years eligibility period may be considered to start from the moment when the enterprise either starts its economic activity or is liable to tax for its economic activity.

##### Eligible activity

Subsidy is for the start-up costs of newly created small enterprises.

##### Types of assistance

- a) grants, equity or quasi equity investment, and interest rate and guarantee premium reductions.
- b) loans with interest rates which do not conform with market conditions,
- c) guarantees with premiums which do not conform to market conditions.

##### Subsidy limits

The limits depend on the form of assistance (grants, loans, or guarantees). A beneficiary can receive support through a mix of the instruments (forms of assistance referred to above) provided that the proportion of the amount granted through one subsidy instrument, calculated as a proportion of the maximum subsidy amount allowed for that instrument, is taken into account in order to determine the residual proportion of the maximum subsidy amount allowed for the other instruments forming part of such a mixed instrument.

Note that the loans or guarantees may be charged for at rates less than market rates, and there is no difference in the amounts that can be offered even if the rates charged for the loan or guarantee are zero. The Subsidy limits have been calculated on the assumption of zero charges, therefore this practice would be quite legitimate if HIE considered it appropriate for the project.

For grants the limit is the cumulative amount of all subsidy awards under this measure i.e. more than one grant can be offered while the beneficiary remains eligible as long as the total doesn't breach the ceiling. For different periods of loans and guarantees the ceilings are in the table below.

Type Subsidy	Subsidy limit	Comment
Grant	£600,000	Grant or grant equivalents if phased grant release, per enterprise
Loan	£3,000,000	Loan term 1-5 years per firm per enterprise

Type Subsidy	Subsidy limit	Comment
	£2,500,000	Loan term 6 years per
	£2,142,857	Loan term 7 years per
	£1,875,000	Loan term 8 years
	£1,666,667	Loan term 9 years
	£1,500,000	Loan term 10 years
Guarantees		Per enterprise
	£2,250,000	Guarantee lasting 10 years
	£2,500,000	Guarantee lasting 9 years
	£2,812,500	Guarantee lasting 8 years
	£3,214,286	Guarantee lasting 7 years
	£3,750,000	Guarantee lasting 6 years
	£4,500,000	Guarantee lasting 5 years

### 2.3.2 Support for the Start-up of new small innovative enterprises

#### Eligible beneficiaries

In addition to the eligibility criteria and activity above, an **Innovative enterprise** means an enterprise:

- that can demonstrate, by means of an evaluation carried out by an external expert that it will in the foreseeable future develop products, services or processes which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure, or
- the research and development costs of which represent at least 10% of its total operating costs in at least one of the three years preceding the granting of the subsidy or, in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period, as certified by an external auditor

Table 2.3.2 Limits for start-up for small innovative enterprises		
Type Subsidy	Subsidy limit	Comment
Grant	£1,200,000	Grant or grant equivalents if phased grant release, per enterprise
Loan	£6,000,000	Loan term 1-5 years per firm per enterprise
	£5,000,000	Loan term 6 years per
	£4,285,714	Loan term 7 years per
	£3,750,000	Loan term 8 years
	£3,333,334	Loan term 9 years
	£3,000,000	Loan term 10 years
Guarantees		Per enterprise
	£4,500,000	Guarantee lasting 10 years
	£5,000,000	Guarantee lasting 9 years
	£5,625,000	Guarantee lasting 8 years
	£6,428,572	Guarantee lasting 7 years
	£7,500,000	Guarantee lasting 6 years
	£9,000,000	Guarantee lasting 5 years

## Measure 2.4 Training support

### Eligible activities

This subsidy covers the costs of training for enterprises. HIE sometimes finances training events and invites firms to send employees for training, which may be free of charge or charged for at a subsidised price.

Subsidy shall not be granted for training which enterprises carry out to comply with national mandatory standards on training. Note that support for further education and Apprenticeships are not classified as subsidy.

### Eligible beneficiaries

SMEs and large enterprises.

### Eligible costs

The eligible costs shall be the following:

- (a) trainers' personnel costs (wages plus National Insurance), for the hours during which the trainers participate in the training
- (b) 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.)
- (c) costs of advisory services linked to the training project
- (d) trainees' personnel costs (wages plus Employers National Insurance and pension contribution) and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training

### Types of assistance

Grant or loan.

### Subsidy limits

There is no distinction between general and specific training.

The Subsidy intensity in terms of grant or grant equivalence shall not exceed the following % of eligible costs:

	Small	Medium	Large
Training grant	70%	60%	50%
If training given to workers with disabilities or disadvantaged workers	70%	70%	60%

The total amount of subsidy is capped at £2m per project.

## Measure 2.5 Support to employ disadvantaged and disabled workers

### 2.5.1 Subsidy for the recruitment of disadvantaged workers

#### Eligible activities:

Subsidy schemes to support the recruitment of disadvantaged workers in the form of wage subsidies.

A 'disadvantaged worker' means any person who:

- a) has not been in regular paid employment for the previous 6 months; or
- b) is between 15 and 24 years of age; or
- c) has not attained an upper secondary educational or vocational qualification (International Standard Classification of Education 3) or is within two years after completing full-time education and who has not previously obtained his or her first regular paid employment; or
- d) is over the age of 50 years; or
- e) lives as a single adult with one or more dependents; or
- f) works in a sector or profession where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors in the UK and belongs to that underrepresented gender group; or
- g) is a member of an ethnic minority within the UK and who requires development of their linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment

### **Subsidy limits**

The subsidy intensity in terms of grant or grant equivalence shall not exceed 50 % of eligible costs, capped at £5m per enterprise per year.

### **Eligible costs**

Eligible costs shall be the wage costs over a maximum period of 12 months following recruitment of a disadvantaged worker. Where the worker concerned is a severely disadvantaged worker, eligible costs shall be the wage costs over a maximum period of 24 months following recruitment.

A 'severely disadvantaged worker' means any person who:

- (a) has not been in regular subsidy employment for at least 24 months; or
- (b) has not been in regular subsidy employment for at least 12 months and belongs to one of the categories (b) to (g) mentioned under the definition of 'disadvantaged worker'

### **Types of assistance**

Grant or loan.

### **Conditions attaching to the subsidy**

Where the recruitment does not represent a net increase, compared with the average over the previous twelve months, in the number of employees in the enterprise concerned, the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of 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.

If the period of employment is shorter than 12 months, or 24 months in the case of severely disadvantaged workers, the subsidy shall be reduced pro rata.

## 2.5.2 Subsidy for the employment of workers with disabilities.

### **Eligible activities**

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

A 'worker with disabilities' means any person who:

- a) is recognised as worker with disabilities under national law; or
- b) has long-term physical, mental, intellectual or sensory impairment(s) which, in interaction with various barriers, may hinder their full and effective participation in a work environment on an equal basis with other workers

### **Subsidy limits**

The subsidy intensity in terms of grant or grant equivalence shall not exceed 75 % of eligible costs, capped at £10m Per enterprise per year.

### **Eligible costs**

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

### **Types of Assistance**

Grant or loan.

### **Conditions attaching to the Subsidy**

Where the recruitment does not represent a net increase, compared with the average over the previous twelve months, in the number of employees in the enterprise concerned, the post or posts shall have fallen vacant following voluntary departure, disabilities, retirement on grounds of age, voluntary reduction of 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 enterprise and governing employment contracts.

## 2.5.3 Subsidy for the additional costs of employing workers with disabilities

### **Eligible activities**

The assistance provided shall consist of measures to compensation for the additional costs of employing workers with disabilities.

### **Subsidy limits**

The subsidy intensity in terms of grant or grant equivalent shall not exceed 100 % of eligible costs, capped at £10m per enterprise per year.

