

Detailed rules applicable to the Highlands & Islands Enterprise Financial Support to Businesses covered by the EU State Aid General Block Exemption Regulation: Commission Regulation (EC) No 800/2008.

Revised to reflect the change in Assisted Area designation that applied from 01.01.2011 (European Commission Communication on aid ceilings in Statistical Effect Regions, published in the Official Journal: 2010/C 222/2 of 17.08.2010).

1. Introduction

Highlands and Islands Enterprise (HIE) is subject to rules and regulations set by the European Commission (EC) on all European Union (EU) member states concerning State aid. We have agreed with the EC to operate a set of funding schemes for our assistance to businesses, individuals and communities which incorporate all necessary rules and regulations. HIE implements this scheme under powers awarded to it under the **Enterprise and New Towns (Scotland) Act 1990**, as amended 1 April 2001 by Scottish Statutory Instrument 2001 No 126

2. Duration of the Scheme

The scheme operates from January 5 2009 to 31 December 2013. The designation of the Highlands & Islands as an Assisted Area meeting the requirements under Article 87(3) (a) to the EU Treaty was reviewed by 31/12/2010, when maximum aid intensities for Regional aid were reduced by 10%. This meant that for large firms the ceiling was reduced from 30% to 20%.

3. Who can apply

HIE financial assistance under this General Block Exemption State aid scheme is available in principle to all enterprises in all sectors, subject to certain specific restrictions as to sector, location within the H&I and / or firm size as indicated in the detailed rules below. An enterprise is any person or legal entity that carries out a commercial activity, including non profit-distributing organisations.

4. Eligibility

Successful applicants will have been able to demonstrate the following:

- The project will deliver commercial benefits to the enterprise and to the HIE area.
- The project would not be able to proceed at all, or not at the same scale or speed without public assistance.
- The enterprise has the capacity to implement the project effectively to enhance its future competitiveness.

The primary agricultural sector and the entire fisheries sector may only be assisted towards training under this scheme. These sectors may be assisted under the rules for their sectors.

Research, development and innovation investment may be assisted under another scheme that has been approved for this purpose.

Aid is not permitted for export activity where the aid is directly linked to the quantities exported, to the operation of a distribution network for exports or for other operating costs linked to the export activity.

Any undertaking which has been the subject of a European Commission Decision declaring illegal and incompatible aid and which is subject to an outstanding recovery order is not eligible for State aid assistance.

Any undertaking that complies with the EU definition of a “firm in difficulty” shall not be eligible for State aid assistance under this scheme.

5. Definitions

Assisted Area. The Highlands & Islands assisted area as defined in the UK assisted Areas Decision published in the Official Journal of the EU on 10.03.2007 ([JOCE C/55/2007](#)). The reduction in Regional Aid ceilings was announced in the European Commission Press Release IP/10/976 of 20 July 2010.

http://ec.europa.eu/community_law/state_aids/comp-2006/n673-06-cor.pdf

The area equates to the European NUTS II area at 20 December 2006, which is the current area of HIE excluding part of Moray Council area east of Forres. The area incorporates all of the local authority areas of; Highland, Orkney, Shetland, Comhairle Nan Eilean Siar, as well as west Moray, Argyll except for a part near Helensborough, and the islands of Arran and the Cumbraes in North Ayrshire.

SME. Small and Medium sized Enterprise. An SME has less than 250 full time equivalent employees and has an annual turnover not exceeding 50 million EUROS and/or an annual balance sheet total not exceeding 43 million EUROS. These criteria must be applied to the company as a whole, including subsidiaries. Within this definition, a **Small Enterprise** has fewer than 50 employees and whose annual turnover and/or annual balance sheet does not exceed 10 million EUROS. Specific definitions apply for counting the turnover, balance sheet and employees of linked enterprises. The full definition can be seen at in the EU Official Journal L 124, 20.5.2003, p. 36–41 at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003H0361:EN:HTML>

Large Firm. An enterprise not meeting the definition of an SME above.

