

State Aid Guidance

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- 1 Section 1 - Individual exemptions under the General Block Exemption Regulation (GBER)
- 2 Section 2 - Explanation of key concepts under the GBER

Section 1 - Individual exemptions under the General Block Exemption Regulation (GBER)

The table below provides an overview of the exemptions under the GBER that could potentially be relevant to projects funded by CARES. An individual project could rely upon any combination of the exemptions, subject to the cumulation rules (as referred to in paragraphs 4 and 5 of Section 2). Applicants will need to identify which exemption(s) are applicable to their project and provide details of eligible costs relating to the applicable exemption in order to identify the level of funding that is permitted under the GBER. The level of permitted funding will be the eligible costs multiplied by the applicable aid intensity.

Please see Section 2 for further explanatory guidance relating to eligible costs, aid intensities and the extent to which a number of different exemptions may be used together.

Please note that this table only sets out a summary of the key points for each exemption rather than the full details as set out in the GBER. This table should therefore be used in conjunction with, rather than as a replacement for, the GBER.

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
Art 22 – Aid for start ups	<p>Eligible recipients are unlisted small enterprises up to five years following their registration, which have not yet distributed profits and which have not been formed through a merger.²</p> <p>Start up aid can take the form of:</p> <p>(a) loans with interest rates which do not conform to market conditions, with duration of up to 10 years. Maximum nominal amount of 1m Euros. A ratio is applied for loans of less than 10 years;</p>	N/a	<p>For loans:</p> <ul style="list-style-type: none"> - Maximum nominal amount of 2m Euros for Assisted Area (a) - Maximum nominal amount of 1.5m Euros for Assisted Area (c). <p>For guarantees:</p> <ul style="list-style-type: none"> - Maximum 3m Euros of amount guaranteed for Assisted Area (a) 	N/a	The loans, guarantees and grants can be used for any purpose. However, please note the rules relating to cumulation of this aid with other aid, as summarised in paragraphs 4 and 5 of Section 2 of this Guidance.

¹ If aid granted to an individual recipient exceeds the notification thresholds, the aid must be notified to and cleared by the European Commission prior to being granted.

² Special rules apply where the small enterprise is not subject to registration – see Article 22(12)

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
	<p>(b) guarantees with premiums which do not conform to market conditions with a duration of up to 10 years. Maximum 1.5m Euros of amount guaranteed. A ratio is applied for guarantees of less than 10 years.</p> <p>(c) grants, including equity or quasi equity investment. Interest rate and guarantee premium reductions of up to 0.4m Euros gross grant equivalent</p> <p>A recipient can receive support through a mix of aid instruments (i.e. loans, guarantees and grants) provided that the proportion of the amount granted through one instrument, calculated on the basis of the maximum aid amount allowed for that instrument, is taken into account in order to determine the residual proportion of the maximum aid amount allowed for the other instruments.</p>		<p>- Maximum 2.25m Euros of amount guaranteed for Assisted Area (c)</p> <p>For grants:</p> <p>- Interest rate and guarantee premium reductions of up to 0.8m Euros for Assisted Area (a)</p> <p>- Interest rate and guarantee premium reductions of up to 0.6m Euros for Assisted Area (c)</p> <p>Small and innovative enterprises³: The maximum amount under this Article may be doubled.</p>		

³ Please refer to paragraph 2.7 for the definition of "innovative enterprise"

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
25 – Aid for research and development projects.	<p>The following categories of research could potentially be relevant:</p> <p>(a) industrial research (meaning 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. This may include 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);</p> <p>(b) experimental development (meaning 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 include development of commercially usable prototypes);</p>	<p>Industrial research: 50%</p> <p>Experimental development: 25%</p> <p>Feasibility studies: 50%</p>	<p>Industrial research and experimental research: increased up to a maximum aid intensity of 80% as follows:</p> <p>(a) + 10% for medium-sized enterprises; + 20% for small enterprises.</p> <p>(b) + 15% one of the following conditions apply:</p> <ul style="list-style-type: none"> - if the project involves effective collaboration (see Art 25(6)(b)(i) for more details); or - if the results are widely disseminated (see Art 25(6)(b)(ii) for more details) <p>Feasibility studies:</p>	<p>Industrial research: 20m Euros per recipient, per project</p> <p>Experimental research: 15m Euros per recipient, per project</p> <p>Feasibility studies: 7.5m Euros per study</p>	Any stand alone research project or any research element or feasibility study that is part of a larger project.

