**NORTHERN IRELAND PROTOCOL QUESTIONNAIRE AND DECLARATION**

**Part A – Location Question Set**

1. **Does your business, its subsidiaries, parent company or operations participate in the wholesale electricity markets in Northern Ireland insofar as it applies to the generation, transmission, distribution and supply of electricity, or does it trade in wholesale electricity or involve cross-border exchanges in electricity? [[1]](#footnote-2)**

If the answer to this question is yes, the Applicant may be within scope of the Northern Ireland Protocol.

If the answer to this question is no, go to question 2.

1. **Is your business (this is the legal entity seeking the subsidy) established or registered in Northern Ireland?**

If the answer to this question is yes, the Applicant may be within scope of the Northern Ireland Protocol.

If the answer to this question is no, go to question 3.

1. **Does your business have any active subsidiaries, an active parent company and/or operations in Northern Ireland? Or does your business have plans to operate any subsidiaries, or establish other operations in Northern Ireland within the next three years? [[2]](#footnote-3)**

If the answer to this question is yes, the Applicant may be within scope of the Northern Ireland Protocol.

If the answer to this question is no, the Applicant is outside of the scope of the Northern Ireland Protocol.

If the answers to any of these location questions is yes, then proceed to the relevant Part B, either B1 for businesses that are registered or established in Northern Ireland or B2 for businesses that are registered or established in Great Britain.

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**Part B1 – Additional Questions for** **Northern Ireland-based businesses**

Having answered the Part A Location Questions, if you determine that you are potentially in scope of the Northern Ireland Protocol, please complete the following additional questions. These should be self-certified by the Applicant (i.e. someone sufficiently senior and legally entitled to act and respond on their behalf within the applicant, group or parent businesses) and supported by explanation and evidence as necessary. Ultimately this will determine whether the Applicant is outside the scope of the Northern Ireland Protocol. BEIS will use and rely on these answers and any supporting evidence provided by virtue of this questionnaire when processing your application.

**If your business (this is the legal entity seeking the subsidy) is established or registered in Northern Ireland:**

1. **Is your business active in the agriculture or fisheries/aquaculture sectors?**

*If the business is engaged in the production, processing or marketing in agricultural products or fishery and aquaculture products, the answer is “yes” to this question.*

If yes – go to question 4.

If no – go to question 2.

1. **Does your business (in whole or in part) engage in the manufacture or sale of goods that are traded between Northern Ireland and the European Union (whether by you or, to your knowledge, by third parties based in Northern Ireland or in the European Union)? Please answer yes if you have plans to start manufacturing or selling such goods in the next three years.**

If yes – go to question 4.

If no – go to question 3.

1. **Does your business involve the provision of services that are specifically tailored to the needs of a customer(s), which enable them to manufacture or sell goods that are traded between Northern Ireland and the European Union?**

*If your business provides general services that may be used by, but are not specifically targeted at, customers that manufacture or sell goods that are traded between Northern Ireland and the European Union you should answer no to this question.*

***If yes – your business is within scope of the NI protocol as it supplies services tailored to a NI-based customer (or customers) active in the manufacture or sale of goods.***

*If no – your business is not within scope of the NI protocol as it is a NI-based company that is not active in the manufacture or sale of goods traded with the EU or the supply of services tailored to a NI-based customer (or customers).*

1. **Does your business also provide services?**

*Activities that involve the exchange in ownership of a product will not constitute services.*

If yes – go to question 5.

*If no – your business is within scope of the NI protocol.*

1. **Will you use the subsidy only to support the provision of services (provided such services are not specifically tailored to customers active on the NI market) and not the (actual or planned) manufacture or sale of goods (including agricultural produce and/or the production or processing of fish or aquiculture products) and/or, if your business is active in the wholesale electricity markets, the generation, transmission of electricity, electricity trading or cross-border exchanges in electricity?**

If yes – go to question 6.