An undertaking “in difficulty”. Before HIE can consider financial assistance, it is necessary first to satisfied that the enterprise is not classed as “a firm in difficulty”. The definition of this concept is whether through its own resources or with the funds that it is able to obtain from its owners/shareholders or creditors, to stem losses which, without outside intervention by the public authorities, will almost certainly condemn it to go out of business in the short or medium term. In particular, in the case of a limited or unlimited company, where more than half of its registered capital has disappeared since difficult trading conditions were experienced and more than one quarter of that capital has been lost over the preceding 12 months then the enterprise would be “in difficulty” automatically. The registered capital is taken as the net worth of the business, from the balance sheet.

6. Calculation of maximum assistance levels (aid intensity) and documentation of eligible costs.

The aid intensities referred to in the detailed rules below are calculated as the grant (or grant equivalence of a subsidy) as a proportion of eligible costs. No deduction for tax or any other charge is made. Aid payable in several instalments shall be discounted to its value at the moment of granting. The discount rate used in grant equivalence and for present value calculations is the EU Reference and Discount Rate (http://ec.europa.eu/competition/state_aid/legislation/reference_rates.html) according to

the procedures in the EU Regional Aid guidelines paragraph 41(Official Journal 2006 C 54/08, 04/03/2006):
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:054:0013:0044:EN:PDF>)

The eligible costs shall be supported by documentary evidence which shall be clear and itemised.

7. Cumulation with other assistance.

The maximum aid intensity applies to the combined State aid value of all forms of public support, including EU funding.

Aid under this scheme may be cumulated with other categories of aid under this General Block Exemption Regulation provided that they concern different eligible costs. These may have different grant ceilings, as for example when SME investment aid for machinery is cumulated with aid for vehicles which go beyond community standards.

Aid under the GBE Regulation powers may be cumulated with other aid or De Minimis aid towards the same or partly overlapping eligible costs under the restricted circumstances where the resulting cumulation would not exceed the permitted maximum intensity under this scheme. Under no circumstances can aid be cumulated with other aid under this GBE Regulation or De Minimis aid if the resulting intensity of aid to the eligible costs exceeds the limits of this scheme.

8. Evidence of an incentive effect for Large Firms.

Large forms shall only be eligible for assistance if work has not started before an application has been submitted and also provided that documentary evidence has been provided prior to an offer of aid for the project that at least one of the following conditions exist:

1. a material increase in the size of the project due to the aid:
2. a material increase in the scope of the project due to the aid:
3. a material increase in the total amount spent by the beneficiary on the project due to the aid:
4. a material increase in the size of the project due to the aid:
5. a material increase in the speed of completion of the project due to the aid:

9. Evidence of an incentive effect for SMEs.

SMEs shall be judged to demonstrate a sufficient incentive effect of the aid if the work on the project has not commenced before an application for assistance has been submitted to HIE.

10. Specific rules for regional investment aid and employment aid.

10.1 Eligible costs shall be for any of the following purposes:

- The setting up of a new establishment;
- The extension of an existing establishment;
- The diversification of the output of an establishment into new additional products;
- The fundamental change in the overall process of an existing establishment
- 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: 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.

Note: The sole acquisition of the shares of an undertaking shall not constitute investment.

10.2 Geographic eligibility.

The assets or the employment aided must be permanently based within the Highlands & Islands Assisted area as listed in the UK Assisted Areas 2007-2013 decision. The designation of the Highlands & Islands as an assisted area under Article 87(3) (a) to the EU Treaty is due to be reviewed by 31/12/2010 and may therefore change for the period 01.01.2011 to 31.12.2013.

10.3 Sectoral eligibility.

The following restrictions apply:

In the **COAL** sector no Regional aid shall be given.

In the **fisheries and aquaculture** sector, no Regional aid shall be given.

Aid for the **primary production of agricultural products** shall not receive Regional aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

In the **STEEL** sector no Regional aid shall be given.

In the **SHIPBUILDING** sector no Regional aid shall be given.

In the **SYNTHETIC FIBRES** sector no Regional aid shall be given.

10.4 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs for the period until 31.12.2010. The designation of the Highlands & Islands as an assisted area under Article 87(3) (a) to the EU Treaty is due to be reviewed by 31/12/2010 and may therefore change for the period 01.01.2011 to 31.12.2013. If the region meets the criteria for 87(3) (a) designation at the review, then aid ceilings will not be changed.

