

# GUIDELINES FOR TEMPORARY STATE AID TO RECOGNISED SWINE CO-OPERATIVES





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# Temporary State aid to Recognised Swine Co-operatives

## 1. Introduction

Agricultural production in Malta is characterised by a constant production throughout the year which peaks during the spring. The different agriculture activities done by the different producers across all sectors feed into various supply chains built on a variety of business models including direct selling, production intended for processing, open markets and mass catering establishments where the vast majority is dictated by demand from local consumption. Local supply is predominantly geared on delivering fresh produce and local operators' access to processing for the extension of the shelf life of primary produce is limited.

Livestock sectors are dependent on a mix of domestically grown fodder crops as well as feed made from imported cereals, with costs for animal nutrition being among the three highest in the EU on account of Malta's insularity. These sectors are thus vulnerable to exogenous shocks including market disturbance and adverse climate events. The agriculture sector is being affected very negatively in terms of both more frequent heatwaves and prolonged droughts, and more cogently the protracted impact of the Coronavirus outbreak.

Tourism, a sector which is a significant contributor to the Maltese economy, has been hit heavily by the pandemic with the number of tourists coming to Malta significantly hit when compared to pre-pandemic levels.

These factors have negatively impacted the sector on several fronts. The limitation on out-of-home catering, the limitation of public gatherings and the disruption of the tourism industry influenced the demand and as a result the value of production has been affected due to oversupply. Co-operatives in the sector have to undergo significant efforts to adjust to this rapidly changing and challenging economic environment whilst seeking to find alternative points of sale even if at times unfavourable. At the same time, the restriction on freedom of movement of goods and individuals, which also effected the changes in labour patterns of both permanent and seasonal labourers have put a strain to the agricultural industry in having to adjust to this new reality. An adjustment that has had an impact on financial resources, time and effort of the farmers and farmers organisations.

In the light of these events, the Government intends to issue direct aid to partially support the income of swine co-operatives in the context of sudden unforeseen market shock directly attributed to COVID-19.





## 2. Legal Basis

- Chapter 146 of the Laws of Malta - Agriculture and Fishing Industries (Financial Assistance) Act.
- Article 107(3)(b) TFEU
- Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak<sup>1</sup>, hereinafter referred to as the Temporary Framework.

## 3. Duration of the Scheme

The time period in which beneficiaries can benefit from aid under this scheme will be between 1<sup>st</sup> of March 2022 and 30<sup>th</sup> of June 2022.

Applications must be submitted by not later than 31<sup>st</sup> of May 2022.

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<sup>1</sup> Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak adopted by the European Commission on 19 March 2020 [OJ C 91 I/01, 20.3.2020], as amended by the Communication from the Commission – Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak [OJ C 112 I/01, 4.4.2020], by the Communication from the Commission – Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 164/03, 13.5.2020), by the Communication from the Commission – Third Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak [OJ C 218/03, 2.7.2020], by the Communication from the Commission – 4th Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance [OJ C 340 I/01, 13.10.2020], by the Communication from the Commission – Fifth Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance [OJ C 34/06, 1.2.2021], and by the Communication from the Commission – Sixth Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance [OJ C 473/01, 24.11.2021], and as may be subsequently amended.



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## 4. Eligibility/Entry Conditions

The scheme is intended for farmers organisations registered as a Co-operative in line with the Co-operative Societies Act (CAP 442 of the Laws of Malta) that are involved in the collective processing and/or marketing of pig meat on behalf of their members in Malta by the date of the submission of the application. The organisation has to be active in NACE A 01.62 - Support activities for animal production;

Applications must be submitted by not later than 31<sup>st</sup> of May 2022.

Applicants must submit a valid Bank Payment Form to ARPA

### 4.1. What happens if a beneficiary cannot fulfil commitments due to a *force majeure* incident?

*Force majeure* is generally considered to imply an abnormal or unforeseeable circumstance beyond a project holder's control, the consequences of which could not be avoided by reasonable action. A written application for *force majeure* has to be submitted to the ARPA within 15 working days from the date on which the beneficiary, or the responsible person entitled by said beneficiary, is in a position to do so. After consultation, the ARPA will decide whether to accept or reject the application. Should the ARPA accept the force majeure request, there will be no major consequences. But if the force majeure application is rejected by the ARPA, the latter may seek to recover or withdraw all funds related to this scheme.