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
	<p>(c) feasibility studies (meaning 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).</p> <p>The Eligible Costs, to the extent relevant to the project, are:</p> <ul style="list-style-type: none"> - personnel costs; - costs of instruments and equipment; - costs for buildings and land; - costs of contractual research, knowledge and patents; - additional overheads incurred directly as a result of the project. 		<p>+ 10% for medium-sized enterprises;</p> <p>+ 20% for small enterprises</p>		
<p>Art 36 – Investment aid enabling undertakings to go beyond Union standards</p>	<p>Eligible Costs - the extra investment costs to go beyond the EU standards or to increase the level of environmental protection in the absence of EU standards.</p>	<p>40%</p>	<p>+ 10% for medium-sized undertaking;</p> <p>+ 20% for small undertakings.</p>	<p>15m Euros per recipient, per project.</p>	<p>This could apply to an entire project or to discrete elements of a project where levels of environmental protection are increased beyond European Union standards or where measures are put in place to increase environmental</p>

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
for environmental protection or to increase the level of environmental protection in the absence of Union standards	<p>Special rules apply for the acquisition and retrofitting of transport vehicles for road, railway, inland waterway and maritime transport.</p> <p>Any costs not directly linked to the achievement of the higher level of environmental protection are not eligible costs.</p>		+15% for Assisted Area (a); +5% for Assisted Area (c).		protection resulting from the recipient's activities and no such standards are in place.
Art 37 – Investment aid for early adaptation to future Union standards	<p>Eligible Costs - the extra investment costs to go beyond the currently applicable EU standards.</p> <p>Any costs not directly linked to the achievement of the higher level of environmental protection are not eligible costs.</p>	<p>Where the investment is more than 3 years before the standard in force: 20% for small undertakings; 15% for medium-sized undertakings; 10% for large undertakings.</p> <p>Where the investment is between 1 and 3 years before the standard in force: 15% for small undertakings; 10% for medium-sized undertakings; 5% for large undertakings.</p>		15m Euros per recipient, per project.	This could apply to an entire project or to discrete elements of a project.
Art 38 – Investment aid for energy efficiency measures	<p>The aid must enable undertakings to achieve energy efficiency.</p> <p>Eligible Costs – extra investment costs necessary to achieve the higher level of energy efficiency, which shall be determined as follows:</p>	30% of Eligible Costs	<p>+ 20% for small undertakings; + 10% for medium-sized undertakings.</p> <p>+ 15% for Assisted Area (a);</p>	15m Euros per recipient, per project.	This exemption can only apply in a situation that enables an undertaking to achieve energy efficiency. An undertaking is an entity engaged in an activity for which there is a commercial market. A householder, for example, is not an undertaking.

