

ORDINANCE OF THE MINISTER OF ECONOMY¹

of 15 July 2010

on detailed purpose, conditions and mode of granting financial aid for the participation of entrepreneurs in promotion programmes under Sub-Measure 6.5.2 of the Innovative Economy Operational Programme, 2007-2013

Pursuant to Article 21 (3) of the Act of 6 December 2006 on the principles of the development policy making (Dz.U. of 2009 No 84, item 712 and No 157, item 1241) it is hereby ordained:

Article 1.1. The Ordinance specifies the detailed purpose, conditions and mode of granting financial aid for the participation of entrepreneurs in promotion programmes under Sub-Measure 6.5.2 “Support for the participation of entrepreneurs in promotion programmes” of the Innovative Economy Operational Programme, 2007-2013, hereinafter referred to as “aid”.

2. The aid granted pursuant to this Ordinance shall be *de minimis* aid in accordance with the provisions of the Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ EU L 379, 28.12.2006, p. 5).

3. The Ordinance shall not apply to aid:

(1) granted in the fisheries and aquaculture sectors covered by the Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ EC L 17, 21.01.2000, p. 22, OJ EU Polish special edition, Chapter 4, Volume 4, p. 198, as amended);

(2) granted for activity in the scope of primary production of agricultural products;

(3) granted for processing and marketing of agricultural products in cases specified in Article 1 (1) (c) of the of the Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid;

(4) granted for activity related to export to the European Union Member States or the third countries, i.e. directly related to the quantity of products exported, with the establishment and functioning of the distribution network or with other current expenditure related to running export activity;

(5) determined by priority of use of national production goods in respect of goods imported from abroad;

¹ Minister of Economy manages the government administration branch – economy, pursuant to Article 1 (2) of the Ordinance of the President of the Council of Ministers of 16 November 2007 on the detailed scope of activity of the Minister of Economy (Dz.U. No 216, item 1593).

(6) in the coal sector covered by the Council Regulation (EC) No 1407/2002 of 23 July 2002 on State aid to the coal industry (OJ EC L 205, 02.08.2002, p. 1, as amended; OJ EU Polish special edition, Chapter 8, Volume 2, p. 170, as amended);

(7) granted for the purchase of vehicles intended for road transport to entities carrying out gainful activity within road freight transport;

(8) granted to entities carrying out business activity, meeting the criteria of undertaking in difficulty, specified in the legal provisions of the European Union on granting public aid.²

Article 2. Where the Ordinance refers to:

(1) trade promotion programme – this should be understood as the concept covering the period no longer than 36 months, specifying in particular:

(a) types and dates of measures promoting one trade, goods or services of a given type,

(b) markets, on which the promotion measures are implemented,

(c) list of types of activities related to a given trade, goods or services of a given type,

(d) list of goods or services of a given type, which will be covered by promotion measures – implemented pursuant to the contract for implementation of the trade promotion programme;

(2) promotion activity – this should be understood as events specified in the promotion programme, the aim of which is to promote one trade, goods or services of a given type or the Republic of Poland or Polish economy, in particular fairs, exhibitions, seminars, conferences, trade economic missions;

(3) list of general promotion programmes – this should be understood as a document containing the general promotion programmes, to be implemented within 12 months, announced by the minister competent for economy on the Ministry of Economy's website at www.mg.gov.pl and in the Public Information Bulletin;

(4) Sub-Measure 6.5.1 of the Innovative Economy Operational Programme, 2007-2013 – this should be understood as the system project „Promotion of Polish economy on the international markets”, described in the Detailed Description of Priorities of the Innovative Economy Operational Programme, 2007-2013, approved for support by the minister competent for regional development, where the minister competent for economy is the beneficiary;

(5) promotion programmes – this should be understood as trade promotion programme and general promotion programme;

(6) general promotion programme – this should be understood as planned measures promoting the Republic of Poland and Polish economy home and abroad;

(7) entrepreneur - this should be understood as enterprise within the meaning of Annex I to the Commission Regulation (EC) No 800/2008 6 August 2008 declaring certain categories of aid