### **Eligible costs**

- a) costs of adapting the premises
- b) 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

- c) 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
- d) costs directly linked to transport of workers with disabilities to the working place and for work related activities
- e) wage costs for the hours spent by a worker with disabilities on rehabilitation
- f) where the beneficiary provides sheltered employment, the costs of constructing, installing or modernising the production units of the enterprise concerned, and any costs of administration and transport, provided that such costs result directly from the employment of workers with disabilities

### **Types of assistance**

Grant or loan

#### **2.5.4 Subsidy for the costs of assistance provided to disadvantaged workers**

### **Eligible activities**

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.

### **Subsidy limits**

The Subsidy intensity in terms of grant or grant equivalent shall not exceed 50 % of eligible costs, capped at £5m per enterprise per year.

### **Eligible costs**

- a) employing staff solely for times spent on the assistance of the disadvantaged workers over a maximum period of 12 months following recruitment of as disadvantaged worker or over a maximum period of 24 months following recruitment of a severely disadvantaged worker.
- b) Training such staff to assist disadvantaged workers.

### **Types of assistance**

Grant or loan



## Chapter 3 - Research, Development and Innovation (R&D&I)

This chapter supports our ambition to embed innovation within enterprises of all sizes encouraging them to be dynamic and entrepreneurial as a driver for growth, employment and wealth creation. It concerns support for R&D&I projects undertaken by commercial enterprises. It is anticipated that almost all support from HIE to projects in this chapter will be caught by the TCA and Joint Declaration on Subsidy Control Policies which states:

*“Subsidies may be granted for research and development activities. This includes fundamental research, industrial research and experimental development, in particular the development of new and highly innovative technology which drives productivity growth and competitiveness, if they are necessary, proportionate, and do not have as their main purpose or effect the transfer or closure of such activities in the territory of the other Party (Party being UK or EU).*

*Subsidies may also be granted in connection with other initiatives, such as for new production processes, relevant infrastructure, innovation clusters and digital hubs. The amount of subsidy should reflect, amongst other factors, the risk and amount of technological innovation involved in the project, how close the project is to the market and the project’s contribution to knowledge generation.”*

### Measure 3.1 Fundamental research

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.

### Measure 3.2 Industrial research

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.

### Measure 3.3 Experimental development

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.

### Measure 3.4 Feasibility studies

The evaluation 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.

#### Eligible costs

The eligible costs of research and development projects shall be allocated to a specific category of research and development and shall be the following:

- 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

The eligible costs for feasibility studies shall be the costs of the study.

#### Types of assistance

Grant, equity or loan.

#### Conditions attaching to the subsidy

Note that there is no condition preventing the sale of the R&D results outside the company or region.

#### Subsidy limits

Type of Research	Small	Medium	Large
Fundamental research	100%	100%	100%
Industrial research	70%	60%	50%
Experimental development	45%	35%	25%
Feasibility studies	70%	60%	50%

The subsidy intensities for industrial research and experimental development may be increased 15%, up to a cap of 80% if one of the following conditions is fulfilled:

Either:

- a) the project involves effective collaboration:
  - (i) between enterprises among which at least one is an SME, or is carried out in at least two EU Member States, or in a Member State subsidy in a Contracting Party of the EEA Agreement, and no single enterprise bears more than 70% of the eligible costs, or
  - (ii) between an enterprise and one or more research and knowledge-dissemination organisations, where the latter bear at least 10% of the eligible costs and have the right to publish their own research results.

or:

- b) the results of the project are widely disseminated through conferences, publication, open access repositories, or free or open-source software.

The maximum rates would thus be:

Type of Research	Small	Medium	Large
Industrial research	80%	75%	50%
Experimental development	60%	50%	40%

The amount of subsidy is also restricted to the following levels under this scheme.

Type of Subsidy	Subsidy ceiling under the scheme	Comment
R&D - Fundamental Research	£40m grant	Per project per enterprise
	£60m repayable advance	Repayment = advance plus interest at EU discount rate
	€80m grant	If part of an EU Eureka project or implemented by a joint undertaking
R&D - Industrial Research	£20m grant	Per project per enterprise
	£30m repayable advance	Repayment = advance plus interest at EU discount rate
	€40m	If part of an EU Eureka project or implemented by a joint undertaking
R&D - Experimental Development	£15m grant	Per project per enterprise
	£22.5m repayable advance	Repayment = advance plus interest at EU discount rate
	€30m	If part of an EU Eureka project or implemented by a joint undertaking
Feasibility studies for R&D	£7.5m	Per study

### Measure 3.5 Support for Investment in research infrastructures

#### **Eligible activities**

Subsidy for construction or upgrade of research infrastructures that perform economic activities

#### **Eligible costs**

The eligible costs shall be the investment costs in intangible and tangible assets.

#### **Types of assistance**

Grant, equity or loan.

#### **Conditions attaching to the subsidy**

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.

The price charged for the operation or use of the infrastructure shall correspond to a market price. Access to the infrastructure shall be open to several users and be granted on a transparent and non-discriminatory basis. Enterprises 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 enterprise's contribution to the investment costs and these conditions shall be made publicly available.

Where a research infrastructure receives public funding for both economic and non-economic activities, HIE shall put in place a monitoring and claw-back mechanism 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 envisaged at the time of awarding the subsidy

#### **Subsidy limits**

The subsidy intensity in terms of grant or grant equivalent shall not exceed 50% of the eligible costs. Subsidy amounts may not exceed £20m per infrastructure under this scheme.

### Measure 3.6 Support for innovation clusters

#### **Eligible activities**

Subsidy for the setting up, marketing and operating of innovation clusters.

#### **Eligible costs**

The eligible costs for the construction or upgrading of an innovation cluster shall be the tangible and intangible assets.

The eligible costs of operating subsidy for innovation clusters shall be the personnel and administrative costs (including overhead 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 enterprises 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
- d) investment costs in construction or upgrade of innovation clusters, including both tangible and intangible assets. This precludes assisting a property developer via this measure, unless the property developer also becomes the cluster operator

**Type of assistance**

Grant or loan to the legal entity operating the innovation cluster (cluster organisation). Operating subsidy may be granted for the operation of innovation clusters. It shall not exceed ten years.

**Subsidy limits**

The Subsidy intensities in terms of grant or grant equivalence are as follows:

Type of subsidy	All firms
Investment subsidy for innovation clusters	55%
Operating subsidy for innovation clusters	50%

Subsidy amounts are capped at £7.5m per cluster.

**Conditions attached to the subsidy**

Access to the cluster's premises, facilities and activities shall be open to several users and be granted on a transparent and non-discriminatory basis. Enterprises 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 enterprise's contribution to the investment costs and these conditions shall be made publicly available. The fees charged for using the cluster's facilities and for participating in the cluster's activities shall correspond to the market price or reflect their costs.

[Measure 3.7 Innovation support for SMEs](#)

**Eligible activities**

Subsidy for the revenue costs of innovation for SMEs

**Eligible costs**

The eligible costs shall be the following:

- (a) costs for obtaining, validating and defending patents and other intangible assets
- (b) costs for secondment of highly qualified personnel from a research and knowledge-dissemination organization or a large enterprise, working on research, development and innovation activities in a newly created function within the beneficiary and not replacing other personnel
- (c) costs for innovation advisory and support services

### Type of assistance

Grant or loan.

### Subsidy limits

The subsidy intensity in terms of grant or grant equivalence shall not exceed 50% of the eligible costs. 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 £200,000 per enterprise within the current fiscal year and the two preceding fiscal years. Note that despite the similarity between this and Minimal Financial Assistance (MFA), this type of subsidy does not count towards the MFA allowance of £315,000.