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
	<ul style="list-style-type: none"> - where the costs of investing in energy efficiency can be identified as a separate investment, these costs; - in all other cases, the costs are established by reference to a similar, less energy efficient investment. The Eligible Costs are the difference between the costs of the two investments. <p>Any costs not directly linked to the achievement of the higher level of energy efficiency are not eligible costs.</p>		+ 5% for Assisted Area (c).		<p>Provided this principle is observed, this exemption could potentially be used for (amongst other things):</p> <ul style="list-style-type: none"> - Consortia approaches to sharing grid costs; - Demand-side management to maximise local energy production; - Smart electric vehicle charging system linked to local generation; - Hydrogen injection into gas grid or for sustainable transport; - Alternative low carbon marine transport.
Art 40 – Investment aid for high efficiency cogeneration	<p>For newly installed or refurbished facilities for high-efficiency cogeneration.</p> <p>"High-efficiency cogeneration" is defined in Annex II of Directive 2012/27/EU – see link in footnote below.⁴</p> <p>Eligible Costs – extra investment costs to operate as a high-efficiency cogeneration facility compared to a</p>	45%	<p>+ 20% for small undertakings; + 10% for medium-sized undertakings.</p> <p>+ 15% for Assisted Area (a); + 5% for Assisted Area (c).</p>	15m Euros per recipient, per project.	Any CHP project that falls within the definition of "high efficiency cogeneration".

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0001:0056:EN:PDF>

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
	conventional installation or, where already high efficiency, to upgrade to a higher efficiency.				
Art 41 – investment aid for the promotion of energy from renewables	<p>For new installations only.</p> <p>Eligible Costs – the extra investment costs to promote the production of energy from renewable source, which shall be determined as follows:</p> <ul style="list-style-type: none"> - where the costs can be identified in the total investment cost as a separate investment, e.g. a readily identifiable add-on component to a pre-existing facility, these costs; - where the costs can be identified by reference to a similar less environmentally friendly investment that would have been carried out without the aid, the difference between the costs of both investments; - for certain small installations, where no less environmentally friendly comparator exists, the total investment costs are Eligible Costs. <p>Restrictions apply regarding biofuels and hydropower.</p>	<p>30% for small installations (as referred to in the right hand box);</p> <p>45% in other cases.</p>	<p>+ 20% for small undertakings; + 10% for medium-sized undertakings.</p> <p>+ 15% for Assisted Area (a); 5% for Assisted Area (c).</p> <p>Where open competitive bidding process aid intensity may reach 100%, subject to certain requirements regarding transparency and equal treatment.</p>	15m Euros per recipient, per project.	<p>Any project that involves a new installation that promotes energy efficiency. This could include:</p> <ul style="list-style-type: none"> - Smart electric vehicle charging system; - Energy infrastructure (including energy storage infrastructure); - Hydrogen Injection into gas grid for sustainable transport; - Linking local generation to local district heating scheme.
Art 46 – Investment aid for energy	Eligible Costs for production plant– extra costs for construction, expansion	Production plant: 45%	Production plant: + 20% for small undertakings;	Production plant: 15m Euros per	Any project that involves energy efficient district heating and cooling - including the production plant and the distribution network.

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
efficient district heating and cooling	<p>and refurbishment compared to conventional production plant.</p> <p>Eligible Costs for distribution network - the investment costs.</p> <p>The aid amount for the distribution network shall not exceed difference between Eligible Costs and operating profit.</p>	Distribution network: 100%	<p>+ 10% for medium-sized undertakings.</p> <p>Production plant: + 15% for Assisted Area (a); + 5% for Assisted Area (c).</p>	<p>recipient, per project.</p> <p>Distribution network: 20m Euros per recipient, per project.</p>	
Art 48 – Investment aid for energy infrastructure	<p>"Energy infrastructure" includes, in respect of electricity - infrastructure for transmission and distribution, equipment to ensure the safe operation of the infrastructure; smart grids.</p> <p>Aid for investments in electricity storage projects are not within the scope of this exemption.</p> <p>This exemption only applies for energy infrastructure located in Assisted Areas (see paragraph 1.4.5 of Section 2 to this report for more information regarding Assisted Areas).</p> <p>Eligible Costs – the investment costs for the energy infrastructure.</p>	100%	N/a	50m Euros per recipient, per investment project	For electricity infrastructure except in relation to storage. (Although Article 41 could potentially be used for storage infrastructure).