² The criteria are specified in 9-11 of the Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ EU C 244, 01.10.2004, p. 2, as amended).

compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ EU L 214, 09.08.2008, p. 3);

(8) contract for the implementation of trade promotion programme - this should be understood as contract concluded as part of Sub-Measure 6.5.1 of the Innovative Economy Operational Programme, 2007-2013, between the minister competent for economy and the entity awarded by the minister competent for economy by way of open and competitive public invitation to tender, specifying the rights and obligations related to the implementation of the trade promotion programme;

(9) expenditure eligible for aid – this should be understood as expenditure actually incurred by the entrepreneur and documented, directly related to the project described in the application for aid and necessary for its implementation, decreased by input tax on goods and services (VAT), except for the situations in which the entrepreneur has no right to recover or deduct this tax pursuant to separate provisions.

Article 3.1. Aid may be granted to entrepreneur meeting the total of the following conditions:

(1) has acceded to the trade promotion programme or the general promotion programme in a manner specified in the notice of invitation to tender referred to in Article 4 (1);

(2) carries out business activity and has a seat, and in the case of entrepreneur being a natural person – address of main location of carrying out business activity – within the territory of the Republic of Poland;

(3) has no tax arrears or arrears on account of social security and health insurance;

(4) has submitted application for aid to the minister competent for economy, filled in according to the model application, by the deadline specified in the notice of invitation to tender;

(5) in the tax year in which he submits the application and two preceding tax years, has not obtained *de minimis* aid, the gross value of which, aid applied for included, would exceed the equivalent of EUR 200,000, and in the case of entrepreneurs carrying out activity in the road transport sector – EUR 100,000;

(6) amount of aid applied for, other public aid granted to this entrepreneur as regards the same expenditure eligible for aid included, will not lead to exceeding the maximum acceptable intensity specified for other purposes of public aid.

2. In the case of applying for aid for acceding the trade promotion programme, aid may be granted to entrepreneur who, next to the conditions referred to in Paragraph 1, meets the following conditions:

(1) has undertaken to participate in the promotion measures which constitute at least 60% of the number of measures specified in the trade promotion programme;

(2) type of activity carried out by the entrepreneur, determined in accordance with the code of Polish Classification of Activity or European Classification of Activity, falls into the list of types of business activities specified in the trade promotion programme;

(3) dates of participation in the promotion measures do not fall outside the dates specified in the trade promotion programme;

(4) project described in the application for aid is coherent with the promotion measures specified in the trade promotion programme;

(5) has submitted application for aid before the date of initiation of the first measure of the promotion measures he acceded, specified in the trade promotion programme;

(6) goods or services of a given type produced or sold by the entrepreneur fall into the list specified in the trade promotion programme.

3. In the case of applying for aid for participation in the general promotion programme aid may be granted to entrepreneur who, next to the conditions referred to in Paragraph 1, meets the following conditions:

(1) project described in the application for aid is coherent with the promotion measures specified in the general promotion programme;

(2) has submitted application for aid no later than 60 days before the date of initiation of the general promotion programme he acceded, specified in the list of general promotion programmes.

4. Aid shall be granted in form of non-reimbursable co-financing for part of expenditure eligible for aid, incurred by the entrepreneur, transferred pursuant to the contract for co-financing concluded between the minister competent for economy and the entrepreneur.

5. The amount of aid for participation in the trade promotion programme cannot exceed 60% of incurred expenditure eligible for aid and the amount of PLN 300,000 for the participation in one trade promotion programme.

6. The amount of aid for participation in the general promotion programme cannot exceed 50% of incurred expenditure eligible for aid and the amount of PLN 25,000 for the participation in one general promotion programme.

Article 4.1. Minister competent for economy shall announce on the website of the Ministry of Economy the invitations to tender, in response to which applications for aid can be submitted in separate proceedings, to participate:

(1) in trade promotion programme; with the notice of invitation to submit applications, the minister competent for economy publishes the trade promotion programme and information about the date of conclusion of contract for the implementation of the trade promotion programme;

(2) in general promotion programmes; with the notice of invitation to submit applications, the minister competent for economy publishes the list of general promotion programmes.

