



Llywodraeth Cymru
Welsh Government

GUIDANCE

EU GBER State aid scheme: Welsh Government support for maritime and inland ports scheme

State aid reference no: SA.60336. The following scheme provides the legal cover for award of support inline with the General Block Exemption Regulation. The scheme does not provide any additional funding or budget.

First published: 11 July 2017

Last updated: 8 January 2021

Contents

Member State

Region

Title

UK legal basis

EC legal basis

Definitions

Objective

Authorised body

Scope

Duration

Budget

Form of aid

Eligible activities

Incentive effect

Cumulation

Monitoring and reporting

Schedule 1

Schedule 2

This scheme is only for use when awarding European Regional Development Funds (ERDF) or European Social Funds (ESF). For all other support please consult the State Aid Unit: state.aid@gov.wales

The following scheme provides the legal cover for awards of ERDF and ESF support in line with the EU General Block Exemption Regulation ONLY. The scheme does not provide any additional funding or budget and should not be used for awards of support from other sources.

1. Member State

United Kingdom

2. Region

Wales

3. Title of aid scheme

Welsh Government support for maritime and inland ports scheme

4. UK legal basis

Powers of the Welsh Ministers which allow the Welsh Government to support enterprises under the Scheme are contained in:

- the Welsh Development Agency Act 1975 (section 1) (as amended)
- The Industrial Development Act 1982 (section 7)
- Harbours Act 1964
- Ministry of Transport Act 1919
- Section 60 of the Government of Wales Act 2006 (c.32) Part 2
- Flood & Water management act 2010
- Environmental (Wales) Act 2016
- Coast protection act 1949
- Marine & Coastal access Act 2009
- Marine Strategy regulations 2010

The legislation which gives effect to EC Law in Wales is:

- the European Communities Act (1972) (section 2(1)), and
- the Government of Wales Act 2006 (section 80).

5. EC legal basis

All aid provided under this Scheme will be within the limits set out in Articles 56b and 56c of 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 (General Block Exemption Regulation).

[Full version of the regulation](#) on EUR-Lex

Summary information relating to the scheme has been registered with the Commission under reference SA.60336.

6. Definitions

In this scheme, the following expressions have the same meaning attributed to them as in the General Block Exemption. For ease of reference these have been replicated below (definitions are presented alphabetically):

Assisted area

means any of the regions in Wales designated as s107 (3) (a) or 107 (3) (c) area as identified in the UK Regional Aid Map 2014-2020 (SA.38113 (2014/N)). Further information can be found at Annex 1.

Date of granting the aid

Means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.

Dedicated infrastructure

Means infrastructure that is built for ex-ante identifiable undertaking(s) and tailored to their needs.

Fisheries 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.

Intangible assets

Means assets that do not have a physical or financial embodiment such as

patents, licences, know-how or other intellectual property.

Non-assisted areas

Means any region in Wales not designated as an assisted area.

Primary agricultural production

Means production of products of the soil and of stock farming, listed in Annex I to the Treaty, without performing any further operation changing the nature of such products.

The Regional Aid Map

Means the map approved by the Commission for the UK and published in accordance with paragraph 101 of the Guidelines on National Regional Aid for 2013-2020 (2006/C 54/08) – SA. 38113 (2014/N).

Repayable advance

Means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project.

Tangible assets

Means assets consisting of land, buildings and plant, machinery and equipment.

Undertaking in difficulty

Means an undertaking in respect of which at least one of the following circumstances occurs:

- a. In the case of a limited liability company (other than an SME that has been in existence for less than 3 years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, "limited liability company" refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU³⁴ and "share capital" includes, where relevant, any share premium.
- b. In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than 3 years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, "a company where at least some members have unlimited liability for the debt of the company" refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- c. Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- d. Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- e. In the case of an undertaking that is not an SME, where, for the past 2 years:
 - a. the undertaking's book debt to equity ratio has been greater than 7,5 and
 - b. the undertaking's EBITDA interest coverage ratio has been below 1,0.

Definitions for Aid for ports

Port

Means an area of land and water made up of such infrastructure and equipment, so as to permit the reception of waterborne vessels, their loading and unloading, the storage of goods, the receipt and delivery of those goods and the embarkation and disembarkation of passengers, crew and other persons and any other infrastructure necessary for transport operators in the port.

Maritime port

Means a port for, principally, the reception of sea-going vessels.

Inland port

Means a port other than a maritime port, for the reception of inland waterway vessels.

Port infrastructure

Means infrastructure and facilities for the provision of transport related port services, for example berths used for the mooring of ships, quay walls, jetties and floating pontoon ramps in tidal areas, internal basins, backfills and land reclamation, alternative fuel infrastructure and infrastructure for the collection of ship-generated waste and cargo residues.

