EXPLANATORY MEMORANDUM TO

THE SUBSIDY CONTROL (SUBSIDY DATABASE INFORMATION REQUIREMENTS) (AMENDMENT) REGULATIONS 2025

2025 No. 635

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Justin Madders MP, Parliamentary Under-Secretary of State at the Department for Business and Trade, confirms that this Explanatory Memorandum meets the required standard.

2.2 Tessa Robins, Deputy Director for Subsidy Control, at the Department for Business and Trade, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Agatha Barta at the Department for Business and Trade, Telephone: 07511168355 or email: subsidycontrol@businessandtrade.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Subsidy Control (Subsidy Database Information Requirements) Regulations 2022, specifically regulation 4, so as to remove the requirement for a public authority's entry in the subsidy database in respect of a subsidy given under a subsidy scheme to include the information required by regulation 3(p), (q), (r), (s), (t), (u), (v), (w) and (x). This information continues to be required for a public authority's entry in the subsidy database in respect of a subsidy given other than under a subsidy scheme.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The Subsidy Control Act 2022 ('the Act') provides the framework for a UK-wide subsidy control regime. This regime enables public authorities, including devolved administrations and local authorities, to deliver subsidies that are tailored and bespoke for local needs to deliver government priorities.

5.2 Public authorities must be transparent about the subsidies they provide. Transparency is of fundamental importance to the UK's subsidy control regime. Interested parties must be able to see which subsidies are being given by public authorities, how much is being given and to whom. This will allow an interested party to see sufficient information to enable it to make a decision over whether or not to challenge the subsidy in the Competition Appeal Tribunal. Accordingly, the Act requires that a public authority must make an entry on the subsidy database for any subsidy it gives or subsidy scheme it makes. The Government maintains the subsidy database, which is publicly accessible. A public authority will have access to the database for the purposes of uploading subsidies.

5.3 The Subsidy Control (Subsidy Database Information Requirements) Regulations 2022 ('the 2022 Regulations') prescribe the specific information about the subsidy or scheme that public authorities must include in a database entry. If a public authority fails to upload all the information requirements, it may not have made a full entry on the database as it is required to by the Act.

5.4 Subsidies can be given either as standalone subsidies, or under a subsidy scheme. A subsidy scheme can be made by a public authority to provide for the giving of subsidies under the scheme, either directly or by other public authorities. The purpose of a subsidy scheme is to enable multiple subsidies to be given to any number of beneficiaries for the same policy purpose.

5.5 Small subsidies (up to £315,000) may be classed as Minimal Financial Assistance (MFA). Subsidies given under MFA provisions are very unlikely to have any appreciable distortive impacts on domestic competition or investment or international trade or investment. As such MFA subsidies do not need to comply with the majority of the subsidy control requirements.

5.6 The Subsidy Control Act sets out that public authorities can provide subsidies for services of public economic interest (SPEI). These are essential services provided to the public and may include postal services, social housing, and certain transport networks, particularly in rural or less populated areas of the country. Public authorities giving SPEI subsidies must comply with additional rules. However, low value SPEI subsidies (up to £750,000) do not need to comply with the majority of the subsidy control requirements. These low value SPEI subsidies are called Services of Public Economic Interest Assistance (SPEIA).

5.7 All subsidy schemes, no matter the amount, must be uploaded. Standalone subsidy awards must also all be uploaded, regardless of amount. However, a subsidy award given under a published scheme only needs to be uploaded to the database when it exceeds £100,000. Similarly, MFA awards, SPEIA awards, and subsidies for SPEI, need only be uploaded when they exceed the same £100,000 threshold. When uploading a subsidy, a public authority will need to indicate what kind of subsidy entry they are making, for example whether it is a subsidy scheme or a subsidy under a published scheme.

5.8 A public authority will then follow a process where the database asks for the specific information prescribed by the 2022 Regulations. Depending on the information requirement, the database will either provide a drop-down menu (for example for requirements such as subsidy purpose, location and sector) or multiple-choice list (with set options, for example for requirements such as enterprise size or unique ID type) or a free text box for the required information. This will allow public authorities to comply with the information requirements.

5.9 The 2022 Regulations set out different requirements based on whether the database entry relates to a subsidy or scheme or subsidy given under a scheme. The 2022 Regulations also make specific provision for MFA and SPEIA, which have fewer requirements, and tax measures, where the amount may be uploaded within a specified financial range. The date of the database upload will be generated automatically by the database. Finally, the 2022 Regulations sets out the requirements for entering modifications of subsidies or schemes onto the database, where modifications are required to be entered onto the database under the Act.