	Small Enterprises	Medium-Sized Enterprises	Large Enterprises
Large investment projects: (eligible costs above €50 million) and not exceeding in grant and grant equivalent the sum of €22.5 million	20%	20%	20%
Projects in the transport sector	20%	20%	20%
Investments with up to €50 million of eligible cost	40%	30%	20%
Processing and marketing of agricultural products listed in Annex 1 to the EU Treaty for firms with less than 750 jobs and/or less than €200m turnover calculated according to the	50%	50%	25% note the enterprise size limit in left column

Large projects where the aid amount would exceed €22.5 million must be separately notified to the Commission and therefore are not eligible under this scheme.

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.

10.5 Eligible Costs (one or more of the following)

- Tangible assets – land, buildings, equipment.
- Intangible assets, up to 100% of eligible costs for SMEs and not exceeding 50% of eligible costs for large firms.
- Two years of estimated wage costs of additional employment created directly by the investment project, compared to the number of jobs present in the previous 12 months before the investment began. Jobs to be counted are those created in the first three years following completion of the investment
- Acquisition of an existing establishment. Only the costs of buying assets from third parties shall be considered, provided that the transaction has taken place under market conditions.
- Equipment lease costs. As an alternative to conventional purchase, and provided that the lease contains an obligation to purchase the asset at the expiry of the term.
- Land and buildings lease costs, provided the lease term exceeds 5 years in case of large firms and 3 years for SMEs.

The calculation of aid ceilings may be on the basis of assets only, wages only or a combination of the two provided that the resulting aid does not exceed the most favourable amount from the calculation based on either wages or assets.

10.6 Conditions attaching to the State aid.

1. State aid provided for tangible assets that are sold or moved outwith the assisted area shall be repaid 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.
2. When wage costs are used as the eligible costs, the employment so created shall be maintained during a minimum of 5 years for large firms and 3 years for SMEs.
3. Intangible assets shall be used exclusively in the establishment being assisted by the undertaking receiving the aid.
4. Intangible assets shall be regarded as amortizable assets in the formal accounts of the beneficiary.
5. Intangible assets must be purchased from third parties under market conditions, without the acquirer being in a position to have decisive control on the seller or vice versa by virtue of acquisition or by rights or contract.
6. 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.

11. Specific rules for SME investment aid and employment aid.

11.1 Eligible costs shall be for any of the following purposes:

- The setting up of a new establishment;
- The extension of an existing establishment;
- The diversification of the output of an establishment into new additional products;
- The fundamental change in the overall process of an existing establishment;
- 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: 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.

Note: The sole acquisition of the shares of an undertaking shall not constitute investment.

11.2 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area. Due to the SME supplements available under Regional aid (section 10 above) these powers only apply in the non-Assisted part of the HIE area – that is, those parts of Moray out side of the UK Assisted area for the Highlands & Islands.

11.3 Sectoral eligibility.

The following restrictions apply:

In the **COAL** sector this category of aid shall not be given.

In the **fisheries and aquaculture** sector, this category of aid shall not be given.

Aid for the **primary production of agricultural products**, shall not receive this category of aid.

Aid for the **processing and marketing of agricultural** products may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

11.4 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs:

	Small Enterprises	Medium-Sized Enterprises
Investments with up to €7.5 million of grant and grant equivalent aid per undertaking per investment project	20%	10%
Processing and marketing of agricultural products listed in Annex 1 to the EU Treaty for firms with less than 750 jobs and/or less than €200m turnover calculated according to the EU SME definition.	50%	50%

Investments by SMEs outside of the assisted must be individually notified to the Commission if the aid would exceed €7.5 million and are therefore not eligible under this scheme.

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.

11.5 Eligible Costs (one or more of the following)

- Tangible assets – land, buildings, equipment.
- Intangible assets, up to 100% of eligible costs for SMEs and not exceeding 50% of eligible costs for large firms.
- Two years of estimated wage costs of additional employment created directly by the investment project, compared to the number of jobs present in the previous 12 months before the investment began. Jobs to be counted are those created in the first three years following completion of the investment.
- Acquisition of an existing establishment. Only the costs of buying assets from third parties shall be considered, provided that the transaction has taken place under market conditions.
- Equipment lease costs. As an alternative to conventional purchase, and provided that the lease contains an obligation to purchase the asset at the expiry of the term.
- Land and buildings lease costs, provided the lease term is at least 3 years.

