

Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing  
Council Regulation (EU) 2015/1589 laying down detailed rules for the  
application of Article 108 of the Treaty on the Functioning of the European Union

CHAPTER I **U.K.**

**SUBJECT MATTER AND SCOPE**

*Article 1* **U.K.**

**Subject matter and scope**

- 1 This Regulation sets out detailed provisions concerning the form, content and other details of notifications and annual reports referred to in Regulation (EC) No 659/1999. It also sets out provisions for the calculation of time limits in all procedures concerning State aid and of the interest rate for the recovery of unlawful aid.
- 2 This Regulation shall apply to aid in all sectors.

CHAPTER II **U.K.**

**NOTIFICATIONS**

*Article 2* **U.K.**

**Notification forms**

Without prejudice to Member States' obligations to notify state aids in the coal sector under Commission Decision 2002/871/CE<sup>(1)</sup>, notifications of new aid pursuant to Article 2(1) of Regulation (EC) No 659/1999, other than those referred to in Article 4(2), shall be made on the notification form set out in Part I of Annex I to this Regulation.

Supplementary information needed for the assessment of the measure in accordance with regulations, guidelines, frameworks and other texts applicable to State aid shall be provided on the supplementary information sheets set out in Part III of Annex I.

Whenever the relevant guidelines or frameworks are modified or replaced, the Commission shall adapt the corresponding forms and information sheets.

*f<sup>1</sup> Article 3* **U.K.**

**Transmission of notifications**

- 1 The notification shall be transmitted to the Commission by means of the electronic validation carried out by the person designated by the Member State. Such validated notification shall be considered as sent by the Permanent Representative.
- 2 The Commission shall address its correspondence to the Permanent Representative of the Member State concerned, or to any other address designated by that Member State.

*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 794/2004. (See end of Document for details)*

3 As from 1 July 2008, notifications shall be transmitted electronically via the web application State Aid Notification Interactive (SANI).

All correspondence in connection with a notification shall be transmitted electronically via the secured e-mail system Public Key Infrastructure (PKI).

4 In exceptional circumstances and upon the agreement of the Commission and the Member State concerned, an agreed communication channel other than those referred to in paragraph 3 may be used for submission of a notification or any correspondence in connection with a notification.

In the absence of such an agreement, any notification or correspondence in connection with a notification sent to the Commission by a Member State through a communication channel other than those referred to in paragraph 3 shall not be considered as submitted to the Commission.

5 Where the notification or correspondence in connection with a notification contains confidential information, the Member State concerned shall clearly identify such information and give reasons for its classification as confidential.

6 The Member States shall refer to the State aid identification number allocated to an aid scheme by the Commission in each grant of aid to a final beneficiary.

The first subparagraph shall not apply to aid granted through fiscal measures.]

#### Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 271/2008 of 30 January 2008 amending Regulation \(EC\) No 794/2004 implementing Council Regulation \(EC\) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.](#)

#### Article 4 **U.K.**

##### **Simplified notification procedure for certain alterations to existing aid**

1 For the purposes of Article 1(c) of Regulation (EC) No 659/1999, an alteration to existing aid shall mean any change, other than modifications of a purely formal or administrative nature which cannot affect the evaluation of the compatibility of the aid measure with the common market. However an increase in the original budget of an existing aid scheme by up to 20 % shall not be considered an alteration to existing aid.

2 The following alterations to existing aid shall be notified on the simplified notification form set out in Annex II:

- a increases in the budget of an authorised aid scheme exceeding 20 %;
- b prolongation of an existing authorised aid scheme by up to six years, with or without an increase in the budget;
- c tightening of the criteria for the application of an authorised aid scheme, a reduction of aid intensity or a reduction of eligible expenses;

The Commission shall use its best endeavours to take a decision on any aid notified on the simplified notification form within a period of one month.

3 The simplified notification procedure shall not be used to notify alterations to aid schemes in respect of which Member States have not submitted annual reports in accordance

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with Article 5, 6, and 7, unless the annual reports for the years in which the aid has been granted are submitted at the same time as the notification.

## CHAPTER III **U.K.**

### ANNUAL REPORTS

#### Article 5 **U.K.**

##### **Form and content of annual reports**

1 Without prejudice to the second and third subparagraphs of this Article and to any additional specific reporting requirements laid down in a conditional decision adopted pursuant to Article 7(4) of Regulation (EC) No 659/1999, or to the observance of any undertakings provided by the Member State concerned in connection with a decision to approve aid, Member States shall compile the annual reports on existing aid schemes referred to in Article 21(1) of Regulation (EC) No 659/1999 in respect of each whole or part calendar year during which the scheme applies in accordance with the standardised reporting format set out in Annex IIIA.