Port superstructure

Means surface arrangements (such as for storage), fixed equipment (such as warehouses and terminal buildings) as well as mobile equipment (such as cranes) located in a port for the provision of transport related port services.

Access infrastructure

Means any type of infrastructure necessary to ensure access and entry from land or sea and river by users to a port, or in a port, such as roads, rail tracks, channels and locks.

Dredging

Means the removal of sediments from the bottom of the waterway access to a port, or in a port.

Alternative fuel infrastructure

Means a fixed, mobile or offshore port infrastructure allowing a port to supply vessels with energy sources such as electricity, hydrogen, biofuels as defined in point (i) of Article 2 of Directive 2009/28/EC, synthetic and paraffinic fuels, natural gas, including biomethane, in gaseous form (compressed natural gas and liquefied natural gas) and liquefied petroleum gas which serve, at least partly, as a substitute for fossil oil sources in the energy supply to transport and which have the potential to contribute to its decarbonisation and enhance the environmental performance of the transport sector.

Vessels

Mean floating structures, whether self-propelled or not, with one or more surface displacement hulls.

Sea-going vessels

Mean vessels other than those which navigate solely or mainly in inland waterways or in waters within, or closely adjacent to, sheltered waters; 'inland waterway vessels' mean vessels intended solely or mainly for navigation on inland waterways or in waters within, or closely adjacent to, sheltered waters.

Infrastructure for the collection of ship-generated waste and cargo residues

Means fixed, floating or mobile port facilities capable of receiving ship-generated waste or cargo residues as defined in Directive 2000/59/EC of the European Parliament and of the Council ([Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues](#) (OJ L 332, 28.12.2000, p. 81)).

7. Objective of the scheme

The aims of the scheme are to allow the Welsh Government to enable the development of port infrastructure in order to support the further development of the marine and maritime transport sector in Wales.

8. Government body authorised to implement the scheme

Welsh Government

9. Scope of the scheme

The scheme will be open to all enterprises in Wales excluding those in the following sectors:

- Fisheries and aquaculture
- Primary agricultural production
- The processing and marketing of agricultural products when:
 1. 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 enterprise concerned or
 2. where the aid is conditional on being partly or entirely passed on to

primary producers.

Where an undertaking is active in both an excluded sector and a non-excluded sector, aid may be given to fund non-excluded activities with the condition that activities in the excluded sector do not benefit from aid granted under this scheme.

Aid will not be allowed in the following circumstances:

- Aid to export related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity
- Aid to facilitate the closure of uncompetitive coal mines, as covered by Council Decision No 2010/787
- Where aid is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State
- Where aid is subject to the obligation for the beneficiaries to use nationally produced goods and services
- Aid contingent upon the use of domestic over imported goods
- Where the aid measure restricts the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

Aid may not be given where the proposed recipient is:

- Subject to an outstanding order for the recovery of aid which has been declared by the Commission to be illegal and incompatible with the common market, or
- An undertaking in difficulty.

The following activities cannot be supported:

Costs relating to non-transport related activities, including industrial production facilities active in a port, offices or shops, as well as for port superstructures.

10. Duration of the scheme

Aid under this scheme may be granted until 31 December 2023.

11. Budget for aid under the scheme

Although there is no defined budget for aid under this scheme, it has been estimated that the total expenditure from 10th July 2017 – 31st December 2020 will be in the region of £60 million. Should the budget for this scheme increase the Welsh Government will inform the European Commission.

12. Form of aid

All aid awarded under the scheme will be transparent and in line with criteria set out in Article 5 of the General Block Exemption Regulation. Aid may be awarded by way of:

- Grants (capital, revenue and repayable capital)
- interest rate subsidies
- loans
- repayable advances, and
- guarantees.

13. Eligible activities to be supported under the scheme

The scheme supports infrastructure projects. Detailed descriptions of the eligible activities that can be supported are set out in Schedules 1 and 2:

- Schedule 1: Aid for Maritime Ports
- Schedule 2: Aid for Inland Ports

14. Incentive effect

Aid recipients must demonstrate that the aid is required for projects to proceed by submitting a written application before work on the project or activity has started. The application will as a minimum contain the following information:

- a. Name and size of the undertaking
- b. Description of the project, including its start and end dates
- c. Location of the project
- d. List of project costs
- e. Form of and amount of public funding needed for the project.

15. Cumulation

In determining whether the individual notification thresholds and the maximum aid intensities are respected, the total amount of State aid for the aided activity or project or undertaking shall be taken into account, regardless of whether that support is financed from local, regional, national or Community sources.

Aid provided under this scheme will not be cumulated with other forms of aid nor with aid classed as de minimis aid in regard to the same eligible costs if the result would breach the applicable aid intensities.