***If no – your business is within scope of the NI protocol.***

1. **Can you demonstrate that the subsidy will not cross-subsidise any activities mentioned in question 5 above, e.g. by freeing up capital for use in any of those (actual or planned) activities.**

*To answer yes to this question, your business must have processes to allow you to identify the specific funding arrangements, working capital/other requirements that relate to both goods and/or services. Recording individual financial results for business units supplying goods or services will support this determination.*

**You are required to supply evidence of this now to support your subsidy application.**

*If yes – your business is not within scope of the NI protocol as it is an NI-based company that is active in the manufacture or sale of goods traded with the EU and in the supply of services, where the purpose of the facility is for services and sufficient segregation from the goods part of business exists.*

***If no – your business is within scope of the NI protocol as it is a NI-based company that is active in either the agriculture or fisheries sectors, the generation, transmission, distribution or supply of electricity, or the manufacture or sale of goods traded with the EU and in the supply of services, where the purpose of the facility is for services but insufficient segregation from the goods part of the business exists.***

**If you do not answer this questionnaire honestly and you are in scope of the NI Protocol and subsequently receive a subsidy it may have to be repaid and you may also have to pay costs associated with any related enforcement action.**

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**Part B2 – Additional Questions for Great Britain-based businesses**

Having answered the Part A Location Questions, if you determine you are potentially in scope of the Northern Ireland Protocol, please complete the following additional questions. These should be self-certified by the Applicant (i.e. someone sufficiently senior and legally entitled to act and respond on their behalf within the applicant, group or parent businesses) and supported by explanation and evidence as necessary. Ultimately this will determine whether the Applicant is outside the scope of the Northern Ireland Protocol. BEIS will use and rely on these answers and any supporting evidence provided by virtue of this questionnaire when processing your application.

**If your business has any active subsidiaries, an active parent company and/or operations in Northern Ireland or has plans to operate any subsidiaries, or establish other operations in Northern Ireland, within the next three years:**[[3]](#footnote-4)

1. **Is the subsidy only to support your Great Britain-based business and not your Northern Ireland-based business or operations?**

If yes – go to question 2.

If no – go to question 3.

1. **Are your Great Britain-based and Northern Ireland-based businesses or operations sufficiently segregated to ensure that any subsidy awarded to your Great Britain-based business will not cross-subsidise your Northern Ireland-based business activities or operations?**

*To answer yes to this question:*

*• your business units in each location must record individual financial results.*

*• you must have processes within your business which are able to identify the specific funding arrangements for working capital/other requirements that relate to the business, separately between Great Britain and Northern Ireland points of supply.*

**You are required to supply evidence of this now to support your subsidy application.**

*If yes – your business is not in scope of the NI protocol as your business is a GB-based company with a NI branch or subsidiary with clear segregation between GB and NI businesses where the facility is only for the GB business.*

If no – go to question 3.

1. **Are your subsidiaries, parent company and/or operations in Northern Ireland active in the agriculture or fisheries sectors?**

*If the business is engaged in the production, processing or marketing in agricultural products or fishery and aquaculture products, the answer is “yes” to this question.*

If yes – go to question 6.

If no – go to question 4.

1. **Do your subsidiaries, parent company and/or operations in Northern Ireland manufacture or sell goods that are traded between Northern Ireland and the European Union (whether by you or, to your knowledge, by third parties based in Northern Ireland or in the European Union)? Please answer yes if you have plans to start manufacturing or selling such goods in the next three years.**

If yes – go to question 6.

If no – go to question 5.

1. **Does your business (including any Great Britain and Northern Ireland entities) provide services that are specifically tailored to the needs of a customer or customers, which enable them to manufacture or sell goods that are traded between Northern Ireland and the European Union?**

*If your business provides general services that may be used by, but are not specifically targeted at, customers that manufacture or sell goods that are traded between Northern Ireland and the European Union you should answer no to this question.*

***If yes – your business is in scope of the NI protocol as you are a GB-based company that supplies services tailored to a NI-based customer (or customers) active in the manufacture or sale of goods.***

*If no – your business is not in scope of the NI protocol as it is a GB-based company that is not active in the manufacture or sale of goods traded with the EU or the supply of services tailored to a NI-based customer (or customers).*

1. **Does your NI business also supply services?**

*Activities that involve the exchange in ownership of a product will not constitute services.*

If yes – go to question 7.

