

SCOTTISH ENTERPRISE ENVIRONMENTAL PROTECTION SCHEME 2022 – 2025 – SC10670

Contents

1. Objectives
2. Legal basis
3. General provisions
4. Types of subsidy under Scheme
 - a. Investment subsidy for enabling economic actors to go beyond Union standards
 - b. Early adaptation to Union standards
 - c. Investment subsidy for energy efficiency measures
 - d. Investment subsidy for energy efficiency projects in buildings
 - e. Investment subsidy for high efficiency cogeneration
 - f. Investment subsidy for the promotion of energy from renewable sources
 - g. Operating subsidy for the promotion of electricity from renewable sources
 - h. Operating subsidy for the promotion of energy from renewable sources in small scale installations
 - i. Investment subsidy for remediation of contaminated sites
 - j. Investment subsidy for energy efficient district heating and cooling
 - k. Investment subsidy for waste recycling and re-utilisation
 - l. Investment subsidy for energy infrastructure
 - m. Subsidy for environmental studies
5. Exclusions
6. Cumulation

Appendix 1 – Assisted areas map

Appendix 2 – Definitions

Appendix 3 – SME definition

1. OBJECTIVES

- 1.1 The Scottish Enterprise Environmental Protection Scheme 2022-2025 (the “**Scheme**”) aims to promote sustainable economic growth by assisting enterprises with activities in the areas of environmental protection and encouraging investment in environmental protection measures by economic actors in Scotland to secure both long term economic benefits to Scotland and help achieve Scotland’s low carbon targets.

2. LEGAL BASIS

- 2.1 Scottish Enterprise (“**SE**”) is established under the Enterprise and New Towns (Scotland) Act 1990 and provides support to enterprises across Scotland under the provisions of that Act.
- 2.2 Following the expiry of the Brexit transition period on 31 December 2020, the UK is no longer subject to EU State aid rules. The only exceptions to this are for aid that is caught by the NI Protocol and for awards of funding that include contributions from EU Structural Funds.
- 2.3 The Scheme is required to comply with the provisions on subsidy control listed below, insofar as they are relevant to the specific facts and circumstances of the proposed support:
 - a) Part Two, Heading One, Title XI, Chapter 3 of the UK-EU Trade and Cooperation Agreement signed on 30 December 2020 (as implemented by section 29 of the European Union (Future Relationship) Act 2020) (the “**TCA**”);
 - b) the Northern Ireland Protocol to the UK-EU Withdrawal Agreement agreed on 17 October 2019 (as implemented by section 7A of the European Union (Withdrawal) Act 2018) (the “**NI Protocol**”);
 - c) Article 138 of the UK-EU Withdrawal Agreement agreed on 17 October 2019 in respect of EU Structural Funds (as implemented by section 7A of the European Union (Withdrawal) Act 2018) (“**Article 138**”);
 - d) WTO Agreement on Subsidies and Countervailing Measures (“**WTO ASCM**”);
 - e) Trade Agreements entered into between the UK and other countries; and
 - f) Relevant UK Government guidance.
- 2.4 From January 2021, the Scheme operates under and satisfies as relevant and/or necessary:
 - (i) the principles in Article 366 of Title XI of the TCA;

- (ii) Article 10 of the NI Protocol; and
- (iii) Article 138.

3. GENERAL PROVISIONS

- 3.1 The Scheme runs from 23 December 2022 to 31 December 2025. SE may at any time extend the duration of the Scheme by amending the end date provided for in the Scheme, without limitation as to the number of extensions or total duration of the Scheme, provided that SE is satisfied that the Scheme remains both relevant and consistent with the legal requirements that apply to it. The anticipated amount budgeted by SE for the Scheme is £20 million. SE may at any time increase the total budget of the Scheme, without limitation as to the number of aggregate value of such increases, provided that SE is satisfied that the budget increase is both required to meet the Scheme's objectives and consistent with the legal requirements that apply to it.
- 3.2 Terms used in this Scheme are defined in Appendix 2.
- 3.3 There is no automatic entitlement to support from SE and any funding is provided on a discretionary basis. Any award is subject to SE's assessment against the Scheme conditions, SE approval and acceptance of standard terms and conditions of grant. The amounts and subsidy intensities stated reflect the maximum potential levels of support that may be made available. There is no guarantee of funding under the Scheme and any funding which is made available may be made at lower intensities than those stated below.
- 3.4 Assistance may be offered through a range of instruments, products and services. Any award will be based on the merits of the proposed project. Requests for support will also be subject to an assessment of need for assistance, rigorous due diligence appraisal and internal approval by SE. Any business interested in assistance from SE under this Scheme should consult www.scottish-enterprise.com or contact us on 0300 013 3385 or by e-mail to enquiries@scotent.co.uk.
- 3.5 Subsidy may be awarded to enterprises of all sizes.
- 3.6 Applicants must submit a written application for assistance to SE before work on the project or activity has started, and the application must be approved in writing before work can commence on the project, unless otherwise agreed by SE. The application must include information on the applicant's name and size, a description of the project (including start and end date), the location of the project, a list of project costs and the type of subsidy (e.g. grant).
- 3.7 The applicant may be required to provide documentation to allow SE to assess whether the subsidy will achieve one or more of the following: a material increase

in the scope of the project/activity; a material increase in the total amount spent by the prospective beneficiary on the project/activity; or a material increase in the speed of completion. This is in order for SE to ensure that the subsidy will bring about a change in the economic behaviour of the beneficiary that is conducive to achieving objectives and that would not be achieved in the absence of subsidies being provided.

