

## **Aid to SMEs and Start-Ups Scheme**

**COMMISSION REGULATION (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 in Official Journal No57, 26th June 2014 (“the Regulation”)**

### **Irish Industrial Development Agencies - Aid to SMEs and Start-Ups**

#### **1. Objective of Scheme**

The objective of this scheme is to provide:

- (a) Investment aid to SMEs;
- (b) Aid for consultancy in favour of SMEs;
- (c) Aid to SMEs for participation in fairs;
- (d) Aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects
- (e) Aid for start-ups

#### **2. Legal Basis and Rules**

The operation of this scheme is subject to the provisions of the Regulation and in particular Chapter III, Section 2 (Articles 17 to 20 inclusive) and Chapter III, Section 3 (Article 22) and the enabling legislation of Enterprise Ireland (Industrial Development Acts 1986 – 2019, as may be amended from time to time), IDA Ireland (Industrial Development Acts 1986 – 2019, as may be amended from time to time) and Údarás na Gaeltachta (Údarás na Gaeltachta Acts 1979 – 2010, and Gaeltacht Act 2012, as may be amended from time to time) (“the Development Agencies “). Unless otherwise stated, terms defined in the Regulation shall have the same meaning in this Scheme.

#### **3. Budget**

The average annual budget of this Scheme shall not exceed EUR 150 million.

#### **4. Who can apply?**

An applicant will be eligible to apply for aid once the project concerned meets the criteria set out in the enabling legislation of the development agencies. The right to apply does not impose any obligation on the State to provide funding to an applicant.

## 5. Scope of Scheme

This Scheme shall not apply to the following:-

- (a) Aid to export related activities towards third countries or other Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to the other current expenditure linked to export activity;
- (b) Aid contingent upon the use of domestic over imported goods;
- (c) aid granted in the fishery and aquaculture sector, as covered by Regulation (EU) 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council regulations (EC) 1184/2006 and (EC) 1224/2009 and repealing council regulation (EC) 104/2000 with the exception of aid in the field of SME's access to finance;
- (d) aid granted to the primary agricultural production sector, with the exception of aid for consultancy in favour of SMEs;
- (e) Aid granted in the sector of processing and marketing of agricultural products, in the following cases:
  - (i) where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or
  - (ii) where the aid is conditional on being partly or entirely passed on to primary producers;
- (f) Aid to facilitate the closure of uncompetitive coal mines, as covered by Council Decision No 2010/787;
- (g) The categories of regional aid excluded in Article 13;
- (h) Where an undertaking is active in the excluded sectors as referred to in points (c), (d) or (e) above, and in sectors which fall within the scope of this Scheme, this Scheme applies to aid granted in respect of the latter sectors or activities, provided that appropriate means, such as separation of activities or distinction of costs, are taken to ensure that the activities in the excluded sectors do not benefit from the aid granted in accordance with this Scheme;

- (i) Aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market;
- (j) Aid to undertakings in difficulty;
- (k) Aid where the grant of aid is subject to the obligation for the beneficiary to have its headquarters in Ireland or to be predominantly established in Ireland, although the requirement to have an establishment or branch in Ireland at the moment of payment of the aid is allowed.
- (l) Aid subject to the obligation for the beneficiary to use nationally produced goods or national services;

## **6. Maximum Amounts payable under the Scheme**

The following are the maximum amounts payable under the Scheme and these limits shall not be circumvented by artificially splitting up an aid project:

- (a) for investment aid to SMEs: €8.25 million per undertaking per investment project;
- (b) for aid for consultancy in favour of SMEs: €2.2 million per undertaking, per project;
- (c) for aid to SMEs for participation in fairs: € 2.2 million per undertaking, per year;
- (d) for aid to SMEs for cooperation costs incurred by participating in European Territorial Cooperation projects: for aid under Article 20, € 2.2 million per undertaking, per project; for aid under Article 20a, the amount laid down in Article 20a(2) per undertaking per project.
- (e) for aid for start-ups: the amounts laid down per undertaking in Article 22 (3), (4) and (5) of the Regulation.
- (f) Risk Finance

## **7. Transparency of Aid**

Only transparent forms of aid (i.e. in which it is possible to calculate precisely the gross grant equivalent as a percentage of eligible expenditure ex ante without need to undertake a risk assessment) may be paid by the development agencies under this Scheme.

## **8. Incentive Effect**

This Scheme shall apply only to aid which has an incentive effect.

Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the relevant development agency before work on the project or activity starts. The application for the aid shall contain at least the following information:

- (a) undertaking's name and size;
- (b) description of the project, including its start and end dates;
- (c) location of the project;
- (d) list of project costs;
- (e) type of aid (e.g. grant) and amount of public funding needed for the project;

If work begins before the applicant has submitted a written application to the relevant development agency the whole project will be ineligible for aid.