The calculation of aid ceilings may be on the basis of assets only, wages only or a combination of the two provided that the resulting aid does not exceed the most favourable amount from the calculation based on either wages or assets.

11.6 Conditions attaching to the State aid.

1. State aid provided for tangible assets that are sold or moved outwith the assisted area shall be repaid if the sale or transfer takes place within 3 years from the completion of the investment.
2. When wage costs are used as the eligible costs, the employment so created shall be maintained during a minimum of 3 years.
3. Intangible assets shall be used exclusively in the establishment being assisted by the undertaking receiving the aid.
4. Intangible assets shall be regarded as amortizable assets in the formal accounts of the beneficiary.
5. Intangible assets must be purchased from third parties under market conditions, without the acquirer being in a position to have decisive control on the seller or vice versa by virtue of acquisition or by rights or contract.
6. Intangible assets shall be included in the assets of the beneficiary for at least 3 years.

12. Specific rules for newly created small enterprises

12.1 Eligible costs shall be for any of the following purposes:

The costs actually incurred in the first five years from creation of the undertaking for the start up and expansion of a small enterprise (refer to paragraph 6, i.e. less than 50 jobs and < €10m turnover or balance sheet etc).

12.2 Geographic eligibility.

The beneficiary must be permanently based within the Highlands & Islands Assisted Area.

12.3 Sectoral eligibility.

The following restrictions apply:

In the **COAL** sector this category of aid shall not be given.

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural** products may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

12.4 Ownership restriction.

Small enterprises controlled by shareholders of undertakings that have closed down in the previous 12 months cannot benefit from this category of aid if the enterprises concerned are active in the same market or in adjacent markets.

12.5 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs:

Small Enterprises	
Within the Highlands & Islands Assisted Area	<€1 million* at 25% of eligible costs in years 1,2&3 and 15% of costs in years 4&5
Outside of the H&I Assisted Area (eastern parts of Moray)	€0

***Annual amounts** of aid paid to the beneficiary undertaking shall not exceed €330,000

12.6 Eligible Costs (one or more of the following)

- Legal, advisory, consultancy and administrative costs directly related to the creation of the Small Enterprise.
- Interest on external finance and a dividend on own capital employed not exceeding the EU Discount and Reference rate applicable at the time.
- Fees for renting production facilities (equipment, buildings, etc).
- Energy, water, heating, taxes (other than VAT and Corporate taxes on business income) and administrative charges.
- Depreciation, fees for leasing production facilities as well as wage costs, provided they that the underlying investments or job creation and recruitment measures have not benefited from other aid.

12.7 Conditions attaching to the State aid.

1. The eligible costs relating to the running of the undertaking must be actually incurred during the first five years after the creation of the undertaking.

13. Specific rules for Aid for Small Enterprises newly created by Female entrepreneurs

13.1 Eligible applicants.

Small Enterprises (as in paragraph 5) newly created by female entrepreneurs.

13.2 Geographic eligibility.

No restrictions, except that the beneficiary must be permanently based within the Highlands & Islands Enterprise Area.

13.3 Sectoral eligibility.

The following restrictions apply:

In the **COAL** sector this category of aid shall not be given.

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

13.4 Ownership restriction.

Small enterprises controlled by shareholders of undertakings that have closed down in the previous 12 months cannot benefit from this category of aid if the enterprises concerned are active in the same market or in adjacent markets.

13.5 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs

Small Enterprises	
Anywhere Within the Highlands & Islands Enterprise Area	<€1 million* at 15% of eligible costs in the first 5 years after creation of the undertaking

***Annual amounts** of aid paid to the beneficiary undertaking shall not exceed €330,000

13.6 Eligible Costs (one or more of the following)

- Legal, advisory, consultancy and administrative costs directly related to the creation of the Small Enterprise.

- Interest on external finance and a dividend on own capital employed not exceeding the EU Discount and Reference rate applicable at the time.
- Fees for renting production facilities (equipment, buildings, etc).
- Energy, water, heating, taxes (other than VAT and Corporate taxes on business income) and administrative charges.
- Depreciation, fees for leasing production facilities as well as wage costs, provided they that the underlying investments or job creation and recruitment measures have not benefited from other aid.
- Child care and parent care costs including, where applicable, costs relating to parental leave.

