



An Roinn Iompair
Department of Transport

Regional Airports Investment Scheme

22nd November 2023



Commission Regulation (EU) No. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (known as the General Block Exemption Regulation “the GBER”)

Regional Airports Investment Scheme

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1. Objective and Scope of the Scheme

The objective of the Scheme is to provide investment aid to regional airports in line with Chapter III Section 14 of the GBER¹. Aid for environmental protection may also be provided in line with Chapter III, Section 7. Ireland's National Government will fund the Scheme and it will be administered through the Ministry for Transport.

In line with Chapter I, Article 1 (Paragraphs 2, 3, 4, 5 and 6) of the GBER, this Scheme shall not apply to:

- a) 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;
- b) aid contingent upon the use of domestic over imported goods;
- c) aid granted in the fishery and aquaculture sector, as covered by Regulation (EU) No 1379/2013 of the European Parliament and of the Council with the exception of training aid, aid for SMEs' access to finance, aid in the field of research and development, innovation aid for SMEs, aid for disadvantaged workers and workers with disabilities, regional investment aid in outermost regions, regional operating aid schemes, aid for community-led local development ('CLLD') projects; aid to European Territorial Cooperation projects; aid in the form of reductions in environmental taxes under Article 15(1), point (f), and Article 15(3) of Council Directive 2003/96/EC; aid involved in financial products supported by the InvestEU Fund, except for operations listed in Article 1(1) of Commission Regulation (EU) No 717/2014; for aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat referred to in Article 19c; for aid to SMEs in the form of temporary public interventions concerning the supply of electricity, gas or heat produced from natural gas or electricity to mitigate the impact of price increases following Russia's war of aggression against Ukraine referred to in Article 19d;
- d) aid granted in the primary agricultural production sector, with the exception of regional investment aid in outermost regions, regional operating aid schemes, aid for consultancy in favour of SMEs, risk finance aid, aid for research and development, innovation aid for SMEs, environmental aid, training aid and aid for disadvantaged workers and workers with disabilities, aid to community-led local development (CLLD) projects, aid to European Territorial Cooperation projects, aid involved in financial products supported by the InvestEU Fund, aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat as referred to in Article 19c and aid to SMEs in the form of temporary public interventions concerning the supply of electricity, gas or heat produced from natural gas or electricity to mitigate the impact of price increases following Russia's war of aggression against Ukraine as referred to in Article 19d;
- e) aid granted in the sector of processing and marketing of agricultural products, in the following cases:

¹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:02014R0651-20230701>

- i. where the amount of the 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;
 - ii. where the aid is conditional on being partly or entirely passed on to primary producers;
- f) aid to facilitate the closure of uncompetitive coal mines, as covered by Council Decision 2010/787/EU;
- g) the categories of regional aid referred to in Article 13;
- h) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market, with the exception of aid schemes to make good the damage caused by certain natural disasters and aid schemes covered by Article 19b, Section 2a as well as Section 16 of Chapter III;
- i) ad hoc aid in favour of an undertaking as referred to in point (h);
- j) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes and regional operating aid schemes, aid schemes covered by Article 19b, aid to SMEs under Article 56f and aid to financial intermediaries under Articles 16, 21, 22 and 39 as well as Section 16 of Chapter III, provided undertakings in difficulty are not treated more favourably than other undertakings. However, this Regulation shall apply by derogation to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021;
- k) aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular:
 - (i) aid measures where the grant of 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; however, the requirement to have an establishment or branch in the aid granting Member State at the moment of payment of the aid is allowed;
 - (ii) aid measures where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services;
 - (iii) aid measures restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States .
- l) aid measures for production of nuclear energy under schemes covered by Chapter III, Section 7.

2. Legal Basis and Rules

The operation of this Scheme is subject to the provisions of Chapter III, Section 14 (Article 56a) and Chapter III, Section 7 (Articles 36, 36a, 36b, 38, 38a, 41 and 45). Unless otherwise stated, terms in the GBER will have the same meaning in this Scheme.

The legal basis for the scheme is the approval of funding by Ireland's Lower House of Parliament ('the Dáil') through the Estimates Process and section 2(4) of the Ministers and Secretaries Act 1924². Section 2(4) provides that the expenses of each of the State's ministries must be paid out of moneys approved and provided by the Oireachtas ('the Irish Parliament').

In addition, the Central Fund (Permanent Provisions) Act, 1965³ and the annual Appropriation Act⁴ represent between them the legal basis for the annual issue and appropriation of supply. Once an Estimate is approved by the Dáil for a service, then, subject to sanction by the Minister of Finance, spending on foot of that service can legally take place.

This represents the fundamental legal basis for the grant funding of airports by the Ministry of Transport. Funding is approved by the Dáil through a document called the Revised Estimates Volume for Public Services ('the REV'). The REV⁵ is published in mid-December every year.

