

2022 No. 1153

SUBSIDY CONTROL

The Subsidy Control (Subsidy Database Information Requirements) Regulations 2022

<i>Made</i>	- - - -	<i>7th November 2022</i>
<i>Laid before Parliament</i>		<i>8th November 2022</i>
<i>Coming into force</i>		<i>4th January 2023</i>

The Secretary of State, in exercise of the powers conferred by sections 34(1), (2), and (3), and 87(2) of the Subsidy Control Act 2022(a), makes the following Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Subsidy Control (Subsidy Database Information Requirements) Regulations 2022 and come into force on 4th January 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In these Regulations “the Act” means the Subsidy Control Act 2022.

(2) For the purposes of regulations 3(j) and 4(3)(e)(i), the amount of any subsidy is to be determined in accordance with regulation 8.

Information to be included in the subsidy database

3. A public authority’s(b) entry in the subsidy database(c) made under section 33(1) of the Act must, subject to regulations 4, 5, 6 and 7, include the following—

- (a) the legal basis for the subsidy(d) or subsidy scheme(e);
- (b) the specific policy objective of the subsidy or scheme;
- (c) the purpose of the subsidy or scheme;
- (d) where the subsidy is given under a subsidy scheme, the name of the scheme;
- (e) the name of the public authority giving the subsidy or making the scheme;

(a) 2022 c. 23.
(b) “public authority” has the meaning given by section 6(1) of the Subsidy Control Act 2022.
(c) “subsidy database” is defined in section 89(1) of the Subsidy Control Act 2022.
(d) “subsidy” has the meaning given by section 2(1) of the Subsidy Control Act 2022.
(e) “subsidy scheme” has the meaning given by section 10(1) of the Subsidy Control Act 2022.

- (f) the name of the enterprise or enterprises^(a) to which the subsidy is given, including any trading or other name by which the enterprise is commonly known;
- (g) any one of the following numbers of the enterprise or enterprises to which the subsidy is given (where applicable to the enterprise)—
 - (i) Company registration number,
 - (ii) VAT number, or
 - (iii) Charity registration number.
- (h) the date the public authority confirmed the decision to give the subsidy or make the scheme;
- (i) the duration of the subsidy or scheme, and a summary of any other time limits attached to the use of the subsidy or scheme;
- (j) the amount of the subsidy;
- (k) the means by which the subsidy is given or by which subsidies under the scheme may be given (which includes those means listed under section 2(2) of the Act);
- (l) the size of the enterprise or enterprises to which the subsidy is given;
- (m) whether the subsidy or scheme relates to goods or services, or both;
- (n) the geographical location or locations of the economic activities to which the subsidy or scheme relate;
- (o) the sector or sectors to which the subsidy or scheme relate;
- (p) whether the subsidy or scheme is a subsidy, or subsidy scheme, of interest^(b);
- (q) whether the subsidy or scheme is a subsidy, or subsidy scheme, of particular interest^(c);
- (r) whether the Secretary of State has given a direction under section 55 of the Act (Call-in direction) in respect of the subsidy or scheme;
- (s) whether the Secretary of State has given a direction under section 64(3) of the Act that sections 52, 53, 54 and 55 of the Act (mandatory referral requirements) do not apply, or cease to apply, in respect of the subsidy or scheme;
- (t) whether a report has been published in respect of the subsidy or scheme under section 53(2) of the Act (CMA report following mandatory referral) or under section 57(3) of the Act (CMA report following voluntary referral);
- (u) whether section 54(3) of the Act (CMA report not published following mandatory referral) applies in respect of the subsidy or scheme;
- (v) whether the Secretary of State has made a referral under section 60(1) of the Act (post-award referral) in respect of the subsidy or scheme;
- (w) whether a report has been published under section 61(1) of the Act (CMA report following post-award referral) in respect of the subsidy or scheme, including the date of publication of the report;
- (x) which, if any, of the following sections of the Act apply to the subsidy or scheme—
 - (i) section 13 (energy and environment principles);
 - (ii) section 18 (relocation of activities);
 - (iii) section 19 (rescuing);
 - (iv) section 20 (restructuring);
 - (v) section 21 (restructuring deposit takers or insurance companies);

(a) “enterprise” has the meaning given by section 7 of the Subsidy Control Act 2022.

(b) “subsidy, or subsidy scheme, of interest” has the meaning given in regulations made by the Secretary of State under section 11(1) of the Subsidy Control Act 2022.

(c) “subsidy, or subsidy scheme, of particular interest” has the meaning given in regulations made by the Secretary of State under section 11(1) of the Subsidy Control Act 2022.

- (vi) section 22 (liquidating deposit takers or insurance companies);
- (vii) section 23 (liquidating provision for deposit takers or insurance companies);
- (viii) section 27 (subsidies for insurers that provide export credit insurance);
- (ix) section 28 (subsidies for air carriers for the operation of routes);
- (x) section 29 (services of public economic interest);
- (xi) section 36 (minimal financial assistance);
- (xii) section 38 (services of public economic interest assistance);
- (xiii) section 43 (natural disasters and other exceptional circumstances);
- (xiv) section 44 (national or global economic emergencies);
- (xv) section 47 (financial stability) (so far as the Treasury directs under section 47 of the Act that the requirements as to transparency in Chapter 3 of Part 2 of the Act apply to the subsidy or scheme);
- (xvi) section 48(1)(a) (legacy subsidies);
- (xvii) section 50 (large cross-border or international cooperation projects).

