

# Waste Prevention Implementation Fund

State Aid Declaration



**EUROPE & SCOTLAND**  
European Regional Development Fund  
Investing in a Smart, Sustainable and Inclusive Future

### What is State Aid?

State Aid is a European Commission term which relates to forms of assistance with a financial value received from a public body. State Aid is found to be present when a support is given, on a discretionary basis, which has the potential to distort competition and affect trade between member states of the European Union. State Aid rules are set out by the European Commission.

### Why is State Aid important?

Zero Waste Scotland is a public funder and the support it offers under its programmes are subject to State Aid rules. If a grant was awarded through the Waste Prevention Implementation Fund that was subsequently found to be in breach of State Aid rules, the grant holder could be required to pay back the full value of the support. It is Zero Waste Scotland's responsibility to take measures to reduce the risk of offering State Aid to an applicant.

The majority of the awards given through this fund, are likely to be subject to State Aid due to their ability to effect trade, however there will be occasions where the impact is too small, or too local for State Aid to be present. It is therefore important for applicants to be supported to make the correct determinations as soon as possible.

### How do we determine if State Aid is present?

It is the responsibility of public funders to be aware of State Aid rules and offer financial support within those rules.

Zero Waste Scotland requires information from applicants to inform the process so the correct determination can be arrived at. The second half of this form is where applicants profile their assessment; Zero Waste Scotland reviews all State Aid assessments to determine if the assessment provided is reasonable and is consistent with the provisions of State Aid.

Further information on the State Aid tests is available on the website of the Scottish Government's State Aid Unit – [www.stateaidscotland.gov.uk](http://www.stateaidscotland.gov.uk), and on the website of the European Commission – [http://ec.europa.eu/competition/state\\_aid/overview/index\\_en.html](http://ec.europa.eu/competition/state_aid/overview/index_en.html)

### State Aid Assessment

Before the four State Aid tests can be applied it is necessary to determine whether the two aspects are present:

1.	<b>Is the beneficiary an “undertaking”?</b> An undertaking is defined as any entity, regardless of its legal status, which is engaged in economic (commercial/competitive) activity and where there is a market in comparable goods or services.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	<b>Is an undertaking engaged in economic activity?</b> This is defined as offering goods and/or services on a given market and which could, at least in principle, be carried out by a private operator for remuneration in order to make profits.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Only applicants that can say yes to these two questions can qualify for WPIF support.

There are four key tests or questions which need to be considered to establish whether a measure constitutes State Aid. These tests are cumulative and all four must be met for State

Aid to be present. If there is strong evidence that at least one of these tests is not met, then there is unlikely to be State Aid present.

#### **The Four Tests:**

Zero Waste Scotland believes that any grant given out will automatically fulfil the first and second test. These tests are:

**Test No 1.** There has been an intervention by the State or through State resources which can take a variety of forms (e.g. grants).

**This test is automatically met as Zero Waste Scotland is a public funder and the support it offers under its programmes are subject to State Aid rules.**

**Test No 2.** The intervention gives the recipient an advantage on a selective basis.

**This test is automatically met, grants are selective as there are qualifying criteria to be met.**

The remaining 2 tests are:

**Test No 3.** Competition has been or may be distorted as a result of the project funding

**Please confirm whether or not there is any commercial competition for the service or product that will be provided through this project.**

- Yes – competition for the service or product provided is present.**
- No – there is not any commercial competition for the product or service provided.**

**Test No 4.** The intervention is likely to affect trade between Member States.

This would constitute an advantage which is likely to affect competition from other EU member states by placing this good/service on a market. There may be scope for this test not to be met where public resources are used to fund activities where the goods/services are purely local in nature and where there is unlikely to be a material impact on trade between EU Member States. Examples such as hairdressers, motorcycle repair shops, marinas or swimming pools are essentially services which would not and could not credibly be bought from an undertaking in another Member State.

**Please confirm whether or not the product or service could be traded between EU Member States and whether any non-UK EU-owned businesses offer similar goods or services in your location.**

- Yes – the product or service could in principle be traded between Member States**
- No – the product or service cannot be traded between Member States**

If you feel your project is exempt from State Aid please provide information in support this including the geographical location in which the product or service will be provided.

If you tick “No” to Test 3 and / or Test 4, you are declaring that you do not believe that State Aid is present. Please note that the European Court hold the final decision of the presence (or otherwise) of State Aid. If your organisation receives exempt funds through the Zero Waste Scotland grant fund and it is subsequently decided by the European Court that State Aid is present, your organisation may be required to repay the funds received with interest.

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**If all tests are met and State Aid is Present please complete one of the following:**

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**A. General Block Exemption**

Zero Waste Scotland has secured a provision of a General Block Exemption as afforded by the regulation for State Aid. Please review the provisions of this GBER (SA39221 “Zero Waste Scotland Funding Support Scheme) at <https://www.zerowastescotland.org.uk/stateaid> and identify which provision fits with your requirements.

<i>Article No</i>	<i>Article Title</i>	<i>Percentage of total eligible project costs (basic percentage plus organisation status uplift, plus assisted area uplift, if relevant)</i>

Please provide information in support of your determination of the relevant article/s within the GBER that best suit your application

**B. De Minimis Aid**

Where you are unable to meet the requirements of the GBER, you may still be able to receive aid and in order to do this please review and complete the final provision within State Aid which is State Aid De Minimis.