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
	<p>The aid amount shall not exceed the difference between the Eligible Costs and the operating profit.</p> <p>The energy infrastructure shall be subject to full tariff and access regulation according to internal energy market regulation.</p>				
Art 49 – Aid for environmental studies	<p>Studies, including energy audits, linked to certain investments in relation to environmental protection.</p> <p>Eligible Costs – costs of the studies.</p> <p>Restriction regarding energy audits carried out by large undertakings. A large undertaking is any organisation that does not meet the definition of an SME in Annex 1 of the GBER.</p>	50%	+ 20% for studies on behalf of small enterprises; + 10% for studies on behalf of medium size enterprises.	N/a	Any stand alone environmental study or energy audit, or where this is an element of a larger project.
Art 53 – Aid for culture and heritage services	<p>Cultural purposes and activities including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings, and natural heritage.</p> <p>Permitted aid includes Investment aid, including aid for the construction or upgrade of culture infrastructure,</p>	100%	N/a	Investment aid for culture and heritage conservation: 100 million Euros	Where historic infrastructure is being upgraded or refurbished as part of an energy project.

Article and title	Scope & Eligible Costs	Maximum aid intensity	Aid intensity bonuses	Maximum Threshold ¹	Examples of activities potentially within scope
	<p>NB – the permitted aid may also take the form of operating aid, although the detail of this is not included in this guidance note.</p> <p>Eligible Costs - For investment aid, the eligible costs shall be the investment costs in tangible and intangible assets (examples of investment aid, along with their specific requirements, are set out in Art 53(4)).</p> <p>For investment aid, the aid 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. For aid not exceeding 1 million Euros, the maximum amount of aid may be set, alternatively to this method, at 80% of Eligible Costs</p>				

Section 2 - Explanation of key concepts under the GBER

1 Eligible costs

- 1.1 The Eligible Costs are those costs relating to a project that, subject to the permitted aid intensity (see paragraph 2 below), can be funded under the GBER.
- 1.2 As a general principle, the Eligible Costs are the extra investment costs which are directly linked to the environmental objective of the project, which are established as follows:
 - 1.2.1 where the costs of achieving the purpose of exemption can be clearly identified in the total investment costs as a separate investment, for instance because the environmental objective is a readily identifiable add-on component to a pre-existing facility, the costs of the separate investment constitute the Eligible Costs;
 - 1.2.2 in all other cases, the Eligible Costs are the extra investment costs established by comparing the aid investment with the counterfactual situation in the absence of state aid. Reference is made to the cost of a technically comparable investment that does not achieve the environmental objective.
- 1.3 There are some exceptions to this general principle for individual exemptions under the GBER.
- 1.4 Section 1 explains how the Eligible Costs are established for each individual exemption.

2 Aid intensity

- 2.1 The GBER specifies an "aid intensity" that applies to each exemption. The aid intensity is expressed as percentage and represents the maximum amount of grant funding that is permitted under the GBER.
- 2.2 The maximum aid permitted under an exemption = the aid intensity multiplied by the Eligible Costs.
- 2.3 The aid intensity may be increased in certain circumstances, most commonly relating to the size of the grant recipient and whether the aid is being granted in an "Assisted Area".
- 2.4 The increases to aid intensity based on the recipient's size apply where the recipient is a small or medium-sized enterprise. A small enterprise is an enterprise that employs fewer than 50 persons and whose annual turnover and/or annual balance sheet does not exceed 10m Euros. A medium-sized enterprise is an enterprise that employees fewer than 250 persons and whose annual turnover does not exceed 50m Euros and/or has an annual balance sheet total not exceeding 43m Euros. Where there are a number of organisations working together on a project, it is the size of organisation that receives the aid from EST/Scottish Government that is relevant for establishing the aid intensity, even if the recipient subsequently purchases services from its project partners. In exceptional circumstances it may be possible for more than one organisation to receive aid from EST/Scottish Government on a project .