## **9. Aid intensity and eligible costs**

For the purposes of calculating aid intensity and eligible costs under this Scheme, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.

Aid payable in several instalments shall be discounted to its value at the moment it is granted. The eligible costs shall be discounted to their value at the moment the aid is granted. The interest rate to be used for discounting purposes shall be the discount rate applicable at the moment the aid is granted.

## 10. Cumulation

Aid under this Scheme shall not be cumulated with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in the Regulation.

## 11. Investment Aid to SMEs

1. Each of the Development Agencies may give investment aid to SMEs subject to the provisions of this Scheme and of its enabling legislation
2. The eligible costs shall be one or several of the following:
  - (a) the costs of investment in tangible and intangible assets, including one-off non-amortizable costs linked directly to the investment and its initial installation;
  - (b) the estimated wage costs of employment directly created by the investment project, calculated over 2 years;
  - (c) a combination of part of the costs referred to in points (a) and (b) but not exceeding the amount of point (a) or (b), whichever is higher.

3. In order to be considered an eligible cost for the purposes of this Article, an investment shall consist of the following:

(a)

an investment in tangible and intangible assets related to the setting-up of a new establishment; the extension of an existing establishment; the diversification of the output of an establishment into products or services not previously produced in or provided from the establishment; or a fundamental change in the overall production process of the product(s) or overall provision of the service(s) concerned by the investment in the establishment; or

(b)

an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased. Sole acquisition of the shares of an undertaking does not qualify as investment. The transaction shall take place under market conditions. In principle, only the costs of buying the assets from third parties unrelated to the buyer shall be taken into consideration. However, if a member of the family of the original owner, or one or more employees, takes over a small enterprise, the condition that the assets shall be bought from third parties unrelated to the buyer does not apply.

A replacement investment thus does not constitute an investment in the meaning of this paragraph.

- 3 a. 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 3 years after the expected date of completion of the investment;

(b)

for plant or machinery, the lease must take the form of financial leasing and must contain an obligation for the aid beneficiary to purchase the asset at the expiry of the term of the lease.

4. Intangible assets shall fulfil all of the following conditions:

(a) they shall be used exclusively in the establishment receiving the aid;

(b) they shall be amortisable;

(c) they shall be purchased under market conditions from third parties unrelated to the buyer;

(d) they shall be included in the assets of the undertaking that receives the aid for at least 3 years.

5. Employment directly created by an investment project shall fulfil the following conditions:

(a) it shall be created within three years of completion of the investment;

(b) there shall be a net increase in the number of employees in the establishment concerned, compared with the average over the previous 12 months;

(c) it shall be maintained during a minimum period of three years from the date the post was first filled.

6. The aid intensity shall not exceed:

(a) 20 % of the eligible costs in the case of small enterprises;

(b) 10 % of the eligible costs in the case of medium-sized enterprises.

## **12. Aid for consultancy in favour of SMEs**

Each of the Development Agencies may give aid for consultancy in favour of SMEs subject to the provisions of this Scheme and of its enabling legislation. The aid intensity shall not exceed 50 % of the eligible costs.

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

The services concerned 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 services or advertising.

### **13. Aid to SMEs for participation in fairs**

Each of the Development Agencies may give aid to SMEs for participation in fairs subject to the provisions of this Scheme and of its enabling legislation

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

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

### **14. Aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects**

Each of the Development Agencies may give aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects subject to the provisions of this Scheme and of its enabling legislation. The eligible costs shall be the following:

- (a) costs for organisational cooperation including the cost of staff and offices to the extent that it is linked to the cooperation project;
- (b) costs of advisory and support services linked to cooperation and delivered by external consultants and service providers;
- (c) travel expenses, costs of equipment and investment expenditure directly related to the project and depreciation of tools and equipment used directly for the project.

The advisory and support services referred to above 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 services or routine advertising.

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

1. Aid to undertakings for their participation in European Territorial Cooperation projects covered by Regulation (EU) No 1299/2013 or by Regulation (EU) 2021/1059 shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. The total amount of aid under this Article granted to an undertaking per project shall not exceed EUR 22,000.

## 15. Aid for start-ups

Each of the Development Agencies may give aid for start-ups subject to the provisions of this Scheme and of its enabling legislation .