Type of subsidy	SMEs	
Innovation support	50%	
Innovation advice	100%	Maximum of £200k over 3 years

### Maximum Subsidy Amounts

The amount per subsidy is capped at £5m.

## Measure 3.8 Process and organisation innovation

### Eligible activities

Revenue costs for process and organisational innovation

### Eligible firms

Subsidy to large firms shall only be eligible if they effectively collaborate with SMEs in the subsidised activity and the collaborating SMEs incur at least 30% of the total eligible costs. SMEs may be assisted independently of large firms.

### Eligible costs

The 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
- d) additional overheads and other operating costs, including costs of materials, supplies and similar products, incurred directly as a result of the project

### Types of assistance

Grants or loans.

### Subsidy limits

The subsidy intensities in terms of grant or grant equivalence shall not exceed the following % of the eligible costs:

Type of subsidy	Small	Medium	Large
Process and organisation innovation	50%	50%	15%

Subsidies are capped at £7.5m per applicant per project under this scheme.

## Chapter 4 – Contributing to Net Zero targets

This chapter supports the Just Transition to net zero and green recovery priorities by assisting carbon reduction and other environmental measures.

### Measure 4.1 Support for energy efficiency measures

#### Eligible activities

Subsidy to support investments to achieve energy efficiency.

#### Subsidy limits

The subsidy intensity in terms of grant or grant equivalence shall not exceed the following % of eligible costs:

Type of subsidy	Small	Medium	Large
Energy efficiency measures	55%	45%	35%

Subsidy amounts may not exceed £15m under this measure.

#### Eligible costs

The eligible costs shall be the extra investment costs necessary to achieve the higher level of energy efficiency. They shall be determined as follows:

- a) where the costs of investing in energy efficiency can be identified in the total investment cost as a separate investment, this energy efficiency-related cost shall constitute the eligible costs
- b) in all other cases, the costs of investing in energy efficiency are identified by reference to a similar, less energy efficient investment that would have been credibly carried out without the subsidy. The difference between the costs of both investments identifies the energy efficiency-related cost and constitutes the eligible costs. The costs not directly linked to the achievement of a higher level of energy efficiency shall not be eligible

#### Types of Assistance

Grant or loan.

#### Conditions attaching to subsidy

Subsidy shall not be granted under this measure where improvements are undertaken to ensure that enterprises comply with environmental standards already adopted, even if they are not yet in force.

### Measure 4.2 Capital investment in energy from renewable sources

#### Eligible activities

To enable the beneficiary to install power plant or heating facilities to produce energy from renewable energy sources; subsidy is for the additional costs of investment from renewable sources versus less environmentally friendly sources as shown in (a), (b) and (c) under Eligible Costs.

Investment subsidy for the production of biofuels shall be eligible only to the extent that the subsidised investments are used for the production of sustainable bio-fuels other than food-based



biofuels. However, investment subsidy to convert existing food-based bio-fuel plants into advanced bio-fuel plants shall be permitted provided that the food-based production would be reduced commensurate to the new capacity.

Subsidy shall not be granted for biofuels which are subject to a supply or blending obligation. The investment subsidy shall be granted to new installations only.

**Eligible Costs**

The eligible costs shall be the extra investment costs necessary to promote the production of energy from renewable sources. They shall be determined as follows:

- a) where the costs of investing in the production of energy from renewable sources can be identified in the total investment cost as a separate investment, for instance as a readily identifiable add-on component to a pre-existing facility, this renewable energy-related cost shall constitute the eligible costs
- b) where the costs of investing in the production of energy from renewable sources can be identified by reference to a similar, less environmentally friendly investment that would have been credibly carried out without the subsidy, this difference between the costs of both investments identifies the renewable energy-related cost and constitutes the eligible costs
- c) for certain small installations where a less environmentally friendly investment cannot be established as plants of a limited size do not exist, the total investment costs to achieve a higher level of environmental protection shall constitute the eligible costs. The costs not directly linked to the achievement of a higher level of environmental protection shall not be eligible.

**Types of assistance**

Grant or loan.

**Conditions attaching to the subsidy.**

No subsidy shall be granted or paid out after the installation started operations and subsidy shall be independent from the output.

**Subsidy limits**

The table below gives the maximum subsidy levels in Grant / grant equivalence as % of eligible costs:

Type of subsidy	Small	Medium	Large
For projects where eligible costs are calculated on basis of (a) or (b) above	70%	60%	50%
For projects where eligible costs are calculated on basis of (c) above	55%	45%	35%

Where subsidy is granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria, the subsidy intensity may reach 100% of the eligible costs. Such a bidding process shall be non-discriminatory and provide for the participation of all interested enterprises. The budget related to the bidding process shall be a binding constraint in the sense that not all participants

can receive subsidy and the subsidy shall be granted on the basis of the initial bid submitted by the bidder, therefore excluding subsequent negotiations.

Subsidy amounts are capped at £15M.

#### Measure 4.3 Support for environmental studies

##### Eligible activities

Subsidy for studies, including energy audits, directly linked to investments referred to in this Chapter.

##### Subsidy limits

The subsidy intensity in terms of grant or grant equivalence shall not exceed the following:

Type of subsidy	Small	Medium	Large
Environmental studies	70%	60%	50%

Subsidy amounts are capped at £15m under this measure.

##### Eligible Costs

Costs of the studies.

Subsidy shall not be granted to large enterprises for energy audits.

##### Types of Assistance

Grant or loan.

#### Measure 4.4 Investment subsidy for remediation of contaminated sites

##### Eligible activities

The objective is to bring contaminated land, brown-field land and derelict land back into productive use by addressing the detrimental effects of previous usage. This is related to pollution and contamination only and not a derelict structure. The investment shall lead to the repair of the environmental damage, including damage to the quality of the soil or of surface water or groundwater.

##### Subsidy limits

The maximum subsidy level in grant or grant equivalence is 100% of eligible costs. Subsidy amounts are capped at £20m under this measure.

##### Eligible Costs

The eligible costs shall be the costs incurred for the remediation work, less the increase in the value of the land. All expenditure incurred by an enterprise in remediating its site, whether or not such expenditure can be shown as a fixed asset on its balance sheet, may be considered as eligible investment in the case of the remediation of contaminated sites. Evaluations of the increase in value of the land resulting from remediation shall be carried out by an independent expert.

##### Types of Assistance

Grant or loan.

### Conditions attaching to the subsidy

Where the legal or physical person liable for the environmental damage is identified, that person must finance the remediation in accordance with the 'polluter pays' principle, and no subsidy shall be granted. Where the person liable under the applicable law is not identified or cannot be made to bear the costs, the person responsible for the remediation or decontamination work may receive subsidy.

### Measure 4.5 Waste recycling and re-utilisation

#### Eligible activities

- The investment subsidy shall be granted to a firm for the recycling and re-utilisation of waste generated by other enterprises
- The recycled or re-used materials treated would otherwise be disposed of or be treated in a less environmentally friendly manner. Subsidy to waste recovery operations other than recycling is not eligible under this Measure
- The subsidy shall not indirectly relieve the polluters from a burden that should be borne by them in law, or from a burden that should be considered a normal company cost
- The investment shall not merely increase demand for the materials to be recycled without increasing collection of those materials
- The investment shall go beyond the state of the art
- Subsidy for investments relating to the recycling and re-utilisation of the beneficiary's own waste shall not be exempt from the notification requirement under this Measure

#### Subsidy limits

The table below gives the maximum subsidy levels in Grant / grant equivalence as % of eligible costs:

Type of subsidy	Small	Medium	Large
For waste recycling and re-utilisation projects	60%	50%	40%

Subsidy amounts are capped at £15m per enterprise per project under this measure.