***If no – your business is in scope of the NI protocol as it is a GB-based company with NI branch/subsidiary without clear segregation between GB and NI businesses that is either active in the agriculture and fisheries sectors, active in the generation, transmission, distribution or supply of electricity, or active in the manufacture or sale of goods traded with the EU and not active in services.***

1. **Will you use the subsidy only to support the provision of services (provided such services are not specifically tailored to customers active on the NI market) and not the (any actual or planned) manufacture or sale of goods (including agricultural produce and/or the production or processing of fish or aquaculture products) and/or, if your business is active in the wholesale electricity markets, the generation, transmission of electricity, electricity trading or cross-border exchanges in electricity?**

If yes – go to question 8.

***If no – your business is in scope of the NI protocol as it is a GB-based company with NI branch/subsidiary without clear segregation between GB and NI businesses that either active in the agriculture and fisheries sectors, active in the generation, transmission, distribution or supply of electricity, or is active in the provision of both services and the manufacture or sale of goods traded with the EU, where the facility will be used in part to support the non-services activities.***

1. **Can you demonstrate that the subsidy will not cross-subsidise any activities mentioned in question 7 above, e.g. by freeing up capital for use in any of the (actual or planned) activities mentioned.**

To answer yes to this question, your business must have processes to allow you to identify the specific funding arrangements, working capital/other requirements that relate to both goods and/or services. Recording individual financial results for business units supplying goods or services will support this determination.

**You are required to supply evidence of this now to support your subsidy application.**

*If yes – your business is not in scope of the NI protocol as it is a GB-based company with NI branch/subsidiary without clear segregation between GB and NI businesses that is active in the provision of both services and either the agriculture and fisheries sector, the generation, transmission, distribution or supply of electricity, or the manufacture or sale of goods traded with the EU, where the facility will be used only for out of scope services.*

***If no – your business is in scope of the NI protocol as it is a GB-based company with NI branch/subsidiary without clear segregation between GB and NI businesses that is active in the provision of both services and either the agriculture and fisheries sector, the generation, transmission, distribution or supply of electricity, or the manufacture or sale of goods traded with the EU, without sufficient evidence that the facility will be used only for out of scope services.***

**If you do not answer this questionnaire honestly and you are in scope of the NI Protocol and subsequently receive a subsidy it may have to be repaid and you may also have to pay costs associated with any related enforcement action.**

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1. Note to applicants: if your business engages in generation, transmission, distribution or supply of electricity, trades in wholesale electricity or is involved in cross-border exchanges in electricity but does not participate in the wholesale electricity markets in Northern Ireland, you should answer no to this question. [↑](#footnote-ref-2)
2. Note to applicants: secondary economic effects, such as a general increase in the sale of goods to Northern Ireland does not constitute State aid and are therefore outside the scope of Article 10 of the Northern Ireland Protocol. Therefore, where a subsidy (which would include all forms of financial support provided by BEIS) is provided to a business in Great Britain, and a business then simply places goods on the NI market alongside other markets then this will not be in scope of Article 10 of the Northern Ireland Protocol. If this is the case, then you should answer no to question 3. However, subsidies that have the effect of channelling advantages to one or a select group of enterprises in Northern Ireland may be in scope of Article 10 of the Northern Ireland Protocol. If this is the case, then you should answer yes to question 3. [↑](#footnote-ref-3)
3. Note to applicants: Secondary economic effects, such as a general increase in the sale of goods to Northern Ireland does not constitute State aid and are therefore outside the scope of Article 10 of the Northern Ireland Protocol. Therefore, where a subsidy is provided to a GB business, and a business then simply places goods on the NI market alongside other markets then this subsidy will not be in scope of Article 10 of the Northern Ireland Protocol. However, subsidies that have the effect of channelling advantages to one or a select group of enterprises in Northern Ireland may be in scope of Article 10 of the Northern Ireland Protocol. [↑](#footnote-ref-4)