Eligible undertakings shall be unlisted small enterprises up to five years following their registration, that fulfils the following cumulative conditions:

Eligible undertakings shall be any unlisted small enterprise up to 5 years following its registration, that fulfils the following cumulative conditions:

(a) it has not taken over the activity of another undertaking, unless the turnover of the overtaken activity accounts for less than 10 % of the turnover of the eligible undertaking in the financial year preceding the take-over;

(b) it has not yet distributed profits;

(c) it has not acquired another undertaking or has not been formed through a merger, unless the turnover of the acquired undertaking accounts for less than 10 % of the turnover of the eligible undertaking in the financial year preceding the acquisition or the turnover of the undertaking formed through a merger is less than 10 % higher than the combined turnover that the merging undertakings had in the financial year preceding the merger.

For eligible undertakings that are not subject to registration, the 5 year eligibility period shall start from either the moment when the undertaking starts its economic activity or the moment it becomes liable to tax with regard to its economic activity, whichever is earlier.

By way of derogation from the first subparagraph, point (c), undertakings formed through a merger between undertakings eligible for aid under this Article shall also be considered eligible undertakings up to 5 years from the date of registration of the oldest of the merging undertakings.”

Start-up aid shall take the form of:

- (a) loans with interest rates which are not conform with market conditions, with a duration of 10 years and up to a maximum nominal amount of €1.1 million, or € 1.65 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3), point (c), of the Treaty, or €2.2 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3), point (a), of the Treaty. For loans with a duration comprised between 5 and 10 years the maximum amounts may be adjusted by multiplying the



amounts above by the ratio between 10 years and the actual duration of the loan. For loans with a duration of less than 5 years, the maximum amount shall be the same as for loans with a duration of 5 years;

(b) guarantees with premiums which are not conform with market conditions, with a duration of 10 years and up to maximum €1.65 million of amount guaranteed, or €2.48million for undertakings established in assisted areas fulfilling the conditions of Article 107(3), point (c), of the Treaty, or €3.3 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3), point (a), of the Treaty. For guarantees with a duration comprised between 5 and 10 years the maximum amount guaranteed amounts may be adjusted by multiplying the amounts above by the ratio between 10 years and the actual duration of the guarantee. For guarantees with a duration of less than 5 years, the maximum amount guaranteed shall be the same as for guarantees with a duration of 5 years. The guarantee shall not exceed 80 % of the underlying loan.

(c) grants, including equity or quasi equity investment, interests rate and guarantee premium reductions up to EUR 0,5 million gross grant equivalent or EUR 0,75 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3), point (c), of the Treaty, or EUR 1 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty.

(d) Not included

A beneficiary can receive support through a mix of the aid instruments referred to in paragraph 3 of this Article, provided that the proportion of the amount granted through one aid 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 forming part of such a mixed instrument.

For small and innovative enterprises, the maximum amounts set out in paragraph 3 may be doubled.

Where a start-up aid scheme is implemented through one or more financial intermediaries, the conditions applying to financial intermediaries laid down in Article 21(10), (14), (15), (16) and (17), shall apply.

In addition to the amounts laid down in paragraphs 3, 4 and 5, start-up aid schemes can take the form of either a transfer of intellectual property (IP) or a grant of the related access rights, either free of charge or below market value. The transfer or the grant shall be from a research and knowledge-dissemination organisation, within the meaning of

Article 2, point (83), that has developed the underlying IP through its independent own or collaborative research and development activity, to an eligible undertaking within the meaning paragraph 2. The transfer or the grant shall fulfill all of the following conditions:

- (a) the purpose of the transfer of IP or the grant of related access rights is to bring a new product or service to the market; and
- (b) the value of the IP is set at its market price, which is the case if it has been set according to one of the following methods:
  - (i) the amount has been established by means of an open, transparent and non-discriminatory competitive procedure;
  - (ii) an independent expert valuation confirms that the amount is at least equal to the market price;
  - (iii) in cases where the eligible undertaking has a right of first refusal as regards the IP generated in collaboration with the research and knowledge-dissemination organisation, where the research and knowledge-dissemination organisation exercises a reciprocal right to solicit more economically advantageous offers from third parties so that the collaborating eligible undertaking has to match its offer accordingly.

The value of any contribution, both financial and non-financial, of the eligible undertaking to the costs of the research and knowledge-dissemination organisation's activities that resulted in the IP concerned may be deducted from the value of the IP referred to in this point.

- (c) the aid amount of the IP transfer or the grant of the related access rights under this paragraph shall not exceed EUR 1 million. The aid amount corresponds to the value of the IP referred to in point (b), less the above-mentioned deduction referred to in the last sentence of point (b) and less any remuneration due from the beneficiary for that IP. The value of the IP referred to in point (b) can exceed EUR 1 million, in which case such additional amount may be covered by the eligible undertaking with own funds or other means.

## **16. Period of Validity**

This scheme shall operate from 1 July 2023 until 31 December 2026.