- 3.8 SE is required to provide annual returns to the Scottish and UK Governments detailing subsidy provided under this Scheme, and to maintain detailed records regarding individual subsidies provided under the Scheme. Such records must contain all information necessary to establish that the conditions of the Scheme are fulfilled, including information on the status of any economic actor whose entitlement to subsidy or a bonus depends on its status as an SME, information on the incentive effect of the subsidy, and information making it possible to establish the precise amount of eligible costs for the purpose of applying the rules of the Scheme. The information which must be provided to SE and/or retained by the subsidy recipient, and the length of time for which records must be maintained, will be set out in any offer of grant made under the Scheme. SE will maintain detailed records regarding subsidy provided under the Scheme and will provide reports to the Scottish and UK Governments on subsidies awarded under the Scheme. SE will maintain records with all information necessary to establish that the conditions laid down in the Scheme are fulfilled. Information to be provided to SE and/or retained by the subsidy recipient will be set out in any offer of grant.
- 3.9 All grants identified as being over the reporting threshold at any given time must be registered as specified by reporting requirements in force at the relevant time. Details of grants may also be published on SE's website.
- 3.10 SE may at any time modify any or all of the legislative references in this Scheme, provided that i) SE deems it necessary to ensure that appropriate recognition is given to any updated legislation applicable in the UK, and ii) SE is satisfied that such modification is both required to meet the Scheme's objectives and consistent with the legal requirements that apply to it.

4. TYPES OF SUBSIDY UNDER THE SCHEME

Note: The information below is intended to be a helpful summary of the types of subsidy which may be granted under the Scheme. It should be noted that the subsidy amounts stated reflect the maximum levels of support permitted under the Scheme at a single point in time and SE may set lower subsidy intensities for specific products or programmes created under the Scheme, taking into account the strategic rationale and market failure being addressed through the subsidy.

Section A: *Investment subsidy enabling economic actors to go beyond Union standards for environmental protection or to increase the level of environmental protection in the absence of Union standards*

- 4.1 Any subsidy to support economic actor investment in environmental protection going beyond Union standards (or increasing the level of protection in the absence of such standards) shall be provided in accordance with the conditions of this section.
- 4.2 The eligible costs are generally the extra investment costs necessary to go beyond the applicable Union standards or to increase the level of environmental protection in the absence of Union standards. Costs must be directly linked to the achievement of a higher level of environmental protection.
- 4.3 Eligible costs will be calculated as follows:
 - a) where the costs of investing in environmental protection can be identified in the total investment cost as a separate investment, this environmental protection-related cost shall constitute the eligible costs;
 - b) in all other cases, the costs of investing in environmental protection are identified by reference to a similar, less environmentally friendly investment that would have been credibly carried out without the subsidy. The difference between the costs of both investments identifies the environmental protection-related cost and constitutes the eligible costs.
- 4.4 The subsidy intensity shall not exceed: 40% for large economic actors, 50% for medium sized economic actors and 60% for small economic actors. A further 5% bonus may be applied to investments located in an assisted area as set out in Appendix 1.
- 4.5 The investment must fulfil one of the following conditions:
 - a) it shall enable the beneficiary to increase the level of environmental protection resulting from its activities by going beyond the applicable Union standards, irrespective of the presence of mandatory national standards that are more stringent than the Union standards;
 - b) it shall enable the beneficiary to increase the level of environmental protection resulting from its activities in the absence of Union standards.
- 4.6 Subsidy shall not be granted where investments are undertaken to ensure that economic actors comply with Union standards already adopted and not yet in force, unless for:
 - a) the acquisition of new transport vehicles for road, railway, inland waterway and maritime transport complying with adopted Union standards, provided that the acquisition occurs before those standards enter into force and that, once mandatory, they do not apply to vehicles already purchased before that date.
 - b) retrofitting of existing transport vehicles for road, railway, inland waterway and maritime transport, provided that the Union standards were not yet in force at the

date of entry into operation of those vehicles and that, once mandatory, they do not apply retroactively to those vehicles.

Section B: Investment subsidy for early adaption to future Union standards

- 4.7 Any subsidy to support economic actor investment in complying with new Union standards which are not yet in force shall be provided in accordance with the conditions of this section.
- 4.8 The eligible costs are generally the extra investment costs necessary to go beyond the Union standards. Costs must be directly linked to the achievement of a higher level of environmental protection.
- 4.9 The eligible costs will be calculated as follows:
- a) where the costs of investing in environmental protection can be identified in the total investment cost as a separate investment, this environmental protection-related cost shall constitute the eligible costs;
 - b) in all other cases, the costs of investing in environmental protection are identified by reference to a similar, less environmentally friendly investment that would have been credibly carried out without the subsidy. The difference between the costs of both investments identifies the environmental protection-related cost and constitutes the eligible costs.
- 4.10 The subsidy intensity shall not exceed:
- where implementation and finalisation of the investment take place more than three years before the date of entry into force of the new Union standard: 20% for small economic actors, 15% for medium sized economic actors and 10% for large economic actors; or
 - where implementation and finalisation of the investment take place between one and three years before the date of entry into force of the new Union standard: 15% for small economic actors, 10% for medium-sized economic actors and 5% for large economic actors.

These intensities can be increased by 5% where the investment is located in an assisted area as set out in Appendix 1.

- 4.11 Union standards shall have been adopted and the investment must be implemented and finalised at least one year before the date of the standard coming into force.

Section C: Investment subsidy for energy efficiency measures

- 4.12 Any subsidy to support economic actor investment in energy efficiency measures shall be provided in accordance with this section.

- 4.13 The eligible costs are generally the extra investment costs necessary to achieve the higher level of energy efficiency. Costs must be directly linked to the achievement of a higher level of environmental protection. They shall be determined as follows:
- a) where the costs of investing in energy efficiency can be identified in the total investment cost as a separate investment, this energy efficiency related cost shall constitute the eligible costs;
 - b) in all other cases, the costs of investing in energy efficiency are identified by reference to a similar, less energy efficient investment that would have been credibly carried out without the subsidy. The difference between the costs of both investments identifies the energy efficiency related cost and constitutes the eligible costs.
- 4.14 The subsidy intensity shall not exceed: 30% for large economic actors, 40% for medium sized economic actors and 50% for small economic actors. These intensities can be increased by 5% where the investment is located in an assisted area as set out in Appendix 1.
- 4.15 Subsidy shall not be granted under this section where improvements are undertaken to ensure that economic actors comply with Union standards already adopted, even if they are not yet in force.
- 4.16 The maximum amount of subsidy that can be granted under this provision is £13.5 million per economic actor per investment project.