## 5. Applicable State Aid Rules

- Aid will not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation<sup>2</sup>) on 31 December 2019. However, aid under this scheme may be granted to micro or small enterprises (within the meaning of Annex I of the General Block Exemption Regulation) that were already in difficulty on 31 December 2019, provided that such enterprises are not subject to collective insolvency procedure under national law and that they have not received rescue aid<sup>3</sup> or restructuring aid<sup>4</sup>.
- Aid under this scheme may be cumulated with aid under *de minimis* Regulations<sup>5</sup> and/or with aid under Block Exemption Regulations<sup>6</sup>, provided that the provisions and cumulation rules of those Regulations are respected.
- Aid granted under this scheme may be cumulated with aid granted under the different sections of the Temporary Framework in line with the provisions in the specific sections of the Temporary Framework.

<sup>2</sup> As defined in Article 2 (18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1. Wherever reference is made in this Temporary Framework to the definition of “undertaking in difficulty” as contained in Article 2(18) of Regulation (EU) No 651/2014, it shall be read as also referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.

<sup>3</sup> Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting the aid under the Temporary Framework.

<sup>4</sup> Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the Temporary Framework.

<sup>5</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

<sup>6</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation), Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

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- In line with Article 108(3) TFEU, no aid will be granted or paid out before notification and approval by the European Commission.
- The overall aid granted under this scheme and any other scheme implemented on the basis of Section 3.1 of the Temporary Framework, will not exceed € 2,300,000 per undertaking at any given point in time<sup>7</sup>.
- If the beneficiary receives several direct grants or aid in different forms under this aid scheme or under another existing scheme approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking as set out in points 22 (a) and 23(a) of the Temporary Framework must be respected. Applicants must declare that they will not exceed the ceilings being set out in Section 3.1 of the Temporary Framework.
- Aid granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.
- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, it will be ensured that the relevant ceiling is respected for each of those activities and that the overall maximum amount of €2,300,000 is not exceeded per undertaking.
- The relevant information on each individual aid above €100,000<sup>8</sup> granted under this scheme will be published within 12 months from the moment of granting.

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<sup>7</sup> Aid granted on the basis of schemes approved under this section which has been reimbursed before granting new aid under this section shall not be taken into account in determining whether the relevant ceiling is exceeded.

<sup>8</sup> Referring to information required in Annex III of the Commission Regulation (EU) No 651/2014 of 17 June 2014 and of Annex III of the Commission Regulation (EU) No 702/2014.

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## 6. How is the payment and eligible area of support calculated?

This aid is a direct grant based on the approved ceilings allocated in accordance with the the amount of eligible approved units; eligible units shall be based on the number of sows/gilts reared by members of the co-operative as determined by the Veterinary Regulation Directorate (VRD) in the most recent census. This means that aid shall be calculated on a maximum of 3657 sows and gilts determined in census 2021.

The aid shall then be paid on the basis of payment claims showing actual expenditure incurred in relation to the the running of the beneficiary co-operative in years 2020, 2021 and 2022, claims must be backed up by the necessary supporting documentation (e.g. copies of payslips etc) as shall be indicated by ARPA.

The overall budget allocated for this scheme is €200,000.

## 7. Suspending/Withdrawing the support

- The paying agency may suspend or withdraw in full the support where a non-compliance is detected. The suspension or withdrawal shall be lifted by the paying agency as soon as the beneficiary proves to the satisfaction of the agency that the situation has been remedied.
- Suspension of the support will be applied in cases where commitments and/or other obligations are not fulfilled, and the beneficiary is expected to be able to correct the non-compliance. If the beneficiary cannot remedy the situation during a period provided for by ARPA, support shall be withdrawn.
- The paying agency will suspend the award and/or payment of any aid under this scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision, until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