Annex IIIB sets out the format for annual reports on existing aid schemes relating to the production, processing and marketing of agricultural products listed in Annex I of the Treaty.

Annex IIIC sets out the format for annual reports on existing aid schemes for state aid relating to the production, processing or marketing of fisheries products listed in Annex I of the Treaty.

2 The Commission may ask Member States to provide additional data for selected topics, to be discussed in advance with Member States.

#### Article 6 **U.K.**

##### **Transmission and publication of annual reports**

1 Each Member State shall transmit its annual reports to the Commission in electronic form no later than 30 June of the year following the year to which the report relates.

In justified cases Member States may submit estimates, provided that the actual figures are transmitted at the very latest with the following year's data.

2 Each year the Commission shall publish a State aid synopsis containing a synthesis of the information contained in the annual reports submitted during the previous year.

#### Article 7 **U.K.**

##### **Status of annual reports**

The transmission of annual reports shall not be considered to constitute compliance with the obligation to notify aid measures before they are put into effect pursuant to Article 88(3) of the Treaty, nor shall such transmission in any way prejudice the outcome of an investigation into allegedly unlawful aid in accordance with the procedure laid down in Chapter III of Regulation (EC) No 659/1999.

*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 794/2004. (See end of Document for details)*

## CHAPTER IV **U.K.**

### TIME-LIMITS

#### Article 8 **U.K.**

#### Calculation of time-limits

[<sup>F21</sup> Time-limits provided for in Regulation (EC) No 659/1999 and in this Regulation or fixed by the Commission pursuant to Article 108 of the Treaty shall be calculated in accordance with Regulation (EEC, Euratom) No 1182/71, and the specific rules set out in paragraphs 2 to 5b of this Article. In case of conflict, the provisions of this Regulation shall prevail.]

2 Time limits shall be specified in months or in working days.

[<sup>F13</sup> With regard to timelimits for action by the Commission, the receipt of the notification or subsequent correspondence in accordance with Article 3(1) and Article 3(3) of this Regulation shall be the relevant event for the purpose of Article 3(1) of Regulation (EEC, Euratom) No 1182/71.

4 With regard to timelimits for action by Member States, the receipt of the relevant notification or correspondence from the Commission in accordance with Article 3(2) of this Regulation shall be the relevant event for the purposes of Article 3(1) of Regulation (EEC, Euratom) No 1182/71.]

5 With regard to the time-limit for the submission of comments following initiation of the formal investigation procedure referred to in Art. 6(1) of Regulation (EC) No 659/1999 by third parties and those Member States which are not directly concerned by the procedure, the publication of the notice of initiation in the *Official Journal of the European Union* shall be the relevant event for the purposes of Article 3(1) of Regulation (EEC, Euratom) No 1182/71.

[<sup>F35a</sup> With regard to the time-limit for the submission of the information requested from third parties pursuant to Article 6a(6) of Regulation (EC) No 659/1999, the receipt of the request for information shall be the relevant event for the purposes of Article 3(1) of Regulation (EEC, Euratom) No 1182/71.

5b With regard to the time-limit for the submission of the information requested from third parties pursuant to Article 6a(7) of Regulation (EC) No 659/1999, the notification of the decision shall be the relevant event for the purposes of Article 3(1) of Regulation (EEC, Euratom) No 1182/71.]

6 Any request for the extension of a time-limit shall be duly substantiated, and shall be submitted in writing to the address designated by the party fixing the time-limit at least two working days before expiry.

#### Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 271/2008 of 30 January 2008 amending Regulation \(EC\) No 794/2004 implementing Council Regulation \(EC\) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.](#)
- F2** Substituted by [Commission Regulation \(EU\) No 372/2014 of 9 April 2014 amending Regulation \(EC\) No 794/2004 as regards the calculation of certain time limits, the handling of complaints, and the identification and protection of confidential information \(Text with EEA relevance\).](#)

*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 794/2004. (See end of Document for details)*

**F3** Inserted by Commission Regulation (EU) No 372/2014 of 9 April 2014 amending Regulation (EC) No 794/2004 as regards the calculation of certain time limits, the handling of complaints, and the identification and protection of confidential information (Text with EEA relevance).

