
DRAFT STATUTORY INSTRUMENTS

2019 No.

The State Aid (EU Exit) Regulations 2019

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the State Aid (EU Exit) Regulations 2019 and come into force on exit day.

(2) An amendment, repeal or revocation made by these Regulations has the same extent as the provision amended, repealed or revoked.

Interpretation

2.—(1) In these Regulations—

“agricultural aid” means aid for the production of and trade in agricultural products;

“Agricultural Block Exemption Regulation” or “ABER” means [Commission Regulation \(EU\) No 702/2014](#) of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union;

“agricultural products” means the products of—

- (a) the soil, of stockfarming and of fisheries listed in Annex I to the TFEU; and
- (b) first-stage processing directly linked to the products in paragraph (a);

“aid grantor” means a person who plans to grant, or who has granted, aid;

“aid scheme” has the meaning given in Article 2(15) of the General Block Exemption Regulation;

“alteration to existing aid” means any change to existing aid, except for—

- (a) changes of a purely formal or administrative nature which cannot affect an evaluation of whether the aid could be approved; or
- (b) an increase in the original budget of an existing aid scheme by up to 20%;

“block exemption regulation” means—

- (a) the General Block Exemption Regulation;
- (b) the Agricultural Block Exemption Regulation; or
- (c) the Fisheries Block Exemption Regulation;

“CMA” means the Competition and Markets Authority;

“CMA statement of policy” means a statement of policy published by the CMA under Part 6;

“compliance date” means the date by which an aid grantor must comply with all or part of an enforcement order;

“confidential information” means—

- (a) commercial information whose disclosure the CMA thinks might significantly harm the legitimate business interests of the undertaking to which it relates;
- (b) information relating to the private affairs of an individual whose disclosure the CMA thinks might significantly harm the individual’s interests; or
- (c) information whose disclosure the CMA thinks is contrary to the public interest;

“the court” means—

- (a) in England and Wales or Northern Ireland, the High Court; and
- (b) in Scotland, the Court of Session;

“de minimis regulation” means—

- (a) [Commission Regulation \(EU\) No 360/2012](#) of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest;
- (b) [Commission Regulation \(EU\) No 1407/2013](#) of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid;
- (c) [Commission Regulation \(EU\) No 1408/2013](#) of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector; or
- (d) [Commission Regulation \(EU\) No 717/2014](#) of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector;

“enforcement order” means an interim suspension order, an interim recovery order, a termination order or a recovery order made by the CMA under Part 4;

“existing aid” means—

- (a) aid schemes and individual aid which were put into effect before, and are still applicable after, the entry date;
- (b) aid schemes and individual aid which have been approved by the CMA under Part 3;
- (c) aid which is deemed to have been approved under regulation 9;
- (d) aid which is deemed to be existing aid under regulation 41; or
- (e) aid which was not aid at the time it was put into effect, but which became aid as a result of a change in the economic and legal framework of the relevant sector;

“existing aid scheme” means an aid scheme that is existing aid;

“Fisheries Block Exemption Regulation” or “FBER” means [Commission Regulation \(EU\) No 1388/2014](#) of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union;

“General Block Exemption Regulation” or “GBER” means [Commission Regulation \(EU\) No 651/2014](#) of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty;

“individual aid” means—

- (a) aid that is not awarded on the basis of an aid scheme; or
- (b) aid that is awarded on the basis of an aid scheme if the aid is required to be notified to the CMA under Article 108(3) of the TFEU;

“information” includes estimates and forecasts;

“interested party” means a person, undertaking or association of undertakings whose interests might be affected by the granting of aid, and may in particular include beneficiaries, competing undertakings and trade associations;

“limitation period” has the meaning given in regulation 41;

“misuse of aid” means aid used by a beneficiary in contravention of a CMA decision to approve aid;

“new aid” means all aid that is not existing aid, and includes individual aid, aid schemes and alterations to existing aid;

“properly submitted complaint” means a complaint sent to the CMA by an interested party in accordance with regulation 33(2);

“road and rail regulation”, except in Schedule 8, means Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2017 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) No. 1191/69 and 1107/70;

“Secretary of State guidance” means any guidance published by the Secretary of State under Part 6;

“SGEI decision” means Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest;

“TFEU” means the Treaty on the Functioning of the European Union;

“transport”, except in Schedule 4, means transport by rail, road and inland waterway;

“unlawful aid” means new aid that is granted in contravention of Article 108(3) of the TFEU; and

“working day” has the meaning given in section 34ZA(3) of the Enterprise Act 2002(1).

(2) In these Regulations, a reference to the CMA approving aid is a reference to the CMA approving aid under Article 93, 106(2) or 107(2) or (3) of the TFEU.

(1) 2002 c. 40; section 34ZA was inserted by paragraphs 1 and 4 of Schedule 8 to the Enterprise and Regulatory Reform Act 2013 (c. 24).