Section D: Investment subsidy for energy efficiency projects in buildings

- 4.17 Any investment subsidy for energy efficiency projects in building shall be provided in accordance with the conditions set out in this section.
- 4.18 The eligible costs shall be the overall costs of the energy efficiency project.
- 4.19 The subsidy shall be granted in the form of an endowment, equity, guarantee or loan to an energy efficiency fund or other financial intermediary, which shall fully pass it on to the final beneficiaries being the building owners or tenants.
- 4.20 The subsidy granted by the energy efficiency fund or other financial intermediary to the eligible energy efficiency projects may take the form of loans or guarantees. The nominal value of the loan or the amount guaranteed shall not exceed £9 million per project at the level of the final beneficiaries. The guarantee should not exceed 80% of the underlying loan.
- 4.21 The repayment by the building owners to the energy efficiency fund or other financial intermediary shall not be less than the nominal value of the loan.

- 4.22 The energy efficiency subsidy shall leverage additional investment from private investors reaching at minimum 30% of the total financing provided to an energy efficiency project. When the subsidy is provided by an energy efficiency fund, the leverage of private investment can be done at the level of the energy efficiency fund and/or at the level of the energy efficiency projects, so as to achieve an aggregate minimum 30% of the total financing provided to an energy efficiency project.
- 4.23 SE may set up energy efficiency funds and/or use financial intermediaries when providing energy efficiency subsidy. The following conditions must then be fulfilled:
- a) financial intermediary managers, as well as energy efficiency fund managers shall be selected through an open, transparent and non-discriminatory call in accordance with all applicable laws. Financial intermediaries and energy efficiency fund managers may be required to fulfil predefined criteria objectively justified by the nature of the investments;
 - b) the independent private investors shall be selected through an open, transparent and non-discriminatory call in accordance with all applicable laws aimed at establishing the appropriate risk-reward sharing arrangements whereby, for investments other than guarantees, asymmetric profit-sharing shall be given preference over downside protection. If the private investors are not selected by such a call, the fair rate of return to the private investors shall be established by an independent expert selected via an open, transparent and non-discriminatory call;
 - c) in the case of asymmetric loss-sharing between public and private investors, the first loss assumed by the public investor shall be capped at 25% of the total investment;
 - d) in the case of guarantees, the guarantee rate shall be limited to 80% and total losses assumed shall be capped at 25 % of the underlying guaranteed portfolio. Only guarantees covering the expected losses of the underlying guaranteed portfolio can be provided for free. If a guarantee also comprises coverage of unexpected losses, the financial intermediary shall pay, for the part of the guarantee covering unexpected losses, a market-conform guarantee premium;
 - e) the investors shall be allowed to be represented in the governance bodies of the energy efficiency fund or financial intermediary, such as the supervisory board or the advisory committee; and
 - f) the energy efficiency fund or financial intermediary shall be established according to all applicable laws and SE shall provide for a due diligence process in order to ensure a commercially sound investment strategy for the purpose of implementing the energy efficiency subsidy measure.
- 4.24 Financial intermediaries, including energy efficiency funds shall be managed on a commercial basis and shall ensure profit-driven financing decisions. This is considered to be the case when the financial intermediary and, as the case may be, the managers of the energy efficiency fund fulfil the following conditions:

- a) they are obliged by law or contract to act with the diligence of a professional manager in good faith and avoiding conflicts of interest; best practices and regulatory supervision shall apply;
- b) their remuneration conforms with market practices. This requirement is considered to be met where the manager is selected through an open, transparent and non-discriminatory call, based on objective criteria linked to experience, expertise and operational and financial capacity;
- c) they shall receive a remuneration linked to performance, or shall share part of the investment risks by co-investing own resources so as to ensure that their interests are permanently aligned with the interests of the public investor;
- d) they shall set out an investment strategy, criteria and the proposed timing of investments in energy efficiency projects, establishing the ex-ante financial viability and their expected impact on energy efficiency; and
- e) a clear and realistic exit strategy shall exist for the public funds invested in the energy efficiency fund or granted to the financial intermediary, allowing the market to finance energy efficiency projects when the market is ready to do so.

4.25 Energy efficiency improvements undertaken to ensure that the beneficiary complies with Union standards which have already been adopted shall not be permitted under the Scheme.

4.26 The maximum amount of subsidy that can be granted under this provision is £9 million.

Section E: Investment subsidy for high-efficiency cogeneration

4.27 Any investment subsidy for high-efficiency cogeneration shall be provided in accordance with the conditions set out in this section.

4.28 The eligible costs shall be:

- a) the extra investment costs for the equipment needed for the installation to operate as a high-efficiency cogeneration installation, compared to conventional electricity or heating installations of the same capacity; or
- b) the extra investment cost to upgrade to a higher efficiency when an existing installation already meets the high-efficiency threshold.

4.29 The subsidy intensity shall not exceed: 45% of the eligible costs for large economic actors, 55% for medium sized economic actors and 65% for small economic actors. These intensities can be increased by 5% where the investment is located in an assisted area as set out in Appendix 1.

4.30 Investment subsidy will only be granted in respect of newly installed or refurbished capacities.

4.31 The new cogeneration unit shall provide overall primary energy savings compared to separate production of heat and electricity as provided for by Directive

2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC. The improvement of an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit shall result in primary energy savings compared to the original situation.

- 4.32 The maximum amount of subsidy that can be granted under this provision is £13.5 million per economic actor per investment project.

Section F: *Investment subsidy for the promotion of energy from renewable sources*

- 4.33 Any investment for the promotion of energy from renewable energy sources shall be provided in accordance with the provisions set out in this section.

- 4.34 The eligible costs are generally the extra investment costs necessary to promote the production of energy from renewable sources, to be determined as follows:

- a) where the costs of investing in the production of energy from renewable sources can be identified in the total investment cost as a separate investment, for instance as a readily identifiable add-on component to a pre-existing facility, this renewable energy-related cost shall constitute the eligible costs;
- b) where the costs of investing in the production of energy from renewable sources can be identified by reference to a similar, less environmentally friendly investment that would have been credibly carried out without the subsidy, this difference between the costs of both investments identifies the renewable energy-related cost and constitutes the eligible costs;
- c) for certain small installations where a less environmentally friendly investment cannot be established as plants of a limited size do not exist, the total investment costs to achieve a higher level of environmental protection shall constitute the eligible costs.