3. Notification Thresholds

The GBER shall not apply to aid which exceeds the thresholds for aid intensities and aid amounts laid down for regional airports in Article 56a and environmental protection in Articles 36, 36a, 36b, 38, 38a, 41 and 45.

4. Budget

The average annual budget of this Scheme shall not exceed €150 million. It is expected that the average annual investment budget for the Scheme will range between €5m and €20m in line with Ireland's National Development Plan as part of Project Ireland 2040.

5. Eligibility

Any Irish airport that operates scheduled passenger services and handles fewer than 3 million annual passengers (on average of the preceding 2 financial years) will be eligible to apply for aid under the Scheme, subject to sufficient funds being available from the State.

The right to apply does not impose any obligation on the State to provide funding to an applicant.

6. Transparency of Aid

The GBER only applies to aid where it is possible to calculate precisely the gross grant equivalent of the aid ex ante without any need to undertake a risk assessment ('transparent aid'). In line with Article 5, only transparent forms of aid will be provided under this Scheme.

² <http://www.irishstatutebook.ie/eli/1924/act/16/section/2/enacted/en/html#sec2>

³ <http://www.irishstatutebook.ie/eli/1965/act/26/enacted/en/html>

⁴ <http://www.irishstatutebook.ie/eli/2020/act/29/enacted/en/print.html>

⁵ <https://www.gov.ie/en/collection/e20037-revised-estimates/>

7. Incentive Effect

This Scheme shall apply only to aid which has an incentive effect in line with Article 6 of the GBER. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the Member State concerned before work on the project or activity starts.

The application for the aid must contain at least the following information:

- a) undertaking's name and size;
- b) description of the project, including its start and end dates;
- c) location of the project;
- d) list of project costs;
- e) type of aid (grant, loan, guarantee, repayable advance, equity injection or other) and amount of public funding needed for the project;

If work begins before the applicant has submitted a written application to the Ministry, the whole project will be ineligible for aid.

Under this scheme, the following categories of aid are not required to have or shall be deemed to have an incentive effect:

- a) aid for the remediation of environmental damage and the rehabilitation of natural habitats and ecosystems where the remediation or rehabilitation costs exceed the increase in value of the land or property and the conditions laid down in Article 45 are fulfilled;
- b) aid for the protection of biodiversity and the implementation of nature-based solutions for climate change adaptation and mitigation where the conditions laid down in Article 45 are fulfilled;

8. Aid intensity and Eligible Costs

In line with Article 7 of the GBER, and for the purposes of calculating aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.

Aid will be provided in the form of direct grant only. Aid payable in the future, including aid payable in several instalments, shall be discounted to its value at the moment it is granted. The eligible costs shall be discounted to their value at the moment the aid is granted. The interest rate to be used for discounting purposes shall be the discount rate applicable at the moment the aid is granted.

9. Cumulation

Aid under this Scheme shall not be cumulated, in accordance with Article 8 of the GBER, with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in Articles 36, 36a, 36b, 38, 38a, 41, 45 and 56a of the Regulation.

10. Publication and Information

Ireland will ensure that it publishes the details of the aid measures, in accordance with Article 9 of the GBER, as well as Annex II and Annex III as appropriate, on a comprehensive State aid website. The required information shall be published within 6 months from the date the aid was granted and shall be available for at least 10 years from that same date.

11. Reporting and Monitoring

The Scheme will adhere to the reporting and monitoring requirements of Chapter II (Articles 11 and 12) of the GBER.

Article 11 (Reporting) specifies that Member States shall transmit (via the Commission's electronic notification system), the summary information about each aid measure exempted under this Regulation to the Commission. It will be in the standardised format laid down in Annex II of the Regulation, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following the entry into force of the aid measure.

In addition to the above, the GBER also requires the transmission of an annual report, pursuant to Commission Regulation [\(EC\) No 794/2004](#)⁶ in electronic form, on the application of the GBER, containing the information indicated in that Regulation, in respect of each whole year or each part of the year during which the GBER applies.

In the case of Article 12 (Monitoring), in order to enable the Commission to monitor the aid exempted from notification by this Regulation, Member States are required to maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in the GBER are fulfilled. Such records shall be kept for 10 years from the date on which the last aid was granted under the scheme.

The Commission may also request, from each Member State, all the information and supporting documentation which the Commission considers necessary to monitor the application of the GBER, including the information mentioned in the above. In such cases, the Member State must provide the Commission with the requested information and supporting documents within a period of 20 working days from receipt of the request or such longer period as may be fixed in the request.

12. Investment Aid to Airports – Overview

In line with Article 56a of the GBER, in order to be proportionate, the investment aid to airports under the Scheme is required to fulfil two conditions:

⁶ 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](#) ([OJ L 140, 30.4.2004, p. 1](#)).