#### Eligible Costs

The eligible costs shall be the extra investment costs necessary to realise an investment leading to better or more efficient recycling or re-use activities compared to a conventional process of re-use and recycling activities with the same capacity that would be constructed in the absence the subsidy.

#### Types of Assistance

Grant or loan.

## Chapter 5 - Culture, Sport & Heritage conservation

This chapter supports our priorities of enabling strong, capable and resourceful communities and taking place-based approaches to wellbeing and community wealth building including strengthening social enterprise activity, community-led tourism and promotion of the Gaelic language.

### Measure 5.1 Culture and heritage conservation support

#### Eligible activities

The subsidy shall be granted for the following cultural purposes and activities:

- a) museums, archives, libraries, artistic and cultural centres or spaces, theatres, cinemas, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions
- b) tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognized as cultural or natural heritage by the competent public authorities
- c) intangible heritage in any form, including folklorist customs and crafts
- d) art or cultural events and performances, festivals, exhibitions and other similar cultural activities
- e) cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies
- f) writing, editing, production, distribution, digitisation and publishing of music and literature, including translations

The subsidy may take the form of:

- a) investment subsidy, including subsidy for the construction or upgrade of culture infrastructure
- b) operating subsidy.

Subsidy to press and magazines, whether they are published in print or electronically, shall not be eligible under this Measure.

#### Subsidy limits

For investment subsidy, the subsidy amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs ex ante, on the basis of reasonable projections, or through a claw-back mechanism. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period.

‘operating profit’ means the difference between the discounted revenues and the discounted operating costs over the relevant 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.

Investment subsidy amounts are capped at £150m per project under this measure.

For operating subsidy, the subsidy amount shall not exceed what is necessary to cover the operating losses and a “reasonable profit” over the relevant period. This shall be ensured ex ante, on the basis of reasonable projections, or through a claw-back mechanism. See Annexe 1 No. 114 for “reasonable profit”. Operating subsidy amounts are capped at £2m per enterprise per year under this measure.

Simplified method - For subsidy not exceeding £2 million, the maximum amount of subsidy may be set at 80% of eligible costs as an alternative to applying the method above.

Community Assets – For capital investment in cultural and heritage assets being developed by the public sector or the non-profit-distributing third sector, the maximum amount of subsidy may, in exceptional circumstances, be set at 100% of eligible costs provided the following conditions are met:

- The investment proposition is based on a credible business plan that demonstrates financial sustainability
- Options to raise grant funding or borrowing from the private sector should have been fully explored and exhausted
- The asset shall remain in public or community ownership for the full duration of its anticipated lifetime

For publishing of music and literature as defined in paragraph (f) in ‘Eligible Activities’, the maximum subsidy amount shall not exceed either the difference between the eligible costs and the project’s discounted revenues or 70% of the eligible costs. The revenues shall be deducted from the eligible costs ex ante or through a clawback mechanism. The eligible costs shall be the costs for publishing of music and literature, including the authors’ fees (copyright costs), translators’ fees, editors’ fees, other editorial costs (proofreading, correcting, reviewing), layout and pre-press costs and printing or e-publication costs.

### **Eligible Costs**

For investment subsidy, the eligible costs shall be the investment costs in tangible and intangible assets, including:

- a) costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if at least 80% of either the time or the space capacity per year is used for cultural purposes
- b) costs for the acquisition, including leasing, transfer of possession or physical relocation of cultural heritage
- c) costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication
- d) costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors

- e) costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project

For operating subsidy, the eligible costs shall be the following:

- a) the cultural institution's or heritage site's costs linked to continuous or periodic activities including exhibitions, performances and events and similar cultural activities that occur in the ordinary course of business
- b) costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies
- c) costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitisation and of use of new technologies as well as costs of improving accessibility for persons with disabilities
- d) operating costs directly relating to the cultural project or activity, such as rent or lease of real estate, cultural venues, travel expenses, materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan, lease and depreciation of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity; depreciation charges and the costs of financing are only eligible if they have not been covered by investment subsidy
- e) costs for personnel working for the cultural institution or heritage site or for a project
- f) costs for advisory and support services provided by outside consultants and service providers, incurred directly as a result of the project

### **Types of assistance**

Grant, equity or loan.

## **Measure 5.2 Sport and Multifunctional Leisure and Recreation facilities**

### **Eligible activities and special conditions**

A subsidy for sport and multifunctional recreational infrastructures may take the form of:

- a) investment subsidy, including subsidy for the construction or upgrade of sport and multifunctional recreational infrastructure
- b) operating subsidy for sport infrastructure.

Sport infrastructure shall not be used exclusively by a single professional sport user. Use of the sport infrastructure by other professional or non-professional sport users shall annually account for at least 20% of time. If the infrastructure is used by several users simultaneously, corresponding fractions of time capacity usage shall be calculated.

Professional sport means the practice of sport in the nature of gainful employment or remunerated service, irrespective of whether or not a formal labour contract has been established between the professional sportsperson and the relevant sport organisation, where the compensation exceeds the

cost of participation and constitutes a significant part of the income for the sports person. Travel and accommodation expenses to participate to the sport event shall not be considered as compensation. Multifunctional recreational infrastructure shall consist of recreational facilities with a multifunctional character offering, in particular, cultural and recreational services with the exception of leisure parks and hotel facilities.

Access to the sport or multifunctional recreational infrastructures shall be open to several users and be granted on a transparent and non-discriminatory basis. Enterprises which have financed at least 30% of the investment costs of the infrastructure may be granted preferential access under more favourable conditions, provided those conditions are made publicly available.

If sport infrastructure is used by professional sport clubs, HIE shall ensure that the pricing conditions for its use are made publicly available.

Any concession or other entrustment to a third party to construct, upgrade and/or operate the sport or multifunctional recreational infrastructure shall be assigned on an open, transparent and non-discriminatory basis, having due regard to the applicable procurement rules.

### **Subsidy limits**

For investment subsidy for sport and multifunctional recreational infrastructure, the subsidy amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs ex ante, on the basis of reasonable projections, or through a claw-back mechanism.

The subsidy amounts under the scheme are capped at:

- £30m of subsidy or £100m per project of total costs for capital projects; and
- £2m per annum for operating cost subsidies for an individual infrastructure

For operating subsidy for sport infrastructure, the subsidy amount shall not exceed the operating losses over the relevant period. This shall be ensured ex ante, on the basis of reasonable projections, or through a claw-back mechanism.

For subsidy not exceeding £2 million, the maximum amount of grant or grant equivalence may be set at 80% of eligible costs as an alternative to applying the method above.

### **Eligible costs**

For investment subsidy for sport and multifunctional recreational infrastructure the eligible costs shall be the investment costs in tangible and intangible assets.

For operating costs subsidy for sport infrastructure the eligible costs shall be the operating costs of the provision of services by the infrastructure. Those operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, etc., but exclude depreciation charges and the costs of financing if these have been covered by investment subsidy.

## Types of assistance

Grant, equity or loan.

### Measure 5.3 Audio-visual cultural products

#### Eligible activities

Subsidy schemes to support the scriptwriting, development, production, distribution and promotion of audio-visual works.

Subsidy shall support a cultural product. To avoid manifest errors in the qualification of a product as cultural; HIE is required to establish effective processes, such as selection of proposals by one or more persons entrusted with the selection or verification against a predetermined list of cultural criteria.