Only costs which are directly linked to the achievement of a higher level of environmental protection are eligible.

- 4.35 The relevant subsidy intensity depends on the method of calculating the eligible costs, but will be either:

- a) where costs are calculated under para (a) or (b) of section 4.34 above: 45% of the eligible costs for large economic actors, 55% for medium sized economic actors and 65% for small economic actors. These intensities can be increased by 5% where the investment is located in an assisted area as set out in Appendix 1.
- b) where costs are calculated under para (c) of section 4.34 above: 30% for large economic actors, 40% for medium sized economic actors and 50% for small economic actors. These intensities can be increased by 5% where the investment is located in an assisted area as set out in Appendix 1.

- 4.36 Where subsidy is granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria, the subsidy intensity may reach 100 % of the eligible costs. Such a bidding process shall be non-discriminatory and provide for the participation of all interested economic actors. The budget related to the bidding process shall be a binding constraint in the sense that not all participants can receive subsidy and the subsidy shall be granted on the basis of the initial bid submitted by the bidder, therefore excluding subsequent negotiations.
- 4.37 Investment subsidy for the production of biofuels shall only be permitted under this Scheme to the extent the subsidised investments are used exclusively for the production of sustainable biofuels. (This exclusion does not apply where existing food based bio-fuel plants are being converted into advanced biofuel plants, so long as the food-based production reduces commensurate with the new capacity.)
- 4.38 Subsidy shall not be granted for:
- a) biofuels which are subject to a supply or blending obligation; or
 - b) hydropower installations that do not comply with applicable laws.
- 4.39 The investment subsidy shall be granted to new installations only. No subsidy shall be granted or paid out after the installation started operations and subsidy shall be independent from the output.
- 4.40 The maximum amount of subsidy that can be granted under this provision is £13.5 million per economic actor per investment project.

Section G: *Operating subsidy for the promotion of electricity from renewable sources*

- 4.41 Operating subsidy for the promotion of energy from renewable sources shall be granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria which shall be open to all generators producing electricity from renewable energy sources on a non-discriminatory basis.
- 4.42 The bidding process may be limited to specific technologies where a process open to all generators would lead to a suboptimal result, in particular:
- a) the longer-term potential of a given new and innovative technology; or
 - b) the need to achieve diversification; or
 - c) network constraints and grid stability; or
 - d) system (integration) costs; or
 - e) the need to avoid distortions on the raw material markets from biomass support.
- 4.43 Subsidy shall be granted to new and innovative renewable energy technologies in a competitive bidding process. Subsidy shall not be granted for more than 5% of the planned new electricity capacity from renewable energy sources per year in total.

- 4.44 Subsidy shall be granted as a premium in addition to the market price whereby the generators sell their electricity directly in the market.
- 4.45 Subsidy beneficiaries shall be subject to standard balancing responsibilities. Beneficiaries may outsource balancing responsibilities to other economic actors on their behalf, such as aggregators.
- 4.46 Subsidy shall not be granted when prices are negative.
- 4.47 Subsidy may be granted in the absence of a competitive bidding process as described in paragraph 4.41 to installations with an installed electricity capacity of less than 1 MW for the production of electricity from all renewable sources except for wind energy, where subsidy may be granted in the absence of a competitive bidding process as described in paragraph 4.41 to installations with an installed electricity capacity of less than 6 MW or to installations with less than 6 generation units. Without prejudice to paragraph 4.48, when subsidy is granted in the absence of a competitive bidding process, the conditions under paragraphs 4.44, 4.45 and 4.46 shall be respected. In addition, when subsidy is granted in the absence of a competitive bidding process, the conditions under paragraphs 4.44, 4.45 and 4.46 shall be applicable.
- 4.48 The conditions under paragraphs 4.44, 4.45 and 4.46 shall not apply to operating subsidy granted to installations with an installed electricity capacity of less than 500 kW for the production of electricity from all renewable sources except for wind energy, where these conditions shall not apply to operating subsidy granted to installations with an installed electricity capacity of less than 3 MW or to installations with less than 3 generation units.
- 4.49 For the purpose of calculating the above maximum capacities referred to in paragraphs 4.47 and 4.48, installations with a common connection point to the electricity grid shall be considered as one installation.
- 4.50 Subsidy shall only be granted until the plant generating the electricity from renewable sources has been fully depreciated according to generally accepted accounting principles. Any investment subsidy previously received must be deducted from the operating subsidy.
- 4.51 The maximum amount of subsidy that can be granted under this section is £135 million per year when given under a competitive bidding process, and taking into account the combined budget of all schemes falling under this section.

Section H: *Operating subsidy for the promotion of energy from renewable sources in small scale installations*

- 4.52 Any operating subsidy for the promotion of energy from renewable sources in small scales installations shall be provided in accordance with the conditions set out in this section.
- 4.53 The subsidy per unit of energy shall not exceed the difference between the total levelized costs of producing energy from the renewable source in question and the market price of the form of energy concerned. The levelized costs shall be updated regularly and at least every year.
- 4.54 The maximum rate of return used in the levelized cost calculation shall not exceed the relevant swap rate plus a premium of 100 basis points. The relevant swap rate shall be the swap rate of the currency in which the subsidy is granted for a maturity that reflects the depreciation period of the installations supported.
- 4.55 Subsidy shall only be granted to installations with an installed capacity of less than 500 kW for the production of energy from all renewable sources except for wind energy, for which subsidy shall be granted to installations with an installed capacity of less than 3 MW or with less than 3 generation units and for biofuels, for which subsidy shall be granted to installations with an installed capacity of less than 50 000 tonnes/year. For the purpose of calculating those maximum capacities, small scale installations with a common connection point to the electricity grid shall be considered as one installation.
- 4.56 Subsidy shall only be granted to installations producing sustainable biofuels other than food-based biofuels.
- 4.57 Subsidy shall not be granted for biofuels which are subject to a supply or blending obligation.
- 4.58 Subsidy shall only be granted until the installation has been fully depreciated according to generally accepted accounting principles. Any investment subsidy granted to an installation shall be deducted from the operating subsidy.
- 4.59 The maximum amount of subsidy that can be granted under this provision is £13.5 million per economic actor per investment project.