5.10 Regulation 4 of the 2022 Regulations creates an undesirable situation where a public authority must upload the information outlined in regulation 3(p)-(x) both for a scheme and a subsidy awarded under a scheme. This results in a duplication of information.

5.11 Under 3(p)-(x) of the 2022 Regulations, information is currently required when uploading a subsidy given under a subsidy scheme to the transparency database, including on the type of subsidy; whether it meets the definition of a subsidy or scheme of interest or subsidy or scheme of particular interest; whether it has been referred to the Competition and Markets Authority (CMA) for review; and whether certain Sections of the Act apply to the subsidies, for example in relation to energy and environment principles, rescuing, restructuring, services of public economic interest or national or global economic emergencies.

5.12 As this information is already required when uploading the scheme to the database, requiring public authorities to upload this information for each individual subsidy given under the scheme is an unnecessary duplication.

5.13 This instrument amends regulation 4 of the 2022 Regulations to remove the requirement for a public authority to provide the information outlined in regulation 3(p)-(x) where a subsidy has been awarded under a scheme, as this information is already provided for the scheme itself. This information remains required for a public authority's entry in the subsidy database for a subsidy given outside of a subsidy scheme.

What was the previous policy, how is this different?

5.14 The underlying policy objective has not changed. The legislation merely seeks to correct the requirement to provide duplicative information in the subsidy database.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the Subsidy Control (Subsidy Database Information Requirements) Regulations 2022, specifically regulation 4, so as to remove the requirement for a public authority's entry in the subsidy database in respect of a subsidy given under a subsidy scheme to include the information required by regulation 3(p), (q), (r), (s), (t), (u), (v), (w) and (x). This information continues to be required for a public authority's entry in the subsidy database in respect of a subsidy given other than under a subsidy scheme.

Why was this approach taken to change the law?

6.2 While it would have been possible to repeal and replace the Subsidy Control (Subsidy Database Information Requirements) Regulations 2022 in their entirety, it was considered that the necessary change was sufficiently minimal as to mean an amendment is more appropriate. The legislation will remain sufficiently clear and accessible.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no requirement to consult on this instrument and no consultation on these Regulations was carried out.

8. Applicable Guidance

8.1 The statutory guidance accompanying the Subsidy Control Act contains a chapter on transparency. The transparency chapter explains each of the information requirements relating to this instrument. In addition, there is information contained on the database itself which has been drafted to assist public authorities in meeting their transparency obligations. The statutory guidance can be found here: https://www.gov.uk/government/publications/uk-subsidy-control-statutory-guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because of the low level of impact per business.

Impact on businesses, charities and voluntary bodies

9.2 It is not anticipated that this instrument will have any material impact on businesses, charities or voluntary bodies, because the transparency obligations under the Act fall upon public authorities. Equally, it will not reduce the overall level of transparency of subsidies, and so this will not disadvantage businesses, charities or voluntary bodies who might wish to know more about subsidies given.

9.3 The legislation will have no significant impact on small or micro businesses because, as above, the transparency obligations fall on public authorities and levels of transparency are not being reduced.

9.4 The impact on the public sector is likely to be positive, as this instrument will reduce duplication in transparency reporting obligations therefore reducing administration requirements on public authorities. However, it is not expected to be a significant, quantifiable saving.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Under section 65 of the Act, the Competition and Markets Authority ('CMA') will produce regular reports on the functioning of the subsidy control regime. The CMA is required to publish a monitoring report within 3 years after implementation of the regime, with the first report due in 2026, and at regular intervals thereafter.

10.2 This instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 It is with regret that this instrument does not comply with the 21-day convention. Due to an internal processing error, regulation 1(1) provides for the instrument to come into force 21 clear days after the date on which it is made. To achieve the intended effect regulation 1(1) ought to have provided for the instrument to come into force 21 days after being laid. The only alternative to allowing the error to stand (and therefore breaching the 21-day rule) would have been to revoke and remake the Regulations. On balance, the Department considered that this would be confusing to the public and an inefficient use of Parliament's time, and overall disproportionate to the prejudice caused by breach of the 21-day rule with this particular instrument. The department apologises for this error.

12. European Convention on Human Rights

12.1 The Parliamentary Under-Secretary of State (Minister for Employment Rights, Competition and Markets) has made the following statement regarding Human Rights:

"In my view the provisions of the Subsidy Control (Subsidy Database Information Requirements) (Amendment) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").