13.7 Conditions attaching to the State aid.

The eligible costs relating to the running of the undertaking must be actually incurred during the first five years after the creation of the undertaking.

14. Specific rules for Investment aid enabling undertakings of any size to go beyond Community standards for environmental protection, including transport vehicles which have the same effect.

14.1 Eligible costs shall be for any of the following purposes:

- To enable the beneficiary to increase the level of environmental protection resulting from its activities by going beyond the applicable Community standards, irrespective of the presence of mandatory UK standards that are more stringent than the Community standards.
- To enable the beneficiary to increase the level of environmental protection resulting from its activities in the absence of Community standards.
- Aid for the acquisition of new transport vehicles for road, railway, inland waterway and maritime transport complying with adopted Community standards, provided such acquisition occurs before the community standards enter into force and where, once mandatory, they do not apply retrospectively to vehicles already purchased.
- Aid for the retrofitting costs of existing transport vehicles if the existing vehicles are upgraded to environmental standards that were not yet in force at the date of entry into operation of those vehicles, or if the vehicles not subject to any environmental standards.
- Aid for the management of waste **of other undertakings** shall not be permitted under this category of aid.

Aid for improvements to ensure that undertakings comply with Community standards already adopted and not in force shall not be permitted under this category of aid.

14.2 Specific definitions.

‘Environmental Protection’ means any action designed to remedy or prevent damage to physical surroundings or natural resources by the beneficiaries 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 renewable sources of energy;

‘Energy saving measures’ mean action which enables undertakings to reduce the amount of energy used notably in their production cycle;

‘EU standard’ means:

- (a) a mandatory EU standard setting the levels to be attained in environmental terms by individual undertakings, or
- (b) the obligations under EU Directive 2008/1/EC of the European Parliament and of the Council to use the best available techniques as set out in the most recent relevant information published by the European Commission pursuant to Article 17(2) of that Directive.

‘Renewable energy sources’ means the following renewable non-fossil energy sources: wind, solar, geothermal, wave, tidal, hydro power installations, biomass, landfill gas, sewage treatment plant gas and biogases;

‘Biofuels’ means liquid fuel for transport produced from biomass.

14.3 Geographic eligibility.

The beneficiary must be permanently based within the Highlands & Islands Enterprise Area.

14.4 Sectoral eligibility.

The following restrictions apply:

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

14.5 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs:

	Large Enterprises	Medium sized Enterprises	Small Enterprises
For all eligible projects	35%	45%	55%

14.6 Eligible Costs (one or more of the following)

(A) The extra investment costs necessary to achieve a level of environmental protection higher than the level required by the Community standards concerned, without taking account of operating benefits and operating costs.

(B) For the purposes of establishing the extra costs as in (A) above, they shall be established by reference to the ‘counterfactual situation’ as below.

- Where the cost of investing in environmental protection can be easily identified in the total investment cost, this precise environmental protection-related cost shall constitute the eligible costs;
- In all other cases, the extra investment costs shall be established by comparing the investment with the counterfactual situation in the absence of State aid; the correct counterfactual shall be the cost of a technically comparable investment that provides a lower degree of environmental protection (corresponding to mandatory Community standards, if they exist) and that would credibly be realised without aid (‘reference investment’); technically comparable investment means an investment with the same

production capacity and all other technical characteristics (except those directly related to the extra investment for environmental protection); in addition, such a reference investment must, from a business point of view, be a credible alternative to the investment under assessment.

(C) Tangible assets and/or intangible assets.

(D) Where the undertaking adapts to or goes beyond national standards adopted in the absence of Community standards, the eligible costs shall consist of the additional investment costs necessary to achieve the level of environmental protection required by the national standards.

(E) Where no standards exist, the eligible costs shall consist of the investment costs necessary to achieve a level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid.

14.7 Conditions attaching to the State aid.

There are no State aid conditions apart from the eligibility criteria.

16. Specific rules for Aid for the early adaptation to future Community environmental protection standards for SMEs

15.1 Eligible costs shall be for the following purpose:

- To enable SMEs to comply with new Community standards which increase the level of environmental protection at least one year before the new standard enters into force

15.2 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area.