Section I: *Investment subsidy for remediation of contaminated sites*

- 4.60 Any investment subsidy for remediation of contaminated sites shall be provided in accordance with the conditions set out in this section. The investment shall lead to the repair of the environmental damage, including damage to the quality of the soil or of surface water or groundwater. The subsidy will only be granted where a person liable under the applicable law is not identified or cannot be made to bear the costs of the remediation or decontamination work.

- 4.61 Where the legal or physical person liable for the environmental damage is identified, that person must finance the remediation in accordance with the 'polluter pays' principle, and no subsidy shall be granted. Where the person liable is not identified or cannot be made to bear the costs, the person responsible for the remediation or decontamination work may receive subsidy.
- 4.62 The eligible costs shall be the costs incurred for the remediation work, less the increase in the value of the land. All expenditure incurred by an economic actor in remediating its site, whether or not such expenditure can be shown as a fixed asset on its balance sheet, may be considered as eligible investment in the case of the remediation of contaminated sites. Evaluations in the increase of value of land resulting from the remediation shall be carried out by an independent expert.
- 4.63 The subsidy intensity shall not exceed 100% of the eligible costs.
- 4.64 The maximum amount of subsidy that can be granted under this provision is £18 million per economic actor per investment project.

Section J: *Investment subsidy for energy efficient district heating and cooling*

- 4.65 Any investment subsidy for energy efficient district heating and cooling shall be provided in accordance with the conditions set out in this section.
- 4.66 The eligible costs for the production plant shall be the extra costs needed for the construction, expansion and refurbishment of one or more generation units to operate as an energy efficient district heating and cooling system compared to a conventional production plant. The investment shall be an integral part of the new system.
- 4.67 The eligible costs for the distribution network shall be the investment costs.
- 4.68 The subsidy intensity for the production plant shall not exceed: 45% of the eligible costs for large economic actors, 55% for medium sized economic actors and 65% for small economic actors. These intensities can be increased by 5% where the investment is located in an assisted area as set out in Appendix 1.
- 4.69 The maximum amount of subsidy that can be granted under this provision is £18 million per economic actor per investment project. The subsidy amount shall not exceed the difference between the eligible costs and the operating profit. The operating profit shall be deducted from the eligible costs *ex ante* or through a claw-back mechanism.

Section K: *Investment subsidy for waste recycling and re-utilisation*

- 4.70 Any investment subsidy for waste recycling and re-utilisation shall be provided in accordance with the conditions set out in this section. The investment subsidy shall be granted for the recycling and re-utilisation of waste generated by other economic actors where the recycled or re-used materials treated would otherwise be disposed of (or treated in a less environmentally friendly manner). Subsidy to waste recovery operations other than recycling shall not be covered.
- 4.71 The subsidy shall not relieve polluters from a burden under any applicable law and should not be used to meet a normal economic actor cost. Subsidy cannot be granted under this provision to investments relating to the recycling and re-utilisation of the beneficiary's own waste.
- 4.72 The investment shall not merely increase demand for the materials to be recycled without increasing collection of those materials.
- 4.73 Any investment should go beyond state of the art.
- 4.74 The eligible costs shall be the extra investment costs necessary to realise an investment leading to better or more efficient recycling or re-use activities compared to a conventional process of re-use and recycling activities with the same capacity that would be constructed in the absence of the subsidy.
- 4.75 The subsidy intensity shall not exceed: 35% of the eligible costs for large economic actors, 45% for medium sized economic actors and 55% for small economic actors. These intensities can be increased by 5% where the investment is located in an assisted area as set out in Appendix 1.
- 4.76 The maximum amount of subsidy that can be granted under this provision is £13.5 million per economic actor per investment project.

Section L: *Investment subsidy for energy infrastructure*

- 4.77 Any investment subsidy for the construction or upgrade of energy infrastructures shall be provided in accordance with the conditions set out in this section. Subsidy for investments in electricity and gas storage projects and oil infrastructure shall not be covered by this section.
- 4.78 Subsidy shall be granted for infrastructure located in an assisted area as set out in Appendix 1. The energy infrastructure supported shall be subject to full tariff and access regulation according to internal energy market legislation.
- 4.79 Investments in electricity and oil and gas storage projects are not eligible for support.
- 4.80 The eligible costs shall be the investment costs.

4.81 The subsidy amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The maximum amount of subsidy that can be granted under this provision is £45 million per economic actor per investment project.

Section M: Subsidy for environmental studies

4.82 Any subsidy for environmental studies (including energy audits) directly linked to investments in environmental protection shall be provided in accordance with the conditions set out in this section.

4.83 Large economic actors cannot receive support for mandatory energy audits.

4.84 Eligible costs are the costs of the study.

4.85 The subsidy intensity shall not exceed: 50% of the eligible costs for large economic actors, 60% for medium sized economic actors and 70% for small economic actors.

4.86 The maximum amount of subsidy that can be granted under this provision is £13.5 million per economic actor per investment study.

5. EXCLUSIONS

Export subsidy

5.1 The Scheme does not apply to:

- subsidies that are contingent in law or in fact, whether solely or as one of several other conditions, upon export performance relating to goods or services; or
- subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods or services.

Sectoral

5.2 The Scheme applies to all sectors of the economy, with the exception of:

- activities in the fishery and aquaculture sector, as covered by Regulation (EU) No 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, as amended from time to time;
- activities in the processing and marketing of agricultural products where subsidy is aimed at directly influencing the price or quantity of primary production (i.e. where the amount of the subsidy is fixed on the basis of the price or quantity of such

products purchased from primary producers or put on the market by the economic actors concerned or the subsidy is conditional on being partly or entirely passed on to primary producers); and

- subsidy to facilitate the closure of uncompetitive coal mines.

Recovery of illegal subsidy / Ailing or insolvent economic actors

5.3 The following are explicitly excluded from the Scheme:

- payment of subsidy in favour of an economic actor which is subject to an outstanding recovery order following i) a previous Commission decision declaring a subsidy illegal and incompatible with the common market or ii) an order requiring recovery of subsidy issued by any domestic UK courts or tribunal; and
- subsidies for restructuring an ailing or insolvent economic actor without a credible plan being in place to return the economic actor to viability. For the purposes of this paragraph, an ailing or insolvent economic actor is one that would almost certainly go out of business in the short to medium term without the subsidy.