- The aid intensity should not exceed a maximum permissible aid intensity, which varies according to the size of the airport.
- The aid amount should not exceed the difference between the eligible costs and the operating profit of the investment.

For airports with less than 200,000 passengers per annum, investment aid is only required to fulfil one of these conditions.

In line with the GBER, State aid compatibility conditions should always ensure open and non-discriminatory access to the infrastructure. Furthermore, the exemption does not apply to investment aid granted to airports located in the vicinity of an existing airport from which scheduled air services are operated, because aid to such airports is considered to entail a higher risk of distortion of competition and must therefore be notified to the Commission. The only exception, in these circumstances, is aid granted to very small airports (i.e., with up to 200,000 passengers per annum). It is considered unlikely that aid to such airports would result in a significant distortion of competition.

13. Investment Aid to Airports – Specific Conditions

The GBER provides that investment aid to an airport shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the following specific conditions are fulfilled in line with paragraphs 3 to 14 of Article 56a of Regulation 651/2014 (inserted by the Regulation (EU) 2017/1084):

Paragraphs 3 to 14 of Article 56a of Regulation 651/2014

3. The airport shall be open to all potential users. In the case of physical limitation of capacity, the allocation shall take place on the basis of pertinent, objective, transparent and non-discriminatory criteria.
4. The aid shall not be granted for the relocation of existing airports or for the creation of a new passenger airport, including the conversion of an existing airfield into a passenger airport.
5. The investment concerned shall not exceed what is necessary to accommodate the medium-term expected traffic on the basis of reasonable traffic forecasts.
6. The investment aid shall not be granted to an airport located within 100 kilometres or 60 minutes travelling time by car, bus, train or high-speed train from an existing airport from which scheduled air services, within the meaning of Article 2(16) of Regulation (EC) No 1008/2008, are operated.
7. Paragraphs 5 and 6 shall not apply to airports with average annual passenger traffic of up to 200 000 passengers during the two financial years preceding the year in which aid is actually granted if the investment aid is not expected to result in the airport increasing its average annual passenger traffic to above 200 000 passengers within two financial years following the granting of

the aid. Investment aid granted to such airports shall comply either with paragraph 11 or with paragraphs 13 and 14.

8. Paragraph 6 shall not apply where the investment aid is granted to an airport situated within 100 kilometres from existing airports from which scheduled air services, within the meaning of Article 2(16) of Regulation (EC) No 1008/2008, are operated, provided the route between each of these other existing airports and the airport receiving the aid necessarily involves either a total travelling time by maritime transportation of at least 90 minutes or air transportation.

9. The investment aid shall not be granted to airports with average annual passenger traffic of more than three million passengers during the two financial years preceding the year in which aid is actually granted. The investment aid shall not be expected to result in the airport increasing its average annual traffic to above three million passengers within two financial years following the granting of the aid.

10. The aid shall not be granted to airports with average annual freight traffic of more than 200 000 tonnes during the two financial years preceding the year in which aid is actually granted. The aid shall not be expected to result in the airport increasing its average annual freight traffic to above 200 000 tonnes within two financial years following the granting of the aid.

11. The investment 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.

12. The eligible costs shall be the costs relating to the investments in airport infrastructure, including planning costs.

13. The investment aid amount shall not exceed:

- a) 50% of eligible costs for airports with an average annual passenger traffic of one to three million passengers during the two financial years preceding the year in which aid is actually granted;
- b) 75% of eligible costs for airports with an average annual passenger traffic of up to one million passengers during the two financial years preceding the year in which aid is actually granted.

14. The maximum aid intensities set out in paragraph 13 may be increased by 20 percentage points for airports located in remote regions.

Investment aid to Ireland's regional airports will be in full compliance with the relevant provisions of the GBER.

14. Aid for Environmental Protection

The GBER also provides that investment aid for environment protection shall also be compatible with the internal market within meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirements of Article 108(3) of the Treaty, provided that certain conditions are fulfilled in line with Section 7 of Regulation 651/2004 (amended by Regulation (EU) 2023/1315).

In cases, if any, where investment proposals from regional airports relating to environmental protection do not align with the conditions set out under Chapter III, Section 14, Article 56a 'Aid

for regional airports' of the GBER, the Ministry may consider, if appropriate, other categories of aid under Chapter III, Section 7 'Aid for environmental protection', provided the specified conditions as set out under Articles 36, 36a, 36b, 38, 38a, 41 and 45, were applicable, are adhered to.

15. Period of Validity

It is the intention of the Granting Authority to operate the Scheme from 1 January 2024 until 31 December 2026. The Scheme will be amended as necessary to accommodate any potential changes to the GBER that may come into force before then.

As at 1 January 2024, this Scheme will replace the Regional Airports Investment Scheme, which was published on 4 February 2021 and previously notified to the EU Commission (SA.62425).



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