15.3 Sectoral eligibility.

The following restrictions apply:

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

15.4 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs

	Medium sized Enterprises	Small Enterprises
Investments implemented at least three years before the standard enters into force	10%	15%
Investments implemented between 1 and three years before the standard enters into force	0%	10%

15.6 Eligible Costs

The extra investment costs necessary to achieve a level of environmental protection higher than the level required by the Community standards compared to the existing level of environmental protection required prior to the entry into force of this standard.

For the purposes of establishing the extra costs as above, they shall be established by reference to the 'counterfactual situation' as below.

- Where the cost of investing in environmental protection can be easily identified in the total investment cost, this precise environmental protection-related cost shall constitute the eligible costs;
- In all other cases, the extra investment costs shall be established by comparing the investment with the counterfactual situation in the absence of State aid; the correct counterfactual shall be the cost of a technically comparable investment that provides a lower degree of environmental protection (corresponding to mandatory Community standards, if they exist) and that would credibly be realised without aid ('reference investment'); technically comparable investment means an investment with the same production capacity and all other technical characteristics (except those directly related to the extra investment for environmental protection); in addition, such a reference investment must, from a business point of view, be a credible alternative to the investment under assessment.

15.7 Conditions attaching to the State aid.

The Community standard shall have been adopted and the investment shall be implemented and finalised at least one year before the date of entry into force of the standard concerned.

16. Specific rules for Environmental investment aid for undertakings of all sizes for the extra costs of energy saving measures.

16.1 Eligible costs shall be for the following purpose:

To enable the beneficiary achieve energy savings beyond the level required by the Community standards.

16.2 Specific definitions.

'Energy saving measures' mean action which enables undertakings to reduce the amount of energy used notably in their production cycle;

'EU standard' means:

- (c) a mandatory EU standard setting the levels to be attained in environmental terms by individual undertakings, or
- (d) the obligations under EU Directive 2008/1/EC of the European Parliament and of the Council to use the best available techniques as set out in the most recent relevant information published by the European Commission pursuant to Article 17(2) of that Directive

16.3 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area.

16.4 Sectoral eligibility.

The following restrictions apply:

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

16.5 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs

	Large Enterprises	Medium sized Enterprises	Small Enterprises
For projects whose eligible costs are calculated net of operating benefits & costs	60%	70%	80%
For projects whose eligible costs are calculated on the basis of extra costs alone	20%	30%	40%

16.6 Eligible Costs (one or more of the following)

Eligible costs may be calculated by one of the two methods below:

(1) The extra investment costs necessary to enable the beneficiary achieve energy savings beyond the level required by the Community standards.

For the purposes of establishing the extra costs as in (1) above, they shall be established by reference to the 'counterfactual situation' as below.

- Where the cost of investing in energy saving can be easily identified in the total investment cost, this precise energy saving-related cost shall constitute the eligible costs;
- In all other cases, the extra investment costs shall be established by comparing the investment with the counterfactual situation in the absence of State aid; the correct counterfactual shall be the cost of a technically comparable investment that provides a lower degree of energy saving (corresponding to mandatory Community standards, if they exist) and that would credibly be realised without aid ('reference investment'); technically comparable investment means an investment with the same production capacity and all other technical characteristics (except those directly related to the extra investment for energy saving); in addition, such a reference investment must, from a business point of view, be a credible alternative to the investment under assessment.

(2) The extra investment costs necessary to achieve energy savings beyond the level required by the Community standards and calculated net of any operating costs and benefits related to the investment costs for a specific period as follows:

- In the case of **large enterprises** that are not part of the EU carbon dioxide Emission Trading System, the period is the first four years in the life of the investment.
- In the case of **large enterprises** that are part of the EU carbon dioxide Emission Trading System, the period is the first five years in the life of the investment.
- In the case of **large enterprises** that are part of the EU carbon dioxide Emission Trading System and where the depreciation time can be demonstrated not to exceed three years, the period is the first three years in the life of the investment.
- In the case of **SMEs**, the period is the first three years in the life of the investment.