6. CUMULATION OF SUBSIDY

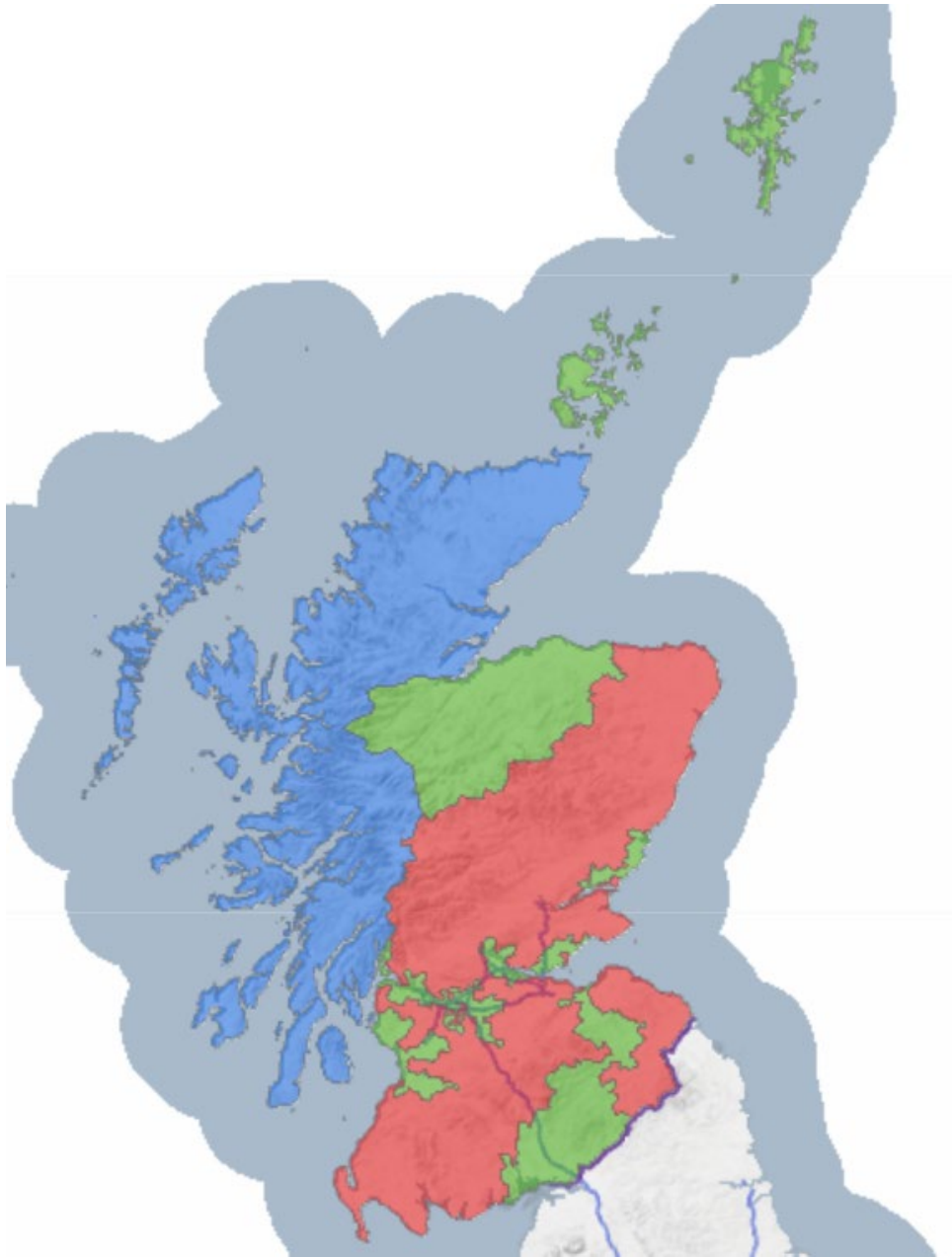
6.1 Subsidy provided under the Scheme may be cumulated with other permitted subsidy provided through this or another SE scheme (or another registered scheme) as long as those subsidy measures concern different identifiable eligible costs.

6.2 Subsidy provided under this Scheme may only be cumulated with other permitted subsidy, where, in respect of the same totally or partially overlapping eligible costs, such cumulation does not result in the highest permissible subsidy intensity or subsidy amount under this Scheme being exceeded.

6.3 All sources of public funding shall be taken into account when considering cumulation and in determining that the relevant subsidy intensity or subsidy amount is not exceeded.

APPENDIX 1

ASSISTED AREAS MAP



The map above shows in green and blue the areas of Scotland which are assisted areas. An interactive version of the map can be accessed at [Regional Selective Assistance 2022-2025 Map \(arcgis.com\)](https://arcgis.com).

Red areas are not eligible for increases.

APPENDIX 2

DEFINITIONS

‘agricultural product’ means the products listed in Annex I to the Treaty, except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013, both as amended from time to time;

‘Article 138’ means Article 138 of the UK-EU Withdrawal Agreement agreed on 17 October 2019 in respect of EU Structural Funds (as implemented by section 7A of the European Union (Withdrawal) Act 2018)

‘assisted areas’ means areas identified as green areas and blue areas in Appendix 1;

‘balancing responsibilities’ means responsibility for imbalances (deviations between generation, consumption and commercial transactions) of a market participant or its chosen representative, referred to as the ‘Balance Responsible Party’, within a given period of time, referred to as the ‘Imbalance Settlement Period’;

‘biofuel’ means liquid or gaseous fuel for transport produced from biomass;

‘biomass’ means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as biogases and the biodegradable fraction of industrial and municipal waste;

‘coal’ means high-grade, medium-grade and low-grade category A and B coal within the meaning of the international codification system for coal established by the United Nations Economic Commission for Europe and clarified in the Council decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines;

‘cogeneration’ or combined heat and power (CHP) means the simultaneous generation in one process of thermal energy and electrical and/or mechanical energy;

‘contaminated site’ means a site where there is a confirmed presence, caused by man, of hazardous substances of such a level that they pose a significant risk to human health or the environment taking into account current and approved future use of the land;

