

Submission from the National Trust

These Regulations revoke the application of existing State Aid provisions in legislation from the end of the Implementation Period onwards (11pm on 31 December 2020).

However, the Regulations create no requirement for any new State Aid provisions (or equivalent) to be put in place by this date. The Internal Market Bill (2020) may introduce new provisions regarding state support. Under present arrangements, Article 53 of the General Block Exemption Rule (GBER) creates a State Aid exemption that specifically lists 'natural heritage' (if formally recognised by a competent public authority of the Member State) as exempt from State Aid regulations. This is in recognition that such aid normally does not affect interstate trade to an extent beyond the common interest.

However, the Internal Market Bill's exemptions (Part 6, Clause 48 of the Bill as introduced), which create a power to provide financial assistance for economic development, are far less specific. This Schedule mentions 'cultural activities, projects and events' but makes no mention of natural heritage whatsoever. Nor is this defined in the accompanying Explanatory Notes. This creates a real risk that this category (natural heritage) will not be exempt from state support in the future. This could affect the level of public financial support available to environmental groups (and other organisations) for the purposes of conserving or restoring natural heritage. It may also undermine the achievement of the Government's goals for the natural environment set out in the 25 Year Environment Plan, or of legal targets set under the Environment Bill.

The effect of the Regulations could be to remove the existing provisions before new ones are in place. Or, if the Internal Market Bill is passed, then the new, less specific provisions would become law and may rule out natural heritage from the exemptions to state support.

Either the Bill, or the Regulations, should be amended to reintroduce the more specific exemption for natural heritage.

6 October 2020

Response from BEIS

As the Explanatory Memorandum sets out, the purpose of the State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 is to disapply EU law relating to State aid that is retained in the UK by the European Union (Withdrawal) Act 2018 (the Withdrawal Act). The overall effect is to ensure that EU State aid law does not form part of UK domestic law as retained EU law after the end of the transition period. This instrument does not affect the application of the State aid provisions in the Northern Ireland Protocol.

The retained EU law that the instrument revokes includes Article 108(3) TFEU which obliges Member States to notify aid in advance to the European Commission and not to award this aid until it has been approved (known as the 'standstill' obligation). The General Block Exemption Regulation (GBER) is also being revoked. This Regulation sets the conditions under which an aid measure, is exempt from the requirement to notify the Commission in advance. This includes aid for culture and heritage conservation (Article 53).

Given that the notification requirement is being revoked, the exemption under GBER referenced by the National Trust, is therefore redundant.

The power to provide financial assistance in Part 6 of the UK Internal Market Bill (the Bill) is a wholly separate matter. Currently, EU bodies spend on behalf of the UK billions of pounds from the UK as a net contributor. This will change as we leave the transition period. This Bill will confer a power to make sure that the UK Government can invest UK taxpayers' money nationwide on UK priorities and support communities and businesses across the UK to level up and recover from the Covid-19 pandemic. The UK Government has been clear that this power does not change existing funding powers or responsibilities of the devolved administrations and, further, that departments will work in partnership with those governments and other organizations as we deliver future funding programs such as the UK Shared Prosperity Fund.

It is important to note that neither the State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 nor the UK Internal Market Bill will limit the ability of public authorities to support heritage activities.

8 October 2020