Subsidy may take the form of:

- a) subsidy to the production of audio-visual works
- b) pre-production subsidy
- c) distribution subsidy

Where it is decided to make the subsidy subject to territorial spending obligations, subsidy schemes for the production of audio-visual works may either:

- a) require that up to 160% of the subsidy granted to the production of a given audio visual work is spent in the territory of the UK; or
- b) calculate the subsidy granted to the production of a given audio-visual work as a percentage of the expenditure on production activities in the UK, typically in case of subsidy schemes in the form of tax incentives

In both cases, it is at HIE's discretion if we require a minimum level of expenditure in the HIE area. For projects to be eligible for subsidy, that level shall not exceed 80% of the overall production budget. For projects to be eligible for subsidy HIE may also require as a condition that a minimum level of production activity takes place within the HIE area, but that level shall not exceed 50% of the overall production budget.

#### Subsidy limits

The subsidy intensity in terms of grant or grant equivalence for the production of audio-visual works shall not exceed the following:

Activity	Subsidy as % of total eligible costs	Comment
Production	50%	
Distribution	50%	
As above when co-funded by an EU Member State	60%	Cross-border productions
"Difficult" works and co-productions involving countries from the OECD's Development Assistance Committee	100%	Subsidy must not be skewed so that production



Activity	Subsidy as % of total eligible costs	Comment
		receives more than 100% eligible costs

Subsidy amounts are capped at £50m per scheme per year under this measure.

**Difficult audio-visual works** means the works identified as such by Member States on the basis of pre-defined criteria when setting up schemes or granting the subsidy and may include films whose sole original version is in a language of a Member State with a limited territory, population or language area, short films, films by first-time and second-time directors, documentaries, or low budget or otherwise commercially difficult works.

Development Assistance Committee (**DAC**) List of the OECD means all countries and territories that are eligible to receive official development assistance and included in the list compiled by the Organisation for Economic Cooperation and Development (OECD).

The subsidy intensity for pre-production shall not exceed 100% of the eligible costs. If the resulting script or project is made into an audio-visual work such as a film, the pre-production costs shall be incorporated in the overall budget and taken into account when calculating the subsidy intensity. The subsidy intensity for distribution shall be the same as the subsidy intensity for production.

#### Eligible costs

The eligible costs shall be the following:

- a) production subsidy: the overall costs of production of audio-visual works including costs to improve accessibility for persons with disabilities
- b) for pre-production subsidy: the costs of scriptwriting and the development of audio-visual works
- c) for distribution subsidy: the costs of distribution and promotion of audio-visual works

#### Types of assistance

Grant or loan.

#### Conditions attaching to the subsidy

Subsidy shall not be reserved for specific production activities or individual parts of the production value chain. Subsidy for film studio infrastructures shall not be eligible under this Measure. Conditions may be imposed that require a proportion of the expenditure on production activities to be made in the Highlands and Islands, in Scotland or in the UK. Details as outlined in the Eligible activities section.

## Annex 1 – Definitions

**Please note that this scheme has been developed by HIE to ensure compliance with the TCA and UK subsidy control obligations when providing subsidies. Although this scheme has adopted some of the terminology used in our former GBER scheme (which was created in accordance with the requirements of the GBER (EU) 651/2014 and the Amending Regulation 2017/1084 (“GBER”), please note that the GBER does not apply to this scheme, nor to any subsidy granted under this scheme. For the avoidance of any doubt, the definitions contained within Article 2 of the GBER do not apply to this scheme.**

Within this scheme guidance we may refer to “beneficiaries”, “undertakings” or “economic actors” or “enterprises” when referring to clients receiving subsidy. In using any of these we align with the definition in the UK-EU Trade and Cooperation Agreement (TCA) for “economic actor”.

1. **“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. If a group of companies, partnership or joint venture concerned in the economic activity are acting together and share the risks and rewards they form part of the single economic entity. However, if they are operating through a supply agreement or service contract which has been competitively tendered the supplier is not considered part of the single economic entity.
2. **‘small and medium-sized enterprises’ or ‘SMEs’** means enterprises fulfilling the criteria laid down in the [EU User Guide to the SME definition](#)
3. **‘large enterprises’** means undertakings not fulfilling the criteria for an SME according to the [EU User Guide to the SME definition](#)
4. **“subsidy”** means public sector assistance (financial and non-financial) as defined in the TCA Title XI, Chapter 3, Article 3.1.b).
5. **‘individual subsidy’** means awards of subsidy to individual beneficiaries on the basis of a registered subsidy scheme
6. **‘subsidy scheme’** means a scheme registered on the UK Government [publicly available website](#) to support the transparency reporting of subsidies made by UK public authorities
7. **‘ad hoc subsidy’** means subsidy not granted on the basis of a subsidy scheme but registered separately on the UK Government transparency database
8. **‘date of granting of the subsidy’** means the date when the legal right to receive the subsidy is conferred on the beneficiary under the applicable national legal regime
9. **‘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 on the outcome of the project
10. **‘gross grant equivalent’** means the amount of the subsidy if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charge
11. **‘undertaking in difficulty’** means an undertaking (see “economic actor” definition above) 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 or subsidy, 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' is a public company limited by shares or guarantee or private companies limited by shares or guarantee

- 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 or subsidy, 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 partnerships, limited partnerships, unlimited companies<sup>1</sup>.
  - 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.
  - d) Where the undertaking has received rescue aid or subsidy and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid or subsidy and is still subject to a restructuring plan.
  - e) In the case of large firms (undertakings that are not SMEs), where, for the past two years:
    - i. the undertaking's book debt to equity ratio has been greater than 7,5 and
    - ii. the undertaking's EBITDA value is less than the cost of interest.
12. **'financial intermediary'** means any financial institution regardless of its form and ownership, including fund-of funds, private equity investment funds, public investment funds, banks, micro-finance institutions and guarantee societies
13. **'quasi-equity investment'** means a type of financing that ranks between equity and debt, having a higher risk than senior debt and a lower risk than common equity and whose return for the holder is predominantly based on the profits or losses of the underlying target undertaking and which are unsecured in the event of default. Quasi-equity investments can be structured as debt, unsecured and subordinated, including mezzanine debt, and in some cases convertible into equity, or as preferred equity
14. **'guarantee'** in the context of this scheme means a written commitment to assume responsibility for all or part of a third party's newly originated loan transactions such as debt or lease instruments, as well as quasi-equity instruments
15. **'risk finance investment'** means equity and quasi-equity investments, loans including leases, guarantees, or a mix thereof to eligible undertakings for the purposes of making new investments
16. **'equity investment'** means the provision of capital to an undertaking, invested directly or indirectly in return for the ownership of a corresponding share of that undertaking
17. **'first commercial sale'** means the first sale by a company on a product or service market, excluding limited sales to test the market
18. **'loan'** means an agreement which obliges the lender to make available to the borrower an agreed amount of money for an agreed period of time and under which the borrower is obliged to repay

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<sup>1</sup> As defined in Annex 2 of the EU Directive 2013/34

the amount within the agreed period. It may take the form of a loan, or another funding instrument, including a lease, which provides the lender with a predominant component of minimum yield. The refinancing of existing loans shall not be an eligible loan.

### Definitions applying Chapter 1

19. **'regional investment'** means subsidy granted for an initial investment or an initial investment in favour of a new economic activity

20. **'initial investment'** means:

- a) an investment in tangible and intangible assets related to the setting-up of a new establishment, extension of the capacity of an existing establishment, diversification of the output of an establishment into products not previously produced in the establishment or a fundamental change in the overall production process of an existing establishment; or
- b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller and excludes sole acquisition of the shares of an undertaking

Note that "establishment" in the context of initial investment is understood as a production unit and not a legal entity. An initial investment is one subsidised by Regional Investment or SME Investment subsidy and no other measures within this or any other HIE subsidy scheme.

