



Rialtas na hÉireann
Government of Ireland

Community Climate Action Programme: Introduction to State Aid

Strand 1: Action: Building Low Carbon Communities

Strand 1a: Shared Island Community Climate Action

November 2022

1 Introduction

Completion of the State Aid Self-assessment Questionnaire is a requirement under the Community Climate Action Programme to help applicants to identify any potential State Aid activities and to ensure compliance with De Minimis regulations or GBER as part of their application under strand 1 and strand 1a of the Community Climate Action Programme.

The first section of the document provides some information on the main concepts and definitions in relation to State Aid, GBER and De Minimis.

Please note that the self-assessment questionnaire and information provided by your organisation (the applicant/s) in this template does not replace nor preclude the State Aid Assessment that will be performed by Pobal and the Department of the Environment, Climate and Communications (DECC) for each application submitted under this call for applications.

2 State aid

The European Union State aid rules must be applied when applying for funding to the Community Climate Action Programme funded through the Climate Action Fund. Definition of State aid in Article 107(1) of the Treaty on the Functioning of the European Union (TFEU) is as follows:

- Any aid granted by an EU country, or through State resources in any form, which distorts or threatens to distort [competition](#) by favouring certain undertakings or the production of certain goods must, in so far as it affects trade between EU countries, be incompatible with the internal market.
- There are **4 cumulative criteria in determining the presence of State aid**:
 - the support is granted by the State or through State resources;
 - it favours one or more undertakings — there is a selective advantage;
 - the support distorts or has the potential to distort competition; and
 - it affects trade between EU countries
- The notion of **undertaking and economic activity relates to** whether the entity concerned is carrying out an economic activity:
 - The [Court of Justice](#) has consistently defined ‘undertakings’ as entities engaged in an economic activity, regardless of their legal form and the way in which they are financed. ‘Economic activity’ is any activity consisting in offering goods and services on a market.

- The application of the State aid rules does not depend on whether the entity is set up to generate profits. Non-profit entities can also offer goods and services on a market.
- **State origin** — whether the aid is of public origin:
 - Support granted directly or indirectly through State resources and attributable to the State can constitute State aid. State resources include all resources of the public sector, including resources of other bodies within the State (decentralised, federated, regional or other) and, under certain circumstances, resources of private bodies.
- **Advantage** — whether an economic benefit has been obtained:
 - An advantage is present whenever the financial situation of an undertaking is improved as a result of State intervention on terms differing from normal market conditions.
- **Selectivity** — whether the public aid grants an advantage in a selective way to certain undertakings or categories of undertakings or to certain economic sectors:
 - General measures which are effectively open to all undertakings operating within an EU country on an equal basis are not selective. However, for the measures to be genuinely general in character, they shall not be reduced in scope by factors that restrict their practical effect.
- **Effect on trade and competition** — whether the economic activity distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods and only insofar as it affects trade between EU countries:
 - A measure granted by the State is considered to distort or threaten to distort competition when it is liable to improve the competitive position of the recipient compared to other undertakings with which it competes. It is not necessary to establish that the aid has an actual effect on trade between EU countries, but only whether the aid is liable to affect such trade.

Further information

- https://ec.europa.eu/competition-policy/state-aid/legislation/notion-aid_en
- [EU State Aid Rules - DETE \(enterprise.gov.ie\)](https://enterprise.gov.ie)
- http://ec.europa.eu/competition/state_aid/legislation/legislation.html
- Just Transition Fund FAQ - <https://assets.gov.ie/120235/ff72174b-38d0-4596-a809-787817a7064f.pdf>
- Just Transition Fund – Phillip Lee State Aid Presentation: <https://assets.gov.ie/118864/8c3b36d6-f1da-4858-b9cf-662cf0bb0b90.pdf>
- **Click on the PDF to access below:**



Overview of state aid
2021 presentation v2.



Climate+Action+Fund+GBER+July+2021+



State Aid in Practice -
Copy.pdf

If the State aid rules apply to an undertaking making an application under this Programme, the De Minimis Regulation will apply. In cases where an organisation is not eligible to receive funding under the De Minimis Regulation GBER may apply. You should consult the Department in that case.

2.1 General Block Exemptions Regulation Commission Regulations

[GBER was introduced as part of the European Commission's reform and modernisation of State Aid Rules.](#)

GBER is a mechanism to grant pre-approved aid under a number of categories where the benefits to society of public funding **are considered to outweigh possible distortions of competition**. GBER sets out the percentage of State aid that may be applied to particular types of projects.

For more detailed information on the General Block Exemptions Regulation Commission Regulation (EU) no. 651/2014, follow the [link](#).

3 De Minimis

3.1 What is the rule?

According to Commission Regulation 1407 (2013) Article 3 in relation **De Minimis aid** measures shall in general be exempt from the State Aid Regulation if the recipients do not receive more than EUR 200,000 in public sector support, over a 3-year period per undertaking, per Member State.

All figures used shall be gross and before any deduction of tax or other charge. The 3-year period shall be understood as **the fiscal year concerned plus the previous two fiscal years**. Any award of grant given under the Regulations will be relevant if the recipient wishes to apply, or has applied, for any other De Minimis aid.

If an organisation have had public sector support, they should have been notified in writing of any De Minimis element when the aid was awarded.

3.2 What does this mean for an application to Community Climate Action Programme?

Organisations are required to declare any such aid previously provided by a public body to their company or any company that you are linked to.

Please note that having received previous aid under De Minimis does not automatically disqualify an organisation from receiving further De Minimis aid under strand 1 and strand 1a of the Programme should their De Minimis aid remain below the €200,000 ceiling* with the support from this Programme.

Exclusions

De Minimis aid can be given for most purposes, including operating aid. However, De Minimis aid cannot be given for export related activities (except attendance at trade fairs), agriculture and fisheries or aid favouring domestic over imported products.

Separate De Minimis regulations apply for aid for agricultural activities. Please contact the Department of Agriculture, Food, and the Marine for details.

De minimis aid cannot be used to top up awards made under approved state aid schemes, resulting in a circumvention of the aid intensities set out in the rules attached to such schemes. In these cases, it can only be awarded towards separate eligible costs.

Different Ceilings

Note that Agricultural de minimus (Regulation (EU) No 1408/2013) allows for a lower limit of €20,000 to be provided to a beneficiary over a consecutive three-year fiscal period for activities related to the production of agricultural products (e.g. live animals, meat, fruit, vegetables etc.), but not to the processing or marketing of these products.

The Department of Agriculture, Food and the Marine maintains a register of agricultural De Minimis aid granted under Regulation no. 1408/2013 (specifically for primary agriculture purposes with a lower ceiling of €20,000 over three fiscal years).

A lower limit of €100,000 also applies to undertakings active in the road freight transport sector.

A new De Minimis Regulation for the seafood sector was adopted by the Commission in June 2014 ([Commission Regulation 717/2014](#)). The commission sets the ceiling at €30,000 per company over any period of three years. If a Company is part of a group, then the €30,000 limit applies to the group.

The support may not be used for the purchase of fishing vessels, for modernisation or replacement of main or ancillary engines of fishing vessels or to operations increasing the fishing capacity of a vessel or equipment increasing the ability of a vessel to find fish or any other ineligible operations under the EMFF Regulation.