



Llywodraeth Cymru  
Welsh Government

# Welsh Government - Culture and Heritage Conservation Scheme

## **State aid reference no: SA.49637**

### **1. Member State**

United Kingdom

### **2. Region**

Wales

### **3. Title of aid Scheme**

Welsh Government – Culture and Heritage Conservation 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 Housing Grants, Construction and Regeneration Act 1996 (section 126);
- The Industrial Development Act 1982 (section 7); and
- The Government of Wales Act 2006 (sections 61, 70 and 71(1))

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).

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## **5. EC legal basis**

All aid provided under this Scheme will be within the limits set out in Article 53 of Commission Regulation (EU) No 651/2014 of 17 June 2014 and amended by Commission Regulation (EU) No. 2017/1084 of 14 June 2017 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation). A full version of the Regulation can be found at:

[http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2014.187.01.0001.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.187.01.0001.01.ENG)

A full version of the amending Regulation can be found at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1084&from=EN>

Summary information relating to the Scheme has been registered with the Commission under reference **SA.49637**.

## **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):

**“aid”** means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;

**“aid intensity”** means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;

**“date of granting of the aid”** means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;

**“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 market in fishery and aquaculture products, amending Council regulations (EC) 1184/2006 and (EC) 1224/2009 and repealing council regulation (EC) 1004/2000;

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**“large enterprise”** means any enterprise that is not an SME (as defined in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC))<sup>1</sup>;

**“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 aid. Discounting revenues and operating costs using an appropriate discount rate allows a reasonable profit to be made;

**“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;

**“reasonable profit”** shall be determined with respect to the typical profit for the sector concerned. In any event, a rate of return on capital that does not exceed the relevant swap rate plus a premium of 100 basis points will be considered to be reasonable;

**“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;

**“SME”** means an enterprise that falls within the criteria and parameters of the definition of micro, small and medium-sized enterprises contained in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC), which took effect on 1 January 2005<sup>2</sup>;

**“Start of works”** means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs ‘start of works’ means the moment of acquiring assets directly linked to the acquired establishment;

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<sup>1</sup> [http://europa.eu/eur-lex/pri/en/oj/dat/2003/l\\_124/l\\_12420030520en00360041.pdf](http://europa.eu/eur-lex/pri/en/oj/dat/2003/l_124/l_12420030520en00360041.pdf)  
See also the New SME Definition User Guide and Model Declaration  
[http://ec.europa.eu/enterprise/enterprise\\_policy/sme\\_definition/sme\\_user\\_guide.pdf](http://ec.europa.eu/enterprise/enterprise_policy/sme_definition/sme_user_guide.pdf)

<sup>2</sup> [http://europa.eu/eur-lex/pri/en/oj/dat/2003/l\\_124/l\\_12420030520en00360041.pdf](http://europa.eu/eur-lex/pri/en/oj/dat/2003/l_124/l_12420030520en00360041.pdf)  
See also the New SME Definition User Guide and Model Declaration  
[http://ec.europa.eu/enterprise/enterprise\\_policy/sme\\_definition/sme\\_user\\_guide.pdf](http://ec.europa.eu/enterprise/enterprise_policy/sme_definition/sme_user_guide.pdf)

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**“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 three 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/EU<sup>34</sup> 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 three 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.

## **7. Objectives of the Scheme**

To facilitate the development of heritage and cultural properties, sites or locations where the intention is to enable improved access, interpretation, and usage of these assets.

To conserve Wales's heritage to the highest standard, to sustain the distinctive character of Wales's landscapes and towns, to help people understand and care about place and history, and to make a real difference to people's well-being. Including:

- Conserving and managing properties in State care;
- Making heritage sites enjoyable, relevant and stimulating to visit, with fresh interpretation and facilities;

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- Using imagination and creativity to deliver a programme of events;
- Understanding and tackling barriers to access, both physical and intellectual;
- Encouraging public participation and volunteering in heritage;
- Identifying and designating historic assets of national importance;
- Improving the current systems for the protection and management of the historic environment;
- Supporting the conservation and effective management of historic assets;
- Capturing local distinctiveness to inform asset management and planning and promote opportunities for regeneration and community engagement;
- Identifying and tackling heritage at risk;
- Advocating the contribution of the historic environment to regeneration objectives;
- Developing and targeting advice, guidance and grants to promote sustainable conservation, maintenance or 'added' value; and,
- Collaborative action with partners to present a dynamic and authentic image of the heritage and culture of Wales to the world.

**To support a programme of cultural events which enhances the economic, socials and cultural wellbeing of the people of Wales, and raises Wales' international profile and reputation.**

## **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 active in the following sectors:

- **Fisheries and aquaculture;**
- **Primary agricultural production;**
- **The processing and marketing of agricultural products** where (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 undertakings 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.

In addition, aid will not be allowed in the following circumstances:

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- 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 the granting of aid is subject to the obligation for the beneficiary to use nationally produced goods or services;
- Aid contingent upon the use of domestic over imported goods;
- Where any aid measure restricts the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

Aid will not be given where the proposed recipient is:

- Subject to an outstanding order for the recovery of aid granted by the same Member State which has been declared by the Commission to be illegal and incompatible with the internal market; or
- Where aid is granted to an undertaking in difficulty (see definition).