21. **'the same or a similar activity'** means an activity falling under the same class (four-digit numerical code) of the NACE Rev. 2 statistical classification of economic activities as laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains

22. **'new economic activity'** in the context of initial investment means:

- a) an investment in tangible and intangible assets related to the setting up of a new establishment, or to the diversification of the activity of an establishment, under the condition that the new activity is not the same or a similar activity to the activity previously performed in the establishment
- b) the acquisition of the assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller, under the condition that the new activity to be performed using the acquired assets is not the same or a similar activity to the activity performed in the establishment prior to the acquisition

Note that "establishment" in the context of initial investment is understood as a production unit and not a legal entity.

23. **'large investment project'** means an initial investment with eligible costs exceeding £42.5 million.

24. **'adjusted subsidy amount'** means the maximum permissible subsidy amount for a large investment project, calculated according to the following formula:

$$\text{Maximum subsidy amount} = R \times (A + 0.5 \times B + 0.34 \times C)$$

where: R is the maximum subsidy intensity applicable in the area concerned, excluding the increased subsidy intensity for SMEs. A is the initial £42.5 million of eligible costs, B is the part of eligible costs between £42.5 million and £85m million, and C is the part of eligible costs above £85 million

25. **'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. An investment is considered irreversible if the financial penalty of cancellation would make it financially better for the applicant to continue with the project without Subsidy then cancel the commitment. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works except in the case where buying land and preparatory works prior to the start of construction or legally binding commitment exceeds the private sector commitment to the project. Where these preliminary costs exceed the private sector contribution it is necessary for an application to have been submitted to satisfy HIE's additionality considerations
26. **'relocation'** means a transfer of the same or similar activity or part thereof from an establishment in another part of the UK or another country to an establishment in the HIE area. There is a transfer if the product or service in the initial and establishment in the HIE area 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
27. **'tangible assets'** means assets consisting of land, buildings and plant, machinery and equipment
28. **'intangible assets'** means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property
29. **'wage cost'** means the total amount actually payable by the beneficiary of the subsidy 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, childcare and parent care costs
30. **'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 in 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 full-time equivalent fractions
31. **'dedicated infrastructure'** means infrastructure that is built for *ex-ante* identifiable undertakings and tailored to their needs
32. **'competitive bidding process'** means a non-discriminatory bidding process that provides for the participation of a sufficient number of undertakings and where the subsidy is granted on the basis of either the initial bid submitted by the bidder or a clearing price. In addition, the budget or volume related to the bidding process is a binding constraint leading to a situation where not all bidders can receive subsidy
33. **'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, for the purpose of this Regulation, 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
34. **'transport'** means transport of passengers by aircraft, maritime transport, road, rail, or by inland waterway or freight transport services for hire or reward
35. **'transport costs'** means the costs of transport for hire or reward actually paid by the beneficiaries per journey, comprising:

- a) freight charges, handling costs and temporary stocking costs, in so far as these costs relate to the journey
  - b) insurance costs applied to the cargo
  - c) taxes, duties or levies applied to the cargo and, if applicable, to the deadweight, both at point of origin and point of destination; and
  - d) safety and security control costs, surcharges for increased fuel costs
36. **'journey'** means the movement of goods from the point of origin to the point of destination, including any intermediary sections or stages within or outside the Member State concerned, made using one or more means of transport
37. **'point of destination'** means the place where the goods are unloaded
38. **'point of origin'** means the place where the goods are loaded for transport
39. **'means of transport'** means rail transport, road freight transport, inland waterway transport, maritime transport, air transport, and intermodal transport
40. **'processing of agricultural products'** means any operation on an agricultural product resulting in a product which is either an agricultural product or food or beverage product listed in the WTO Agreement on Agriculture
41. **'agricultural product'** means the products listed in Annex I to the WTO Agreement on Agriculture
42. **'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
43. **'steel sector'** means all activities related to the production of one or more of the following products:
- a) pig iron and ferro-alloys: pig iron for steelmaking, foundry and other pig iron, spiegeleisen and high-carbon ferro-manganese, not including other ferro-alloys
  - b) crude and semi-finished products of iron, ordinary steel or special steel: liquid steel whether or not cast into ingots, including ingots for forging semi-finished products: blooms, billets and slabs; sheet bars and tinplate bars; hot-rolled wide coils, with the exception of production of liquid steel for castings from small and medium-sized foundries
  - c) hot finished products of iron, ordinary steel or special steel: rails, sleepers, fishplates, soleplates, joists, heavy sections of 80 mm and over, sheet piling, bars and sections of less than 80 mm and flats of less than 150 mm, wire rod, tube rounds and squares, hot-rolled hoop and strip (including tube strip), hot-rolled sheet (coated or uncoated), plates and sheets of 3 mm thickness and over, universal plates of 150 mm and over, with the exception of wire and wire products, bright bars and iron castings;
  - d) cold finished products: tinplate, terneplate, blackplate, galvanised sheets, other coated sheets, cold-rolled sheets, electrical sheets and strip for tinplate, cold-rolled plate, in coil and in strip;
  - e) tubes: all seamless steel tubes, welded steel tubes with a diameter of over 406.4 mm
44. **'synthetic fibres sector'** means:
- a) extrusion/texturisation of all generic types of fibre and yarn based on polyester, polyamide, acrylic or polypropylene, irrespective of their end-uses; or
  - b) polymerisation (including polycondensation) where it is integrated with extrusion in terms of the machinery used; or

- c) any ancillary process linked to the contemporaneous installation of extrusion/texturisation capacity by the prospective beneficiary or by another company in the group to which it belongs and which, in the specific business activity concerned, is normally integrated with such capacity in terms of the machinery used
45. **‘transport sector’** means the transport of passengers by aircraft, maritime transport, road or rail and by inland waterway or freight transport services for hire or reward; more specifically, the ‘transport sector’ means the following activities in terms of NACE Rev. 2:<sup>2</sup>
- a) NACE 49: Land transport and transport via pipelines, excluding NACE 49.32 Taxi operation, 49.42 Removal services, 49.5 Transport via pipeline
  - b) NACE 50: Water transport; including cruise boats and tourism excursion boats
  - c) NACE 51: Air transport, excluding NACE 51.22 Space transport
46. **‘tourism activity’** means the following activities in terms of NACE Rev. 2:
- a) NACE 55: Accommodation
  - b) NACE 56: Food and beverage service activities
  - c) NACE 79: Travel agency, tour operator reservation service and related activities
  - d) NACE 90: Creative, arts and entertainment activities
  - e) NACE 91: Libraries, archives, museums and other cultural activities
  - f) NACE 93: Sports activities and amusement and recreation activities
47. **Shipbuilding and related activity** for the purposes of this scheme
- a) ‘shipbuilding’ means the building of self-propelled commercial vessels
  - b) ‘ship repair’ means the repair or reconditioning of self-propelled commercial vessels
  - c) ‘ship conversion’ means the conversion of self-propelled commercial vessels of not less than 1 000 Gross Tonnes (gt), on condition that conversion operations entail radical alterations to the cargo plan, the shell, the propulsion system or the passenger accommodation
  - d) ‘self-propelled commercial vessel’ means a vessel that, by means of its permanent propulsion and steering, has all the characteristics of self-navigability on the high seas or on inland waterways and belongs to one of the following categories
    - (i) seagoing vessels of not less than 100 gt and inland waterway vessels of equivalent size used for the transportation of passengers and/or goods
    - (ii) seagoing vessels of not less than 100 gt and inland waterway vessels of equivalent size used for the performance of a specialised service (for example, dredgers and ice breakers)
    - (iii) tugs of not less than 365 kW
    - (iv) unfinished shells of the vessels referred to in points (i), (ii) and (iii) that are afloat and mobile
  - e) ‘floating and moving offshore structures’ means structures for the exploration, exploitation or generation of oil, gas or renewable energy that have the characteristics of a commercial vessel except that they are not self-propelled and are intended to be moved several times during their operation.