(D) Where the undertaking adapts to or goes beyond national standards adopted in the absence of Community standards, the eligible costs shall consist of the additional investment costs necessary to achieve the level of environmental protection required by the national standards.

(F) Where no standards exist, the eligible costs shall consist of the investment costs necessary to achieve a level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid.

16.7 Conditions attaching to the State aid.

There eligible costs when calculated net of operating costs & benefits shall be certified by an external auditor.

17. Specific rules for Environmental investment aid for the extra costs of high-efficiency cogeneration.

17.1 Eligible costs shall be for following purposes:

To enable the beneficiary to install high efficiency cogeneration plant that achieve overall primary energy savings compared to the existing generation in the undertaking or compared to a standard reference based on separate generation.

17.2 Specific definitions.

‘Energy saving measures’ mean action which enables undertakings to reduce the amount of energy used notably in their production cycle;

‘cogeneration’ means the simultaneous generation in one process of thermal energy and electrical and/or mechanical energy.

‘primary energy savings compared to a standard reference’ means as provided for in the EU Directive 2004/8/EC and EU Commission Decision 2007/74/EC.

17.3 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area.

17.4 Sectoral eligibility.

The following restrictions apply:

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary

producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

17.5 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs:

	Large Enterprises	Medium sized Enterprises	Small Enterprises
All projects (extra costs without taking account of revenue costs & benefits)	45%	55%	65%

17.6 Eligible Costs (one or more of the following)

Eligible costs may be calculated by one of the two methods below:

(1) The extra investment costs necessary to realise high efficiency cogeneration plant as compared to the reference investment.

For the purposes of establishing the extra costs as in (1) above, they shall be established by reference to the ‘counterfactual situation’ as below.

- Where the cost of investing in high efficiency cogeneration can be easily identified in the total investment cost, this precise energy saving-related cost shall constitute the eligible costs;
- In all other cases, the extra investment costs shall be established by comparing the investment with the counterfactual situation in the absence of State aid; the correct counterfactual shall be the cost of a technically comparable investment to generate energy from separate generation and that would credibly be realised without aid (‘reference investment’); technically comparable investment means an investment with the same production capacity and all other technical characteristics (except those directly related to the cogeneration); in addition, such a reference investment must, from a business point of view, be a credible alternative to the investment under assessment.

(2) The extra investment costs necessary to cogeneration shall be without taking account of any operating costs and benefits related to the investment.

(3) The investment may comprise new plant, improvement to an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit. Energy savings shall be at least those in “Conditions” below.

17.7 Conditions attaching to the State aid.

A new generation unit shall overall make primary energy savings compared to separate generation as provided for in the EU Directive 2004/8/EC and EU Commission Decision 2007/74/EC.

The improvement of an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit shall result in primary energy savings compared to the original situation.

18. Specific rules for Environmental investment aid for the promotion of energy from renewable energy sources.

18.1 Eligible costs shall be for the following purposes:

To enable the beneficiary to install power plant or heating facilities to produce energy from renewable energy.

18.2 Specific definitions.

‘energy from renewable energy sources’ means 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.

‘sustainable biofuels’ means biofuels fulfilling the sustainability criteria set out in Article 15 of the proposal for a Directive of the EU parliament and the Council on the promotion of the use of energy from renewable sources (ref. Com (2008) 19 final); Once the directive has been adopted by the European Parliament and the Council and published in the Official Journal of the European Union, the sustainability criteria laid down in the Directive shall apply..

18.3 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area.

18.4 Sectoral eligibility.

The following restrictions apply:

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural** products may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

18.5 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs

	Large Enterprises	Medium sized Enterprises	Small Enterprises
All projects (extra costs without taking account of revenue costs & benefits)	45%	55%	65%

18.6 Eligible Costs

The eligible costs are the extra investment costs compared with conventional power plant or with conventional heating systems with the same capacity in terms of the effective production of energy. For the purposes of establishing the extra costs above, they shall be established by reference to the ‘counterfactual situation’ as below.

- Where the cost of investing in energy generation from renewable sources can be easily identified in the total investment cost, this precise energy saving-related cost shall constitute the eligible costs;
- In all other cases, the extra investment costs shall be established by comparing the investment with the counterfactual situation in the absence of State aid; the correct counterfactual shall be the cost of a technically comparable investment to generate energy from conventional fuels and that would credibly be realised without aid ('reference investment'); technically comparable investment means an investment with the same production capacity and all other technical characteristics (except those directly related to the generation from renewable fuels); in addition, such a reference investment must, from a business point of view, be a credible alternative to the investment under assessment.