## **10. Duration of the Scheme**

Aid under this Scheme may be granted until 31 December 2020. This scheme, registered under the General Block Exemption Regulation, will supersede the current Welsh Government Culture and Heritage Conservation Scheme SA.39256.

## **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 30<sup>th</sup> November 2017 – 31<sup>st</sup> December 2020 will be in the region of £75 million, and will comprise a combination of domestic resources and European structural funds

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:

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- grants;
- interest rate subsidies;
- loans and guarantees;
- tax advantages;
- risk finance; and
- repayable advances.

### **13. Eligible activities to be supported under the Scheme**

The Scheme supports Culture and Heritage Conservation activities where the funding is deemed to be State aid. Detailed descriptions of the eligible activities that can be supported are set out in Schedule 1.

The scheme will also provide aid that will not be classed as State aid specifically where support is provided for:

- Non-economic activities – including funding to support open access historical and heritage sites and free localised cultural and historical events;
- ‘Local activities’ – including small-scale local interest museums; and
- Organisations which are not undertakings – including support to owners of listed buildings not used for an economic purpose.

An analysis against the State aid criteria as defined in Article 107 of the Treaty on the Functioning of the European Union will be undertaken for each investment as part of the application process.

### **14. Incentive effect**

The incentive effect will be deemed to be met where the aid meets all the conditions set down in Article 53 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).

### **15. Cumulation**

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

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Aid provided under this Scheme will not be cumulated with other forms of aid or 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 intensities of the Scheme. Due diligence checks will be carried out during the awarding process.

## **16. Monitoring and reporting requirements**

All recipients of State aid under the Scheme will be informed that aid has been provided under the Scheme, registered under **SA.49637**, pursuant to Article 53 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) and its amending Regulation Commission Regulation (EU) No 2017/1084.

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](mailto:State.Aid@gov.wales)

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## **Schedule 1: Activities for which State aid can be awarded under the Scheme**

Aid can be granted for the following cultural purposes and activities:

- (a) Museums, archives, libraries, artistic and cultural centres or spaces, theatres, cinemas, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions;
- (b) Tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognised as cultural or natural heritage by the competent public authorities of a Member State;
- (c) Intangible heritage in any form, including folklorist customs and crafts;
- (d) Art or cultural events and performances, festivals, exhibitions and other similar cultural activities;
- (e) Cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
- (f) Writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.

### **Eligible forms of Aid**

The following forms of aid will be granted:

- Investment aid, including aid for the construction or upgrade of culture infrastructure;
- Operating aid.

### **Eligible costs**

*Eligible costs for investment aid include:*

- costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if at least 80% of either the time or the space capacity per year is used for cultural purposes;
- costs for the acquisition, including leasing, transfer of possession or physical relocation of cultural heritage;
- costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage

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- under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication;
- costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors;
  - costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project.

*The Eligible costs for operating aid are:*

- the cultural institution's or heritage site's costs linked to continuous or periodic activities including exhibitions, performances and events and similar cultural activities that occur in the ordinary course of business;
- costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
- costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitisation and of use of new technologies as well as costs of improving accessibility for persons with disabilities;
- operating costs directly relating to the cultural project or activity, such as rent or lease of real estate and cultural venues, travel expenses, materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan, lease and depreciation of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity: depreciation charges and the costs of financing are only eligible if they have not been covered by investment aid.
- costs for personnel working for the cultural institution or heritage site or for a project;

Costs for publishing music and literature are the cost of publishing of music and literature, including the authors' fees (copyright costs), translators' fees, editors fees, other editorial costs (proofreading, correcting, reviewing), layout and pre-press costs and printing or e-publication costs.

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- costs for advisory and support services provided by outside consultants and service providers, incurred directly as a result of the project.

### **3 Aid intensities applicable**

- i. Investment aid* – the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs ex-ante, on the basis of reasonable projections, or through a claw-back mechanism. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period.
- ii. Operating aid* – the aid amount shall not exceed what is necessary to cover operating losses and a reasonable profit over the relevant period. This shall be ensured ex ante, on the basis of reasonable projections, or through a claw-back mechanism.
- iii.* Where the total amount of aid does not exceed €2m for investment aid and operating aid, up to 80% of total eligible costs can be supported without taking account of the difference between eligible costs and operating profit or operating losses.
- iv.* For the writing, editing, production, distribution, digitisation and publishing of music and literature, including translations, the maximum aid amount shall not exceed either:
  - (a) the difference between the eligible costs and the project's discounted revenues: or
  - (b) 70% of the eligible costs.

The revenues shall be deducted from the eligible costs ex ante or through a clawback mechanism.

- v. Aid to press and magazines, published in print or electronically published, shall not be eligible to receive support under this scheme.**

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### **Individual Notification thresholds**

The maximum support that can be provided under this scheme is identified in the table below. Any grant award exceeding these levels will need to be notified directly to the Commission.

Type of support	Notification threshold (€)
Investment Aid	€150 million per project
Operating Aid	€75 million per undertaking, per year

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