#### **Definitions applying subsidy for regional airports**

48. **‘airport infrastructure’** means infrastructure and equipment for the provision of airport services by the airport to airlines and the various service providers, including runways, terminals, aprons, taxiways, centralised ground handling infrastructure and any other facilities that directly support

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<sup>2</sup> NACE is the EU equivalent of UK SIC codes

the airport services, excluding infrastructure and equipment which is primarily necessary for pursuing non-aeronautical activities

49. **'airline'** means any airline with a valid operating licence issued by the Civil Aviation Authority
50. **'airport'** means an entity or group of entities performing the economic activity of providing airport services to airlines
51. **'airport services'** means services provided to airlines by an airport or any of its subsidiaries, to ensure the handling of aircraft, from landing to take-off, and of passengers and freight, so as to enable airlines to provide air transport services, including the provision of ground handling services and the provision of centralised ground handling infrastructure
52. **'average annual passenger traffic'** means a figure determined on the basis of the inbound and outbound passenger traffic during the two financial years preceding that in which the subsidy is granted
53. **'centralised ground handling infrastructure'** means infrastructure which is normally operated by the airport manager and put at the disposal of the various providers of ground handling services active at the airport in exchange for remuneration, excluding equipment owned or operated by the providers of ground handling services
54. **'high-speed train'** means a train capable of reaching speeds of over 200 km/h
55. **'ground handling services'** means services provided to airport users at airports
56. **'non-aeronautical activities'** means commercial services to airlines or other users of the airport, including ancillary services to passengers, freight forwarders or other service providers, renting out of offices and shops, car parking and hotels
57. **'regional airport'** means an airport with average annual passenger traffic of up to 3 million passengers

#### **Definitions applying to subsidy for ports**

58. **'port'** means an area of land and water made up of such infrastructure and equipment, so as to permit the reception of waterborne vessels, their loading and unloading, the storage of goods, the receipt and delivery of those goods and the embarkation and disembarkation of passengers, crew and other persons and any other infrastructure necessary for transport operators in the port
59. **'maritime port'** means a port for, principally, the reception of sea-going vessels
60. **'inland port'** means a port other than a maritime port, for the reception of inland waterway vessels
61. **'port infrastructure'** means infrastructure and facilities for the provision of transport related port services, for example berths used for the mooring of ships, quay walls, jetties and floating pontoon ramps in tidal areas, internal basins, backfills and land reclamation, alternative fuel infrastructure and infrastructure for the collection of ship-generated waste and cargo residues
62. **'port superstructure'** means surface arrangements (such as for storage), fixed equipment (such as warehouses and terminal buildings) as well as mobile equipment (such as cranes) located in a port for the provision of transport related port services
63. **'access infrastructure'** means any type of infrastructure necessary to ensure access and entry from land or sea and river by users to a port, or in a port, such as roads, rail tracks, channels and locks
64. **'dredging'** means the removal of sediments from the bottom of the waterway access to a port, or in a port



65. **'alternative fuel infrastructure'** means a fixed, mobile or offshore port infrastructure allowing a port to supply vessels with energy sources such as electricity, hydrogen, biofuels, synthetic and paraffinic fuels, natural gas, including biomethane, in gaseous form (compressed natural gas and liquefied natural gas) and liquefied petroleum gas which serve, at least partly, as a substitute for fossil oil sources in the energy supply to transport and which have the potential to contribute to its decarbonisation and enhance the environmental performance of the transport sector
66. **'vessels'** mean floating structures, whether self-propelled or not, with one or more surface displacement hulls
67. **'sea-going vessels'** mean vessels other than those which navigate solely or mainly in inland waterways or in waters within, or closely adjacent to, sheltered waters
68. **'inland waterway vessels'** mean vessels intended solely or mainly for navigation on inland waterways or in waters within, or closely adjacent to, sheltered waters
69. **'infrastructure for the collection of ship-generated waste and cargo residues'** means fixed, floating or mobile port facilities capable of receiving ship-generated waste or cargo residues

### Definitions applying Chapter 2

70. **"innovative enterprise"** means an enterprise:
- that can demonstrate, by means of an evaluation carried out by an external expert that it will in the foreseeable future develop products, services or processes which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure, or
  - the research and development costs of which represent at least 10 % of its total operating costs in at least one of the three years preceding the granting of the subsidy or, in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period, as certified by an external auditor;
71. **'worker with disabilities'** means any person who:
- is recognised as worker with disabilities under national law; or
  - has long-term physical, mental, intellectual or sensory impairment(s) which, in interaction with various barriers, may hinder their full and effective participation in a work environment on an equal basis with other workers;
72. **'disadvantaged worker'** means any person who:
- has not been in regular paid employment for the previous 6 months; or
  - is between 15 and 24 years of age; or
  - has not attained an upper secondary educational or vocational qualification (International Standard Classification of Education 3) or is within two years after completing full-time education and who has not previously obtained his or her first regular paid employment; or
  - is over the age of 50 years; or
  - lives as a single adult with one or more dependents; or
  - works in a sector or profession in a Member State where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors in that Member State, and belongs to that underrepresented gender group; or
  - is a member of an ethnic minority within a Member State and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment
73. **'severely disadvantaged worker'** means any person who:

- a) has not been in regular paid employment for at least 24 months; or
  - b) has not been in regular paid employment for at least 12 months and belongs to one of the categories (b) to (g) mentioned under the definition of 'disadvantaged worker'
74. **'sheltered employment'** means employment in an undertaking where at least 30 % of workers are workers with disabilities

### **Definitions applying to Chapter 3**

75. **'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. Undertakings 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
76. **'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
77. **'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
78. **'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
79. **'feasibility study'** means the evaluation 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

80. **'personnel costs'** means the costs of researchers, technicians and other supporting staff to the extent employed on the relevant project or activity
81. **'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
82. **'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
83. **'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 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)
84. **'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, non-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 undertakings and other organisations in the cluster;
85. **'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
86. **'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
87. **'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
88. **'organisational innovation'** means the implementation of a new organisational method in an undertaking's business practices, workplace organisation or external relations, excluding changes that are based on organisational methods already in use in the undertaking, 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
89. **'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

90. **'secondment'** means temporary employment of staff by a beneficiary with the right for the staff to return to the previous employer

#### **Definitions applying to Chapter 4**

91. **'environmental protection'** means any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary's own activities, to reduce risk of such damage or to lead to a more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy
92. **'energy efficiency'** means an amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy-efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption
93. **'energy efficiency project'** means an investment project that increases the energy efficiency of a building
94. **'energy efficiency fund (EEF)'** means a specialised investment vehicle set up for the purpose of investing in energy efficiency projects aimed at improving the energy efficiency of buildings in both the domestic and non-domestic sectors. EEFs are managed by an energy efficiency fund manager
95. **'energy efficiency fund manager'** means a professional management company with a legal personality, selecting and making investments in eligible energy efficiency projects
96. **'energy from renewable energy sources'** means energy produced by plants using only renewable energy sources, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources. It includes renewable electricity used for filling storage systems, but excludes electricity produced as a result of storage systems
97. **'renewable energy sources'** means the following renewable non-fossil energy sources: wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases
98. **'biofuel'** means liquid or gaseous fuel for transport produced from biomass
99. **'sustainable biofuel'** means a biofuel fulfilling sustainability criteria
100. **'food-based biofuel'** means a biofuel produced from cereal and other starch rich crops, sugars and oil crops
101. **'biomass'** means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as biogases and the biodegradable fraction of industrial and municipal waste
102. **'contaminated site'** means a site where there is a confirmed presence, caused by man, of hazardous substances of such a level that they pose a significant risk to human health or the environment taking into account current and approved future use of the land
103. **'polluter pays principle'** or **'PPP'** means that the costs of measures to deal with pollution should be borne by the polluter who causes the pollution
104. **'pollution'** means the damage caused by a polluter directly or indirectly damaging the environment, or by creating conditions leading to such damage to physical surroundings or natural resources