A mechanism is in place as part of the application process to ensure that cumulation of aid does not exceed the maximum allowable aid intensities of the scheme. Due diligence checks will be carried out during the awarding process.

16. Monitoring and reporting requirements

All recipients of aid under the scheme will be informed that aid has been provided under the scheme, registered under SA.60336 pursuant to 56b and 56c, of 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 (General Block Exemption Regulation).

Records will be kept for 10 years from the date the last award of aid under the scheme. Records will be sufficiently detailed to establish that the conditions of the scheme are met.

Details of any award exceeding €500,000 given under this scheme will be made publicly available via a State aid website within 6 months of granting.

An annual report on the expenditure under this Scheme will be provided to the Commission.

The Welsh Government shall provide the Commission with all the information and documentation the Commission considers necessary to monitor the application of this Regulation, within 20 days of such request from the Commission.

Contact information:

State Aid Policy Unit
Welsh Government
Cathays Park
Cardiff CF10 3NQ
United Kingdom
Tel: + 44 (0)3000 253568
E-mail: state.aid@gov.wales

Schedule 1: Aid for maritime ports

Eligible costs and aid amounts

For the purpose of calculating aid amounts and eligible costs, 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.

The costs of the project will be transparent and directly and exclusively related to the project.

The eligible costs shall be the costs, including planning costs, of:

1. investments for the construction, replacement or upgrade of port infrastructures
2. investments for the construction, replacement or upgrade of access infrastructure
3. dredging.

The aided port infrastructure shall be made available to interested users on an equal and non-discriminatory basis on market terms.

Any concession or other entrustment to a third party to construct, upgrade, operate or rent aided port infrastructure shall be assigned on a competitive, transparent, non-discriminatory and unconditional basis.

Aid amount

The aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment or dredging. The operating profit shall be deducted from the eligible costs ex ante, on the basis of reasonable projections, or through a claw-back mechanism.

Aid Intensity

Investments for the construction, replacement or upgrade of port infrastructures: the aid intensity per investment shall not exceed:

	1073 (a)	1073 (c)	non-assisted
Eligible costs up to €20m	100%	100%	100%

Eligible costs €20m-€50m	90%	85%	80%
Eligible costs €50m-€130m*	70%	65%	60%

*For maritime port included in the work plan of a Core network Corridor as referred to in Article 47 of Regulation (EU) NO 1315/2013 of the European Parliament and of the Council the upper figure is €150m.

For aid not exceeding €5m, the maximum amount of aid may be set at 80% of eligible costs.

Investments for the construction, replacement or upgrade of access infrastructure: the aid intensity shall not exceed 100 % of the eligible costs up to the amounts laid down under 'prior notification' below.

For aid not exceeding €5m, the maximum amount of aid may be set at 80% of eligible costs.

Dredging: the aid intensity shall not exceed 100 % of the eligible costs up to the amounts laid down under 'prior notification' below.

For aid not exceeding €5m, the maximum amount of aid may be set at 80% of eligible costs.

Prior Notification

Aid awarded under this scheme to will be granted up to a maximum of €130 million per project (or €150 million per project in a maritime port included in the work plan of a Core Network Corridor as referred to in Article 47 of Regulation (EU) No 1315/2013 of the European Parliament and of the Council - [Regulation \(EU\) No 1315/2013](#)); as regards dredging a project is defined as all dredging carried out within one calendar year.

Schedule 2: Aid for inland ports

Eligible costs

The eligible costs shall be the costs, including planning costs, of:

- a. investments for the construction, replacement or upgrade of port infrastructures
- b. investments for the construction, replacement or upgrade of access infrastructure
- c. dredging.

The aided port infrastructure shall be made available to interested users on an equal and non-discriminatory basis on market terms.

Any concession or other entrustment to a third party to construct, upgrade, operate or rent aided port infrastructure shall be assigned on a competitive, transparent, non-discriminatory and unconditional basis.

Aid amounts

The aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment or dredging. 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 aid intensity shall not exceed 100% of the eligible costs where total eligible costs of the project are up to the amounts laid down under 'prior notification' below.

For aid not exceeding €2 million, the maximum amount of aid may be set at 80% of eligible costs, as an alternative to application of the method referred to in the preceding 2 paragraphs.

Prior notification

Aid awarded under this scheme to will be granted up to a maximum of €40 million per project (or €50 million per project in an inland port included in the work plan of a Core Network Corridor as referred to in Article 47 of Regulation (EU) No 1315/2013); as regards dredging a project is defined as all dredging carried out within one calendar year.