## CHAPTER V **U.K.**

### INTEREST RATE FOR THE RECOVERY OF UNLAWFUL AID

#### *f<sup>F1</sup>* Article 9 **U.K.**

##### Method for fixing the interest rate

1 Unless otherwise provided for in a specific decision, the interest rate to be used for recovering State aid granted in breach of Article 88(3) of the Treaty shall be an annual percentage rate which is fixed by the Commission in advance of each calendar year.

2 The interest rate shall be calculated by adding 100 basis points to the one-year money market rate. Where those rates are not available, the three-month money market rate will be used, or in the absence thereof, the yield on State bonds will be used.

3 In the absence of reliable money market or yield on stock bonds or equivalent data or in exceptional circumstances the Commission may, in close co-operation with the Member State(s) concerned, fix a recovery rate on the basis of a different method and on the basis of the information available to it.

4 The recovery rate will be revised once a year. The base rate will be calculated on the basis of the one-year money market recorded in September, October and November of the year in question. The rate thus calculated will apply throughout the following year.

5 In addition, to take account of significant and sudden variations, an update will be made each time the average rate, calculated over the three previous months, deviates more than 15 % from the rate in force. This new rate will enter into force on the first day of the second month following the months used for the calculation.]

#### Textual Amendments

**F1** Substituted by Commission Regulation (EC) No 271/2008 of 30 January 2008 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

#### Article 10 **U.K.**

##### Publication

The Commission shall publish current and relevant historical State aid recovery interest rates in the *Official Journal of the European Union* and for information on the Internet.

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## Article 11 **U.K.**

### Method for applying interest

1 The interest rate to be applied shall be the rate applicable on the date on which unlawful aid was first put at the disposal of the beneficiary.

2 The interest rate shall be applied on a compound basis until the date of the recovery of the aid. The interest accruing in the previous year shall be subject to interest in each subsequent year.

[<sup>F13</sup> The interest rate referred to in paragraph 1 shall be applied throughout the whole period until the date of recovery. However, if more than one year has elapsed between the date on which the unlawful aid was first put at the disposal of the beneficiary and the date of the recovery of the aid, the interest rate shall be recalculated at yearly intervals, taking as a basis the rate in force at the time of recalculation.]

#### Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 271/2008 of 30 January 2008 amending Regulation \(EC\) No 794/2004 implementing Council Regulation \(EC\) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.](#)

## [<sup>F3</sup>CHAPTER Va **U.K.**

### HANDLING OF COMPLAINTS

#### Article 11a **U.K.**

##### Admissibility of complaints

1 Any person submitting a complaint pursuant to Articles 10(1) and 20(2) of Regulation (EC) No 659/1999 shall demonstrate that it is an interested party within the meaning of Article 1(h) of that Regulation.

2 Interested parties shall duly complete the form set out in Annex IV and provide all the mandatory information requested therein. On a reasoned request by an interested party, the Commission may dispense with the obligation to provide some of the information required by the form.

3 Complaints shall be submitted in one of the official languages of the Union.

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## CHAPTER Vb U.K.

### IDENTIFICATION AND PROTECTION OF CONFIDENTIAL INFORMATION

#### Article 11b U.K.

##### **Protection of business secrets and other confidential information**

Any person submitting information pursuant to Regulation (EC) No 659/1999 shall clearly indicate which information it considers to be confidential, stating the reasons for such confidentiality, and provide the Commission with a separate non-confidential version of the submission. When information must be provided by a certain deadline, the same deadline shall apply for providing the non-confidential version.]

## CHAPTER VI U.K.

### FINAL PROVISIONS

#### Article 12 U.K.

##### **Review**

The Commission shall in consultation with the Member States, review the application of this Regulation within four years after its entry into force.

#### Article 13 U.K.

##### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Chapter II shall apply only to those notifications transmitted to the Commission more than five months after the entry into force of this Regulation.

Chapter III shall apply to annual reports covering aid granted from 1 January 2003 onwards.

Chapter IV shall apply to any time limit, which has been fixed but which has not yet expired on the date of entry into force of this Regulation.

Articles 9 and 11 shall apply in relation to any recovery decision notified after the date of entry into force of this Regulation.

This Regulation shall be binding in its entirety and be directly applicable in all Member States.

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- (1) [OJ L 300, 5.11.2002, p. 42.](#)

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