105. **'polluter'** means someone who directly or indirectly damages the environment or who creates conditions leading to such damage.
106. **'re-use'** means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived
107. **'preparing for re-use'** means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing
108. **'recycling'** means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations
109. **'state of the art'** means a process in which the re-use of a waste product to manufacture an end product is economically profitable normal practice. Where appropriate, the concept of state of the art must be interpreted from a Union technological and internal market perspective

#### **Definitions applying to Chapter 5**

110. **'professional sport'** means the practice of sport in the nature of gainful employment or remunerated service, irrespective of whether or not a formal labour contract has been established between the professional sportsperson and the relevant sport organisation, where the compensation exceeds the cost of participation and constitutes a significant part of the income for the sportsperson. Travel and accommodation expenses to participate to the sport event shall not be considered as compensation
111. **'Reasonable profit'** shall be determined with respect to the typical profit for the sector concerned. In any event, a rate of return on capital that does not exceed the relevant swap rate plus a premium of 100 basis points will be considered to be reasonable
112. **'difficult audio-visual works'**: means the works identified as such by the UK on the basis of pre-defined criteria when setting up schemes or granting the subsidy and may include films whose sole original version is in a language of the UK with a limited territory, population or language area, short films, films by first-time and second-time directors, documentaries, or low budget or otherwise commercially difficult works
113. **Development Assistance Committee (DAC)** is a list of the OECD: means all countries and territories that are eligible to receive official development assistance and included in the list compiled by the Organisation for Economic Cooperation and Development (OECD);

Annex 2: Assessment of how individual subsidies comply with UK-EU Trade and Cooperation Agreement principles.

For subsidies in scope of the UK-EU Trade and Cooperation Agreement principles (subsidies Title XI, Chapter 3), public authorities are required to complete the table below and retain for their records. The information records how HIE has complied with the principles in designing this subsidy scheme.

<b>Scheme name:</b>	HIE Economic Development Subsidy Scheme – Extended to 31 December 2027
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<b>Principles</b>	<b>How does the subsidy comply with the principle?</b>
The subsidy pursues a specific public policy objective to remedy an identified market failure or to address an equity rationale such as social difficulties or distributional concerns (“the objective”).	<p>This scheme will be the principal instrument under which HIE will grant subsidy in pursuit of our economic development objectives. These can be view on our <a href="#">website</a>; key documents being HIE Strategy 2019-2022, its successor and our Operating Plans which are influenced by Scotland’s National Strategy for Economic Transformation (NSET). HIE’s remit includes economic and community development across the north and west of Scotland. Our strategic priorities are:</p> <ul style="list-style-type: none"> <li>• Building successful, productive and resilient businesses</li> <li>• Creating the conditions for growth and a green recovery</li> <li>• Enabling strong, capable and resourceful communities</li> </ul> <p>Putting people and place at the heart of our activities delivered through investment, partnership and collaboration.</p> <p>To support the coronavirus recovery and rising costs challenges our current focus is on action for jobs and communities; population growth and contributing to net zero targets. We will achieve this by supporting:</p> <ul style="list-style-type: none"> <li>• Business resilience, growth and job creation in our priority sectors – tourism, food and drink, energy, blue economy, space, life sciences and advanced manufacturing.</li> <li>• Just Transition to net zero and green jobs.</li> </ul>

Principles	How does the subsidy comply with the principle?
	<ul style="list-style-type: none"> <li>• Labour market resilience, new and fairer jobs with opportunities for young people.</li> <li>• Enabling infrastructure to underpin recovery, attract and retain talent.</li> <li>• Place-based approaches to wellbeing and community wealth building.</li> </ul> <p>Each application under the scheme will be assessed for <b>strategic fit and impact</b> and individual subsidy awards will be based on the result of this analysis.</p>
<p>The subsidy is proportionate and limited to what is necessary to achieve the objective.</p>	<p>The intervention limits set for measures within this scheme are similar to those under our previous GBER scheme to remain reasonably aligned with the non-distortive EU exemptions.</p> <p>Individual applications under the scheme will be subject to an appropriate level of <b>financial due diligence</b> according to value and risk. HIE’s financial appraisal will review the position of each applicant to ensure any subsidy is the <b>minimum amount necessary</b> to incentivise the development. Financial due diligence will assess their <b>financial strength</b> through historic and current performance of the applicant, future projections, scrutiny of the project costs for eligibility and <b>value for money</b> and other sources of commercial or public support that should be accessed before HIE plugs the gap.</p>
<p>The subsidy is designed to bring about a change of economic behaviour of the beneficiary that is conducive to achieving the objective and that would not be achieved in the absence of the subsidy being provided.</p>	<p>HIE will assess <b>additionality</b> in each application for financial assistance. Applicants will have to demonstrate that HIE support will bring about a material inducement to them proceeding with the project whether this be classed as:</p> <ul style="list-style-type: none"> <li>• Absolute – they would not proceed at all</li> <li>• Timing – it would take much longer to achieve and outputs would be lost</li> <li>• Scale – the project would be less ambitious with reduction in the objective’s outcomes</li> <li>• Quality – inferior technology, materials or other resources would reduce the impact.</li> </ul>

Principles	How does the subsidy comply with the principle?
The subsidy should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.	Financial appraisal procedures and scrutiny of the activity and project costs will ensure that operating expenses and costs that represent <b>normal everyday business expenses are not supported by subsidy</b> . Eligible costs will be restricted to capital, revenue or working capital costs associated with a new and specific development project.
The subsidy is an appropriate policy instrument to achieve a public policy objective and that objective cannot be achieved through other less distortive means.	HIE has a range of support tools available under our powers in Section 8 of the Enterprise and New Towns (Scotland) Act 1990 as amended 1 April 2001 by Scottish Statutory Instrument 2001 No 126. Our intervention options include loans, equity or guarantees (subject to Scottish Government agreement), grants (including repayable and interest relief grants), free or subsidised services normally linked to business skills training. Each application for assistance requires an <b>options appraisal</b> to confirm that the subsidy recommendation is the most <b>appropriate solution</b> to achieve the objective.
The subsidies' positive contributions to achieving the objective outweigh any negative effects, in particular the material effect on trade or investment between the Parties.	Due diligence on each application will look at <b>market assessment</b> , potential <b>displacement and impact on competitors within the UK and EU</b> . For larger or higher risk projects an independent <b>economic impact assessment</b> will be commissioned. Particular scrutiny will be applied to large enterprises, inward investments and sensitive sectors which are more likely to have a <b>material impact on EU competitors</b> .
Where relevant, record consideration against Article 3.5 [Prohibited subsidies and subsidies subject to conditions], including consideration of whether that subsidy has or could have a material effect on trade or investment between the Parties.	In line with HIE's normal policy, the scheme will not: <ul style="list-style-type: none"> <li>• Offer subsidy in the form of <b>unlimited guarantees</b>;</li> <li>• Subsidise <b>operating expenses linked to export performance</b>; or</li> <li>• Make any subsidy conditional on use of <b>domestic content</b> in goods or services.</li> </ul>



<b>Principles</b>	<b>How does the subsidy comply with the principle?</b>
	Subsidies subject to conditions in Article 3.5 of the TCA will not be routed through this scheme but would be treated as ad hoc awards.