‘date of granting the subsidy’ means the date when the legal right to receive the subsidy is conferred on the beneficiary;

‘economic actor’ means an entity or a group of entities constituting a single economic entity, regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market;

‘energy efficiency’ means an amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy-efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption;

‘energy efficiency project’ means an investment project that increases the energy efficiency of a building;

‘energy efficient district heating and cooling’ means a district heating and cooling system which satisfies the definition of efficient district heating and cooling system set out in Article 2(41) and (42) of Directive 2012/27/EU. The definition includes the heating/cooling production plants and the network (including related facilities) necessary to distribute the heat/ cooling from the production units to the customer premises;

‘energy from renewable energy sources’ means energy produced by plants using only renewable energy sources, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources. It includes renewable electricity used for filling storage systems, but excludes electricity produced as a result of storage systems;

‘energy infrastructure’ means any physical equipment or facility which is located within the United Kingdom or linking the United Kingdom to one or more third countries and falling under the following categories:

(a) concerning electricity:

(i) infrastructure for transmission, as defined in Article 2(3) by Directive 2009/72/EC of 13 July 2009 concerning common rules for internal market in electricity (2);

(ii) infrastructure for distribution, as defined in Article 2(5) by Directive 2009/72/EC;

(iii) electricity storage, defined as facilities used for storing electricity on a permanent or temporary basis in above-ground or underground infrastructure or geological sites, provided they are directly connected to high-voltage transmission lines designed for a voltage of 110 kV or more;

(iv) any equipment or installation essential for the systems defined in points (i) to (iii) to operate safely, securely and efficiently, including protection, monitoring and control systems at all voltage levels and substations; and L 187/28 Official Journal of the European Union EN 26.6.2014 (1) OJ L 283, 31.10.2003, p. 51. (2) OJ L 211, 14.8.2009, p. 55.

(v) smart grids, defined as any equipment, line, cable or installation, both at transmission and low and medium voltage distribution level, aiming at two-way digital communication, real-time or close to realtime, interactive and intelligent monitoring and management of electricity generation, transmission, distribution and consumption within an electricity network in view of developing a network efficiently integrating the behaviour and actions of all users connected to it — generators, consumers and those that do both — in order to ensure an economically efficient, sustainable electricity system with low losses and high quality and security of supply and safety;

(b) concerning gas:

- (i) transmission and distribution pipelines for the transport of natural gas and bio gas that form part of a network, excluding high-pressure pipelines used for upstream distribution of natural gas;
- (ii) underground storage facilities connected to the high-pressure gas pipelines mentioned in point (i);
- (iii) reception, storage and regasification or decompression facilities for liquefied natural gas ('LNG') or compressed natural gas ('CNG'); and
- (iv) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations;

(c) concerning oil:

- (i) pipelines used to transport crude oil;
- (ii) pumping stations and storage facilities necessary for the operation of crude oil pipelines; and
- (iii) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems and reverse-flow devices;

(d) concerning CO₂: networks of pipelines, including associated booster stations, for the transport of CO₂ to storage sites, with the aim to inject the CO₂ in suitable underground geological formations for permanent storage;

'enterprise' has the same meaning as 'economic actor';

'environmental protection' means any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary's own activities, to reduce risk of such damage or to lead to a more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy;

'environmental tax' means a tax with a specific tax base that has a clear negative effect on the environment or which seeks to tax certain activities, goods or services so that the environmental costs may be included in their price and/or so that producers and consumers are oriented towards activities which better respect the environment;

'food based biofuel' means a biofuel produced from cereal and other starch rich crops, sugars and oil crops as defined in the Commission's Proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources;

'high-efficiency cogeneration' means cogeneration which satisfies the definition of high efficiency cogeneration as set out in Article 2(34) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending

Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC;

‘internal energy market legislation’ includes Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity, Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas, Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators; Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges and Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks or any subsequent legislation replacing these acts in full or in part;

‘large economic actors’ means economic actors not fulfilling the criteria in Appendix 3 to be classified as a small or medium sized economic actor;

‘NI Protocol’ means the Northern Ireland Protocol to the UK-EU Withdrawal Agreement agreed on 17 October 2019 (as implemented by section 7A of the European Union (Withdrawal) Act 2018);

‘operating profit’ means the difference between the discounted revenues and the discounted operating costs over the economic lifetime of the investment, where this difference is positive. The operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, but exclude depreciation charges and the costs of financing if these have been covered by investment subsidy. Discounting revenues and operating costs using an appropriate discount rate allows a reasonable profit to be made;

‘marketing of agricultural products’ means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered to be marketing if it takes place in separate premises reserved for that purpose;

‘new and innovative technology’ means a new and unproven technology compared to the state of the art in the industry, which carries a risk of technological or industrial failure and is not an optimisation or scaling up of an existing technology;

‘polluter’ means someone who directly or indirectly damages the environment or who creates conditions leading to such damage;

‘polluter pays principle’ or **‘PPP’** means that the costs of measures to deal with pollution should be borne by the polluter who causes the pollution;

'pollution' means the damage caused by a polluter directly or indirectly damaging the environment, or by creating conditions leading to such damage to physical surroundings or natural resources;

'preparing for re-use' means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing;

'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;

'processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;

'recycling' means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations;

'regional investment subsidy' means regional subsidy granted for an initial investment or an initial investment in favour of a new economic activity;

'renewable energy sources' means the following renewable non-fossil energy sources: wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

're-use' means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;

"SE" means Scottish Enterprise, established under the Enterprise and New Towns (Scotland) Act 1990;

'standard balancing responsibilities' means non-discriminatory balancing responsibilities across technologies which do not exempt any generator from those responsibilities;

'state of the art' means a process in which the re-use of a waste product to manufacture an end product is economically profitable normal practice. Where appropriate, the concept of state of the art must be interpreted from a Union technological and internal market perspective;

'small and medium sized economic actors' or 'SMEs' means economic actors fulfilling the criteria in Appendix 3 to be classified as either a small or a medium sized economic actor;

‘subsidy’ means financial assistance which:

1. is given directly or indirectly from public resources by a public authority, including:
 - a. a direct or contingent transfer of funds such as direct grants, loans or loan guarantees;
 - b. the forgoing of revenue that is otherwise due; or
 - c. the provision of goods or services, or the purchase of goods or services;
2. confers an economic advantage on one or more economic actors;
3. is specific insofar as it benefits, as a matter of law or fact, certain economic actors over others in relation to the production of certain goods or services; and
4. has, or could have, an effect on trade or investment between the United Kingdom and a country or territory outside the United Kingdom.

