

## Subsidy Control Act 2022 – Royal Assent received

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17 May 2022

After months of debate, agreement has been reached by both Houses on the Subsidy Control Act 2022 c.23 (Act) which received Royal Assent on the 28 April 2022. The Act sets out the UK's new subsidy control regime, which replaces the UK-EU Trade and Cooperation Agreement (TCA) - the prior EU state aid rules and obligations which have been in place since the UK's exit from the EU. The full scope of the Act will not come into force until Autumn 2022, with further guidance and secondary legislation expected from the Government to assist with the interpretation and application of this new regime. In the meantime, public authorities granting subsidies and recipients of subsidies should familiarise themselves with the Act in order to prepare for the new regime.

The Act provides a new definition of a subsidy which differs slightly from that provided for under EU state aid rules and the TCA:

*Subsidy - 'financial assistance, which is given directly or indirectly from public resources by a public authority, confers an economic advantage on one or more enterprises, is specific, and benefits one or more enterprises over another, and has or is capable of having an effect on competition or investment or trade within the UK or between the UK and another country'.*

The main elements of the Act are summarised below:

- **Subsidy Control Principles** – these principles are similar to those set out in the TCA but with the addition of a seventh principle. Public authorities providing a subsidy must consider the Subsidy Control Principles prior to giving a subsidy or making a subsidy scheme. Where a subsidy is given in relation to energy or the environment, additional energy and environment principles must also be considered.
- **Service of Public Economic Interest** – subsidies to be granted for services of public economic interest must be compliant with the Subsidy Control Principles to the extent these do not obstruct the provision of public economic interest services.
- **Service of Public Economic Interest Assistance** – this is an exemption to the subsidy control regime and, essentially, replaces the prior Services of General Economic Interest de minimis exemption so that public authorities may continue to grant subsidies in relation to public services, provided the total assistance given to the recipient in the specified period does not exceed £725,000.
- **Minimal Financial Assistance** – this is an exemption to the subsidy control regime and allows public authorities to grant small subsidies, provided the total assistance given to the recipient in the specified period does not exceed £315,000.
- **Streamlined Subsidies/Subsidy Schemes** – these will provide public authorities with easier routes to grant subsidies quickly, particularly where they are low-risk routine subsidies and are aligned with UK priorities.
- **Transparency** – public authorities making subsidies must make entries on the subsidy database within certain timescales to ensure compliance with the Act and to provide the market with knowledge of the subsidies granted.

For more information on the Act and the new regime, please refer to our previous articles which set out the main elements of the Act in more detail, [Part 1](#) and [Part 2](#).

Alternatively, if you'd like any advice or assistance, please get in touch with our team who would be happy to assist.



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