- 2.5 Where funding will be provided to a consortium there are rules set out in Annex I of the GBER for establishing how the headcount and turnover of the consortium members is taken into account for the purposes of establishing whether the aid intensity bonuses will apply. Applicants are advised to seek independent legal advice on this point.
- 2.6 The Assisted Areas are areas recognised in state aid rules as being less economically advantaged areas that would benefit from additional support for development. The Assisted areas are categorised by the European Commission as either those under Article 107(3)(a) of the Treaty on the Functioning of the European Union and those under Article 107(3)(c). For ease of reference, this report refers to these as Assisted Areas (a) and (c) respectively. A map illustrating the Assisted Areas can be found at the following link:
<http://www.ukassistedareamap.com/ieindex.html>
- 2.7 An "innovative enterprise" (as referred to in Article 22) means an enterprise:
- 2.7.1 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
 - 2.7.2 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 aid 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.
- 3 Maximum threshold**
- 3.1 There is a maximum threshold for aid that can be granted under the GBER. If the threshold is met, the aid must be notified to and cleared by the European Commission before being granted. Different thresholds apply for different exemptions - these are set out in Section 1.
- 4 Cumulation with different exemptions under the GBER**
- 4.1 The exemptions set out in Section 1 cover a wide range of activities. A number of these exemptions could potentially apply to an individual project. There are rules that place limits on how aid is be cumulated under different exemptions in these circumstances. These rules, as summarised below, distinguish between scenarios where the cumulation relates to different Eligible Costs, to the same Eligible Costs and where the Eligible Costs are not identifiable.
- 4.2 It is possible to rely on more than one GBER exemption provided that different Eligible Costs are funded under each different exemption relied upon.
- 4.3 Aid granted under the one GBER exemption may be cumulated with aid under a different GBER exemption in relation to the same identifiable Eligible Costs, partly or

fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable.

For example (using simple figures and GBER references to illustrate the point):

There are £500 of identifiable Eligible Costs, which, subject to rules regarding maximum aid intensity, aid amounts and cumulation, could potentially be exempted under Article A and/or Article B of the GBER. The maximum aid amount permitted under Article A under is £300 of the Eligible Costs and under Article B is £200 of the Eligible Costs. The following (non-exhaustive) list of aid combinations would comply with cumulation rules :

- £300 for Article A and £0 for Article B; or
- £200 for Article A and £100 for Article B; or
- £100 for Article B and £200 for Article B.

However it would not be possible under the cumulation rules to exempt the full £500 of Eligible Costs through exempting £300 under Article A and £200 under Article B.

- 4.4 Aid without identifiable Eligible Costs under Article 22 (aid for start ups) can be cumulated with any other aid with identifiable Eligible Costs.
- 4.5 Aid without identifiable Eligible Costs may be cumulated with any other aid without identifiable Eligible Costs, up to the highest relevant financing threshold fixed in the specific circumstances in each case.
- 4.6 Please note that the provisions set out under Article 22 should only be used as a last resort to support eligible project costs which are **not** supported by any of the other GBER Articles covered under this Fund.

5 Cumulation with de minimis aid

- 5.1 Aid exempted under the GBER cannot be cumulated with any de minimis aid in respect of the same Eligible Costs if such cumulation would result in the permitted aid intensity under the GBER being exceeded. However, the de minimis exemption could be applied in relation to different costs.
- 5.2 The de minimis exemption permits aid of up to 200,000 Euros to an individual recipient (from all sources) in any rolling three-year fiscal period.
- 5.3 Some of the potential activities that are intended to be funded through the Fund may not fall within the scope of the GBER, so the de minimis exemption may be useful for such activities.

6 Incentive effect

- 6.1 There is a general requirement that any aid under the GBER must have an "incentive effect". This is deemed to apply in situations where the recipient has submitted its grant application before any work on the project or activity has started and where evidence is submitted to demonstrate that the project would not proceed, or would proceed on a smaller scale, if grant funding were not provided.