Annex A

Assisted Areas 2014-2020

The UK Assisted Areas for the period 2014-2020 have been determined in line with the criteria identified within the Guidelines on National Regional Aid for 2014-2020. The UK map was notified to the Commission and subsequently approved under State aid decision SA.38113 (2014/N).

In Wales, West Wales and the Valleys continue to retain full Article 107(3)(a) status eligible for the higher levels of funding. Areas of Flintshire, the Vale of Glamorgan Cardiff, Newport and Powys have been identified as Article 107(3)(c) areas.

Assisted Areas 107(3)(a) local authority areas

- Blaenau Gwent County Borough Council
- Bridgend County Borough Council
- Caerphilly County Borough Council
- Carmarthenshire County Council
- Ceredigion County Council
- Conwy County Borough Council
- Denbighshire County Council
- Gwynedd Council
- Isle of Anglesey County Council
- Merthyr Tydfil County Borough Council

- Neath Port Talbot County Council
- Pembrokeshire County Council
- Rhondda Cynon Taff County Borough Council
- City and County of Swansea
- Torfaen County Borough Council

Assisted Areas 107(3)(c) Wards

- Wales UKL Flintshire W06000005 Aston ED
- Wales UKL Flintshire W06000005 Bagillt East ED
- Wales UKL Flintshire W06000005 Bagillt West ED
- Wales UKL Flintshire W06000005 Broughton North East ED
- Wales UKL Flintshire W06000005 Broughton South ED
- Wales UKL Flintshire W06000005 Brynford ED
- Wales UKL Flintshire W06000005 Buckley Mountain ED
- Wales UKL Flintshire W06000005 Caerwys ED
- Wales UKL Flintshire W06000005 Cilcain ED
- Wales UKL Flintshire W06000005 Connah's Quay Central ED
- Wales UKL Flintshire W06000005 Connah's Quay Golftyn ED
- Wales UKL Flintshire W06000005 Connah's Quay South ED
- Wales UKL Flintshire W06000005 Connah's Quay Wepre ED
- Wales UKL Flintshire W06000005 Ewloe ED
- Wales UKL Flintshire W06000005 Ffynnongroyw ED
- Wales UKL Flintshire W06000005 Flint Castle ED
- Wales UKL Flintshire W06000005 Flint Coleshill ED
- Wales UKL Flintshire W06000005 Flint Oakenholt ED
- Wales UKL Flintshire W06000005 Flint Trelawny ED
- Wales UKL Flintshire W06000005 Greenfield ED
- Wales UKL Flintshire W06000005 Gronant ED
- Wales UKL Flintshire W06000005 Halkyn ED
- Wales UKL Flintshire W06000005 Hawarden ED
- Wales UKL Flintshire W06000005 Holywell Central ED
- Wales UKL Flintshire W06000005 Holywell East ED
- Wales UKL Flintshire W06000005 Holywell West ED
- Wales UKL Flintshire W06000005 Mancot ED
- Wales UKL Flintshire W06000005 Mostyn ED

- Wales UKL Flintshire W06000005 Northop Hall ED
- Wales UKL Flintshire W06000005 Queensferry ED
- Wales UKL Flintshire W06000005 Sealand ED
- Wales UKL Flintshire W06000005 Shotton East ED
- Wales UKL Flintshire W06000005 Shotton Higher ED
- Wales UKL Flintshire W06000005 Shotton West ED
- Wales UKL Flintshire W06000005 Trelawnyd and Gwaenysgor ED
- Wales UKL Flintshire W06000005 Whitford ED
- Wales UKL The Vale of Glamorgan W06000014 Peterston-super-Ely ED
- Wales UKL The Vale of Glamorgan W06000014 Rhoose ED
- Wales UKL The Vale of Glamorgan W06000014 St. Athan ED
- Wales UKL Cardiff W06000015 Butetown ED
- Wales UKL Cardiff W06000015 Cathays ED
- Wales UKL Cardiff W06000015 Splott ED
- Wales UKL Cardiff W06000015 Pontprennau/Old St. Mellons ED
- Wales UKL Cardiff W06000015 Trowbridge ED
- Wales UKL Newport W06000022 Graig ED
- Wales UKL Newport W06000022 Liswerry ED
- Wales UKL Newport W06000022 Llanwern ED
- Wales UKL Newport W06000022 Marshfield ED
- Wales UKL Newport W06000022 Pillgwenlly ED
- Wales UKL Newport W06000022 Stow Hill ED
- Wales UKL Newport W06000022 Tredegar Park ED
- Wales UKL Powys W06000023 Aber-Craf ED
- Wales UKL Powys W06000023 Cwm-Twrch ED
- Wales UKL Powys W06000023 Ynyscedwyn ED
- Wales UKL Powys W06000023 Ystradgynlais ED

Assisted Areas 2014-2020

