

# Subsidy Control Act 2022

# **CHAPTER 23**

# SUBSIDY CONTROL ACT 2022

#### PART 1

# OVERVIEW AND KEY INTERPRETATION

## Overview etc

Overview and application of Act

"Subsidy"

- 2 "Subsidy"
- 3 Financial assistance which confers an economic advantage
- 4 Financial assistance which is specific
- 5 Section 2: modification for air carriers

"Public authority"

6 "Public authority"

"Enterprise"

- 7 "Enterprise"
- 8 Persons under common control

## Other key terms

- 9 The subsidy control principles and the energy and environment principles
- 10 Subsidy schemes and streamlined subsidy schemes
- 11 Subsidies and schemes of interest or particular interest

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#### PART 2

# SUBSIDY CONTROL REQUIREMENTS

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### **PRINCIPLES**

- 12 Application of the subsidy control principles
- 13 Application of the energy and environment principles

#### **CHAPTER 2**

#### PROHIBITIONS AND OTHER REQUIREMENTS

## Introductory

14 Introductory

# General prohibitions

- 15 Unlimited guarantees
- 16 Export performance
- 17 Use of domestic goods or services
- 18 Relocation of activities

## Ailing or insolvent enterprises

- 19 Rescuing
- 20 Restructuring
- 21 Restructuring deposit takers or insurance companies
- 22 Liquidating deposit takers or insurance companies
- 23 Liquidity provision for deposit takers or insurance companies
- 24 Meaning of "ailing or insolvent"
- 25 Meaning of "deposit taker"
- 26 Meaning of "insurance company"

# Other specific prohibitions and requirements

- 27 Subsidies for insurers that provide export credit insurance
- 28 Subsidies for air carriers for the operation of routes
- 29 Services of public economic interest

## Subsidy schemes

30 Effect of prohibitions etc in relation to subsidy schemes

Subsidies or schemes subject to mandatory referral

31 Subsidies or schemes subject to mandatory referral

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32 Subsidy database

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- 33 Duty to include information in the subsidy database
- Information to be included in the subsidy database

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#### MINIMAL OR SPEI FINANCIAL ASSISTANCE

## Minimal financial assistance

- 36 Minimal financial assistance
- 37 Section 36: procedural requirements

Services of public economic interest assistance

- 38 Services of public economic interest assistance
- 39 Section 38: procedural requirements

#### General

- 40 Mergers and acquisitions
- 41 Exemption for certain subsidies given to SPEI enterprises
- 42 Chapter 2: supplementary and interpretative provision

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# EMERGENCIES ETC.

- 43 Natural disasters and other exceptional circumstances
- 44 National or global economic emergencies

# **CHAPTER 4**

#### OTHER MISCELLANEOUS EXEMPTIONS

- 45 National security
- 46 Bank of England monetary policy
- 47 Financial stability
- 48 Legacy and withdrawal agreement subsidies
- 49 Tax measures
- 50 Large cross-border or international cooperation projects
- 51 Nuclear energy

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#### PART 4

#### CMA: REFERRALS AND FUNCTIONS

#### **CHAPTER 1**

#### FUNCTIONS ON REFERRALS OF SUBSIDIES AND SCHEMES

# Mandatory referrals

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- 53 CMA reporting period for mandatory referral
- 54 Cooling off period following mandatory referral
- 55 Call-in direction

#### Voluntary referrals

- 56 Voluntary referral to CMA
- 57 CMA reporting period for voluntary referral
- 58 Call-in direction following voluntary referral

# Mandatory and voluntary referrals: contents of CMA report

59 CMA report following mandatory or voluntary referral

# Post-award referrals

- 60 Post-award referrals
- 61 CMA reporting period for post-award referrals
- 62 CMA report following post-award referral

#### Exemptions

- Referrals in relation to subsidy schemes
- 64 Other exemptions

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- 65 Monitoring and reporting on subsidy control
- 66 CMA annual report
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# **CHAPTER 3**

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## Appeals to the Competition Appeal Tribunal

- 70 Review of subsidy decisions
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- 72 CAT powers on review: England and Wales and Northern Ireland
- 73 CAT powers on review: Scotland
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77 Misuse of subsidies

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- 78 Subsidies and schemes in primary legislation
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## SCHEDULE 1 — The subsidy control principles

- A Common interest
- B Proportionate and necessary
- C Design to change economic behaviour of beneficiary
- D Costs that would be funded anyway
- E Least distortive means of achieving policy objective

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- F Competition and investment within the United Kingdom
- G Beneficial effects to outweigh negative effects

# SCHEDULE 2 — The energy and environment principles

- A Aim of subsidies in relation to energy and environment
- B Subsidies not to relieve beneficiary from liabilities as a polluter
- C Subsidies for electricity generation adequacy, renewable energy or cogeneration
- D Subsidies for electricity generation adequacy may be limited to installations...
- E Subsidies for renewable energy or cogeneration shall not affect beneficiaries'...
- F Subsidies in the form of partial exemptions from energy-related taxes and levies
- G Subsidies in the form of compensation for increases in electricity costs
- H Subsidies for the decarbonisation of emissions linked to industrial activities
- I Subsidies for improvements of the energy efficiency of industrial activities

# SCHEDULE 3 — Subsidies provided by primary legislation

- 1 Introductory
- 2 (1) In this Schedule— "appropriate authority" means— in relation to...
- 3 (1) The definition of "subsidy" in section 2 applies for...
- 4 In this Schedule references to a subsidy provided by means...
- 5 In this Schedule—(a) references to a subsidy provided by...
- 6 Application of principles
- 7 Prohibitions etc and exemptions
- 8 Transparency
- 9 CMA referrals
- 10 Recovery orders
- 11 Pre-action information
- 12 Time limits

## **Changes to legislation:**

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# Changes and effects yet to be applied to:

- s. 25(1)(b) and word omitted by 2021 c. 22, Sch. 8 para. 20(2) (as inserted) by 2022 c. 23 s. 83
- s. 26(1)(b) and word omitted by 2021 c. 22, Sch. 8 para. 20(3) (as inserted) by 2022 c. 23 s. 83
- s. 27(2) words omitted by 2021 c. 22, Sch. 8 para. 20(4) (as inserted) by 2022 c. 23 s.
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