This allows a single undertaking<sup>1</sup> to receive up to €200,000 (cash grant equivalent) of state aid over any rolling 3-year fiscal period. The sterling equivalent is calculated using the Commission exchange rate applicable on the written date of offer of the de minimis funding.

To establish whether you are eligible to receive de minimis aid you must declare the full amount of de minimis aid which you have already been granted during your organisation's previous two fiscal years and its current fiscal year. Potentially any assistance you may have received from a public body might be a de minimis aid. This could be from central, regional, devolved governments or agencies, NDPBs or a local council.

The following is not a comprehensive list of all possible forms of aid. However, it should give you an indication of common forms of aid.

Forms of possible aid:

- state grants;
- interest rate relief;
- tax relief;
- tax credits;
- state guarantees or holdings;
- state provision of goods or services on preferential terms;
- direct subsidies;
- tax exemptions;
- preferential interest rates;
- guarantees of loans on especially favourable terms;
- acquisition of land or buildings either gratuitously or on favourable terms;
- provision of goods and services on preferential terms;
- indemnities against operating losses;
- reimbursement of costs in the event of success;
- state guarantees, whether direct or indirect, to credit operations preferential re-discount rates;
- dividend guarantees;
- preferential public ordering;
- reduction of, or exemption from, charges or taxes, including accelerated depreciation and the
- reduction of social contributions;
- deferred collection of fiscal or social contributions;
- assistance financed by special levies;

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<sup>1</sup> "Single undertaking" includes, for the purposes of the Regulation, all enterprises having at least one of the following relationships with each other:

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

Please note, there are current restrictions for de minimis support for the following sectors / activities which are subject to special procedures and require permission of the relevant department of the Scottish Government:

- Fisheries
- Transport Sector
- Import/Exporting activities.
- Agriculture, other than marketing of processed products

You should have received a letter from the funder informing you if you were given assistance under the de minimis regulation. If you are not sure whether or not any public assistance you have received is de minimis aid, please contact the body which granted the assistance to clarify this. Please provide information about all forms of public assistance you have received in the last three fiscal years (or pending) within the table below, then read and sign the de minimis declaration. Please attach a separate sheet if necessary.

Source of public funding	De minimis? (Yes / No)	Date received (or applied for if pending)	Amount received/pending (£) (Where none please state £0)
	<b>Total</b>		

**Declaration**

Any grant funding paid to your organisation by the Fund may constitute State Aid and in this case you need to comply with the EU’s State Aid rules. You must decide which of three State Aid routes you will take for your receipt of grant aid from Zero Waste Scotland. Based on completion of the section 1/2/3 please declare which of the three routes you will pursue taking into account the information in this section and in the Guidance for Applicants (especially Appendix A) and **tick one, and only one, of the following three boxes**. Please ensure you have completed the appropriate parts of the section/s in the assessment which corresponds to the box you tick – A, B or C.

- A. I declare that the grant aid my organisation will receive from the Fund will not be classified as State Aid, i.e. no State Aid will be present in the project.
  
- B. I declare that the grant aid my organisation will receive from the Fund will fall within the requirements of the General Block Exemption Regulation (651/2014)
  
- C. I declare that the grant aid my organisation will receive from the Fund will be classified as de minimis aid, i.e. it will fall within the requirements of the de minimis regulations (1407/2013)

I understand that my application for support from Zero Waste Scotland Ltd is governed by the European Commission rules on State Aid. I confirm that I have provided all the relevant information to support my declaration and I acknowledge that Zero Waste Scotland Ltd may use this information to make its own determination as to whether or not my application meets the route I have identified..

Please tick this box to confirm that you have read and understood the guidance notes on State Aid provided within this section (please take legal advice if unsure):

<b>Signed</b>		<b>Print Name</b>	
<b>Organisation</b>		<b>Position</b>	
<b>Date</b>			

Please note that you must insert the signature of an authorised member of your organisation or your applicant will be deemed non-compliant. The signatory must be an officer of the company with the authority to bind the organisation in legal agreements.

The information in this application form is offered in good faith for the guidance of interested parties, but no warranty or representation is given as to the accuracy or completeness of any of it. Zero Waste Scotland and its advisors shall not be under any liability for any error, mis-statement or omission. No aspect of this procedure shall constitute a contract or part of a contract. Applicants participate in the process on the strict understanding that the procedure may be altered or that Zero Waste Scotland may not proceed for any reason. Zero Waste Scotland reserves the right not to enter into any contractual arrangement with any of the applicants. Zero Waste Scotland does not bind itself to enter into negotiations or proceed with or accept any application. Any decision to apply is at the sole discretion of the applicant and Zero Waste Scotland excludes all liability in respect of any resultant costs incurred.

Zero Waste Scotland is committed to protecting and respecting your privacy. Our [privacy policy](#) explains how we collect and process your personal information for funding and support applications. If you have any requests concerning your personal information or any queries with regard to our processing practices, please contact [data@zerowastescotland.org.uk](mailto:data@zerowastescotland.org.uk).

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