Specific provisions relating to subsidy schemes

4.—(1) Paragraphs (2) and (3) of this regulation apply in the case of an entry in the subsidy database made in respect of a subsidy scheme under section 33(1)(b) of the Act.

(2) The entry need not include the information required under regulation 3(d), (f), (g), (j) and (l).

(3) The entry must include the following information (in addition to the information required by regulations 3 and 4 in respect of a subsidy scheme)—

- (a) the name of the scheme;
- (b) the categories of enterprise that are eligible to receive subsidies under the scheme;
- (c) a summary of the terms and conditions for eligibility to receive subsidies under the scheme;
- (d) the basis for the calculation of subsidies under the scheme including a summary of any conditions relating to subsidy ratios or amounts;
- (e) the budget for the scheme, expressed as—
 - (i) the maximum amount of an individual subsidy that may be given under the scheme, and
 - (ii) the overall budget for the scheme (where applicable to the scheme).

Specific provisions relating to minimal financial assistance and SPEI assistance

5. In the case of an entry in the subsidy database made in respect of minimal financial assistance^(a) or SPEI assistance^(b), the entry need only include the information required under regulation 3(e), (f), (g), (h), (j), (x) (sub-paragraph (xi) in respect of minimal financial assistance) and (x) (sub-paragraph (xii) in respect of SPEI assistance).

Specific provisions relating to tax measures

6. In the case of an entry in the subsidy database made in respect of a subsidy given in the form of a tax measure, the information required under regulation 3(j) may be provided by reference to one of the following ranges—

- (a) £0 to £100,000;

(a) “minimal financial assistance” is defined in section 36(3) of the Subsidy Control Act 2022.

(b) “SPEI assistance” is defined in section 38(3) of the Subsidy Control Act 2022.

- (b) £100,001 to £300,000;
- (c) £300,001 to £500,000;
- (d) £500,001 to £750,000;
- (e) £750,001 to £1,500,000;
- (f) £1,500,001 to £3,000,000;
- (g) £3,000,001 to £5,000,000;
- (h) £5,000,001 to £7,500,000;
- (i) £7,500,001 to £10,000,000;
- (j) £10,000,001 to £20,000,000;

and so on in ascending ranges of £10,000,000.

Specific provisions relating to modifications

7.—(1) Paragraphs (2) to (4) of this regulation apply in the case of an entry in the subsidy database made in respect of a modification to a subsidy or subsidy scheme under section 33(5) of the Act.

(2) The entry must confirm whether or not the modification is a permitted modification^(a).

(3) Where there is an existing entry in the subsidy database made under section 33(1) of the Act in respect of the subsidy or scheme to which the modification relates, the entry may modify the information contained in the existing entry.

(4) Where there is no existing entry in the subsidy database in respect of the subsidy or scheme to which the modification relates, the entry must contain the information required by these regulations as if it were an entry made under section 33(1) of the Act.

Amount of subsidy

8.—(1) If a subsidy is provided in cash, the gross cash amount^(b) given is to be used in determining the amount of the subsidy.

(2) If a subsidy is provided otherwise than in cash, the amount of the subsidy given is to be determined by reference to the gross cash equivalent of the subsidy.

7th November 2022

Kevin Hollinrake
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations make provision about the information that must be included in a public authority's entry in the subsidy database in respect of a subsidy or subsidy scheme. Section 32 of the Subsidy Control Act 2022 (the "Act") requires the Secretary of State to make arrangements for the provision of a database of subsidies and subsidy schemes for the purposes of Part 2 of the Act. Section 33 of the Act requires public authorities to ensure that an entry in the database is made in respect of certain subsidies and subsidy schemes. Section 34 of the Act allows the Secretary of State by regulations to make provision about the information that must be included in a public authority's entry in the subsidy database.

(a) "permitted modification" is defined in section 81(3) of the Subsidy Control Act 2022.

(b) Section 82(1) of the Subsidy Control Act 2022 provides that the Secretary of State may by regulations make provision about how the gross cash amount, and the gross cash equivalent amount, is to be determined for the purposes of these Regulations.

Regulation 3 contains the general provisions about the information that must be included in an entry on the subsidy database. Regulation 4 makes specific provisions in respect of the information that must be provided for subsidy schemes. Regulation 5 makes specific provisions in respect of the information that must be provided for minimal finance assistance and SPEI assistance. Regulation 6 makes specific provisions in respect of the information that must be provided for subsidies given as tax measures. Regulation 7 makes specific provisions in respect of entering modifications of subsidies or subsidy schemes onto the subsidy database. Regulation 8 provides for information about the amounts of any subsidy to be determined by reference to the gross cash amount or gross cash equivalent amount.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. A *de minimis* impact assessment for this instrument has been produced but not published. The full Impact Assessment produced for the Act and dated 14th March 2022 addresses the transparency requirements in the Act at paragraphs 282 to 333 and is available from:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061037/subsidy-control-bill-final-impact-assessment-transparency-evidence-update.pdf

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