The extra investment costs necessary to generation from renewable sources shall be without taking account of any operating costs and benefits related to the investment.

18.7 Conditions attaching to the State aid.

Environmental investment aid for the production of biofuels shall only be given if the investments aided are used exclusively for the production of sustainable biofuels.

19. Specific rules for Aid for environmental studies.

19.1 Eligible costs shall be for the following purposes:

To enable the beneficiary to carry out studies directly linked to environmental investments in sections 16 & 18 above (energy saving and renewable energy).

19.2 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area.

19.3 Sectoral eligibility.

The following restrictions apply:

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

19.4 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs:

	Large Enterprises	Medium sized Enterprises	Small Enterprises
All projects	50%	60%	70%

19.5 Eligible Costs

The eligible costs shall be the costs of the study

20. Specific rules for Aid to SMEs for consultancy and for the first-time participation in trade fairs

20.1 Eligible costs shall be for the following purposes:

To enable SMEs to purchase consultancy to improve or develop their business.
To enable SMEs to participate in trade fairs for the first time.

20.2 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area.

20.3 Sectoral eligibility.

The following restrictions apply:

In the **COAL** sector this SME aid shall not be given.

In the **fisheries and aquaculture** sector, this category of aid shall not be given

Aid for the **primary production of agricultural products** shall not receive this category of aid.

Aid for the **processing and marketing of agricultural products** may be given except; a) when the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) when the aid is conditional on being partly or entirely passed on to primary producers.

20.4 Aid Limits

The aid shall not exceed 50% of eligible costs.

20.5 Eligible Costs

The eligible costs shall be the costs of services provided by outside consultants, and/or

Costs incurred for renting, setting up and running the stand for the first participation of an undertaking in any particular fair or exhibition.

20.6 Conditions attaching to the State aid.

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

21. Specific rules for Training aid.

21.1 Eligible costs shall be for the following purposes:

To enable the beneficiary to provide training for its workers

21.2 Specific definitions.

‘General training’ means training that provides transferable qualifications and substantially improves employability of the trained worker.

‘specific training’ means training which mainly benefits the enterprise.

‘disadvantaged worker’ means any person who:

- a) Has not been in regular paid employment for the previous 6 months, or
- b) Has not attained an upper secondary educational or vocational qualification (to International Standard Classification of Education level 3); or
- c) Is over the age of 50 years; or
- d) Lives as a single adult with one or more dependents; or
- e) 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
- f) 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.

‘disabled worker’ means any person who:

- a) is recognised as disabled under national law; or
- b) having a recognised limitation which results from physical, mental or psychological impairment;

21.3 Geographic eligibility.

The investment must be within the Highlands & Islands Enterprise Area.

21.4 Sectoral eligibility.

Training aid may be given in all sectors, including agriculture, fisheries, coal, steel, synthetic fibres etc.

21.5 Aid Limits

The table below gives the maximum State aid levels in Grant / grant equivalents as % of eligible costs:

	Large Enterprises	Medium sized Enterprises	Small Enterprises
Specific Training costs	25%	35%	45%
General Training costs	60%	70%	80%
Supplement for disabled or disadvantaged workers, subject to a maximum aid level of 80%	10%	10%	10%

21.6 Eligible Costs

The eligible costs shall be:

- trainers’ personnel costs;
- trainers’ and trainees’ travel expenses, including accommodation;

- other current expenses such as materials and supplies directly linked to the project;
- depreciation of tools and equipment, to the extent (i.e. for the period of time) that they are used exclusively for the training project;
- cost of guidance and counselling services with regard to the training project;
- trainees' personnel costs and general indirect costs (administration costs, rent, overheads) up to the amount of the total of the other eligible costs. As regards the trainees' personnel costs, only the hours during which the trainees actually participate in the training, after deduction of any productive hours during training, may be taken into account.

21.6 Conditions attaching to the State aid.

The maximum permitted aid amount shall not exceed 80% of eligible costs.

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