‘subsidy intensity’ means the gross subsidy amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;

‘sustainable biofuel’ means a biofuel fulfilling the sustainability criteria set out in Article 17 of Directive 2009/28/EC;

‘TCA’ means the UK-EU Trade and Cooperation Agreement signed on 30 December 2020 (as implemented by section 29 of the European Union (Future Relationship) Act 2020);

‘the map’ means the map identifying assisted areas set out in Appendix 1 to this Scheme;

‘total levelized costs of producing energy’ is a calculation of the cost of generating electricity at the point of connection to a load or electricity grid. It includes the initial capital, discount rate, as well as the costs of continuous operation, fuel, and maintenance;

‘Treaty’ means the Treaty on the Functioning of the European Union; and

‘Union standard’ means (a) a mandatory Union standard setting the levels to be attained in environmental terms by individual economic actors; or (b) the obligation under Directive 2010/75/EU of the European Parliament and of the Council to use the best available techniques (BAT) and ensure that emission levels of pollutants are not higher than they would be when applying BAT; for the cases where emission levels associated with the BAT have been defined in implementing acts adopted under Directive 2010/75/EU, those levels will be applicable for the purpose of this Scheme; where those levels are expressed as a range, the limit where the BAT is first achieved will be applicable.

APPENDIX 3

SME DEFINITION

Section A: Economic actors

- 1.1 An economic actor is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

Section B: Staff headcount and financial thresholds determining economic actor categories

- 2.1 The category of micro, small and medium-sized economic actors ('SMEs') is made up of economic actors which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
- 2.2 Within the SME category, a small economic actor is defined as an economic actor which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
- 2.3 Within the SME category, a micro-economic actor is defined as an economic actor which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Section C: Types of economic actor taken into consideration in calculating staff numbers and financial amounts

- 3.1 An 'autonomous economic actor' is any economic actor which is not classified as a partner economic actor within the meaning of paragraph 3.2 or as a linked economic actor within the meaning of paragraph 3.3.
- 3.2 'Partner economic actors' are all economic actors which are not classified as linked economic actors within the meaning of paragraph 3.3 and between which there is the following relationship: an economic actor (upstream economic actor) holds, either solely or jointly with one or more linked economic actor within the meaning of paragraph 3.3, 25 % or more of the capital or voting rights of another economic actor (downstream economic actor).

However, an economic actor may be ranked as autonomous, and thus as not having any partner economic actors, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3.3, either individually or jointly to the economic actor in question:

- a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same economic actor is less than EUR 1 250 000;
- b) universities or non-profit research centres;
- c) institutional investors, including regional development funds;
- d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.

3.3 'Linked economic actors' are economic actors which have any of the following relationships with each other:

- a) an economic actor has a majority of the shareholders' or members' voting rights in another economic actor;
- b) an economic actor has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another economic actor;
- c) an economic actor has the right to exercise a dominant influence over another economic actor pursuant to a contract entered into with that economic actor or to a provision in its memorandum or articles of association;
- d) an economic actor, which is a shareholder in or member of another economic actor, controls alone, pursuant to an agreement with other shareholders in or members of that economic actor, a majority of shareholders' or members' voting rights in that economic actor.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 3.2 are not involving themselves directly or indirectly in the management of the economic actor in question, without prejudice to their rights as shareholders.

Economic actors having any of the relationships described in the first subparagraph of paragraph 3.2 through one or more other economic actors, or any one of the investors mentioned in paragraph 3.2, are also considered to be linked.

Economic actors which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked

economic actors if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

- 3.4 Except in the cases set out in paragraph 3.2, second subparagraph, an economic actor cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.
- 3.5 Economic actors may make a declaration of status as an autonomous economic actor, partner economic actor or linked economic actor, including the data regarding the thresholds set out in Section B. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the economic actor may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one economic actor or jointly by economic actors linked to one another.

Section D: Data used for the staff headcount and the financial amounts and reference period

- 4.1 The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
- 4.2 Where, at the date of closure of the accounts, an economic actor finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Section B, this will not result in the loss or acquisition of the status of medium-sized, small or micro- economic actor unless those thresholds are exceeded over two consecutive accounting periods.
- 4.3 In the case of newly-established economic actors whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Section E: Staff headcount

- 5.1 The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the economic actor in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:
- a) employees;
 - b) persons working for the economic actor being subordinated to it and deemed to be employees under national law;
 - c) owner-managers;
 - d) partners engaging in a regular activity in the economic actor and benefiting from financial advantages from the economic actor.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Section F: Establishing the data of an economic actor

- 6.1 In the case of an autonomous economic actor, the data, including the number of staff, are determined exclusively on the basis of the accounts of that economic actor.
- 6.2 The data, including the headcount, of an economic actor having partner economic actors or linked economic actors are determined on the basis of the accounts and other data of the economic actor or, where they exist, the consolidated accounts of the economic actor, or the consolidated accounts in which the economic actor is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner economic actor of the economic actor in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any economic actor, which is linked directly or indirectly to the economic actor in question, where the data were not already included through consolidation in the accounts.

- 6.3 For the application of paragraph 6.2, the data of the partner economic actors of the economic actor in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of economic actors

which are linked to these partner economic actors, unless their accounts data are already included through consolidation.

For the application of the same paragraph 6.2, the data of the economic actors which are linked to the economic actor in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner economic actor of that linked economic actor, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 6.2.

- 6.4 Where in the consolidated accounts no staff data appear for a given economic actor, staff figures are calculated by aggregating proportionally the data from its partner economic actors and by adding the data from the economic actors to which the economic actor in question is linked.

Note: SE may at any time modify the content of this Appendix, provided that SE is satisfied that such modification is both required to meet the Scheme's objectives and consistent with the legal requirements that apply to it.