2. Entrepreneur applying for aid shall submit the application for aid to the minister competent for economy, accompanied by:

(1) declaration or confirmation of valid entry in the register of business activity or entry in the register of entrepreneurs of the National Court Register or certified copy of appropriate document confirming the entry;

(2) declaration or confirmation of lack of tax arrears, submitted or issued no earlier than 3 months before the day of submission of application for aid;

(3) declaration or confirmation of lack of arrears in payment of social security and health insurance contributions, submitted or issued no earlier than 3 months before the day of submission of application for aid;

(4) all certificates or declarations and information necessary to provide *de minimis* aid, specified in the provisions on public aid;

(5) declaration of ability to recover or deduct the goods and services tax.

3. Should the application for aid be incomplete or not filled in according to the model application published in the notice of invitation to tender, the minister competent for economy shall address the entrepreneur with written demand to supplement or correct the irregularities detected by the deadline set, no earlier than 6 and no later than 12 days from the day of delivery of the demand.

4. The application for aid which has not been supplemented or corrected by the deadline referred to in Paragraph 3, shall not be examined, of which the entrepreneur shall be notified.

5. The complete application for aid shall be subject to assessment performed by the minister competent for economy.

6. Having assessed the application, the minister competent for economy shall draw up a list of projects, covering projects recommended and not recommended for granting aid and shall submit it to the minister competent for regional development for his approval.

7. The minister competent for economy notifies the entrepreneur in writing of the results of assessment and decision of the minister competent for regional development as regards the approval of the project for granting aid.

Article 5.1. Expenditure eligible for aid for the participation in the promotion programmes shall include expenditure incurred by the entrepreneur:

(1) in the case of trade promotion programme – from the day of conclusion of the contract for implementation of the trade promotion programme until the 30th day from the completion of the trade promotion programme;

(2) in the case of general promotion programme – from the day of publication of the list of general promotion programmes until the 30th day from the completion of the general promotion programme described in the application for co-financing.

2. Expenditure eligible for aid for participation in the promotion programmes shall include expenditure to cover the costs of:

(1) exhibition area rental;

(2) exhibition area fittings rental;

(3) conference rooms rental;

(4) purchase of services in the scope of technical service, including sound system and lighting of the exhibition area (stand) or the conference rooms:

- (5) purchase of services related to delivery of seminars, conferences, shows, product or service presentations and tasting;
- (6) purchase of simultaneous or consecutive interpretation;
- (7) purchase of the service of transport of persons, inasmuch as it is related to the delivery of seminars, conferences, shows and tasting or delivery of trade economic mission;
- (8) purchase of the service of transport and carriage of exhibit items related to participation in fairs, exhibitions or trade economic missions with insurance and customs clearance;
- (9) entry in the fair catalogue, registration fee and advertising in the fair media;
- (10) purchase of the service of preparation and printout of promotion and advertising materials as well as translations of these materials;
- (11) travel and accommodation of the entrepreneur or no more than two entrepreneur's employees participating in the fair or exhibition for the period no longer than two days before the launching and one day after the conclusion of the fair or exhibition, pursuant to the provisions of the Ordinance of the Minister of Labour and Social Policy of 19 December 2002 on the amount and rules governing calculation of payments due to an employee of a state or self-government unit finance with the state budget in connection with a business trip abroad (Dz.U. No 236, item 1991, of 2003 No 199, item 1951, of 2004 No 271, item 2687 and of 2005 No 186, item 1555);
- (12) travel and accommodation of the entrepreneur or no more than two entrepreneur's employees participating in trade economic mission, for the period no longer than one day before the launching and one day after the conclusion of the mission, pursuant to the provisions of the Ordinance of the Minister of Labour and Social Policy of 19 December 2002 on the amount and rules governing calculation of payments due to an employee of a state or self-government unit finance with the state budget in connection with a business trip abroad;
- (13) purchase of the entry ticket in order to visit the fair or show related to the trade economic mission;
- (14) purchase of advisory and legal services related to obtaining the document authorising the introduction of goods or services on the markets specified in the trade promotion programme or the general promotion programme;
- (15) preparation and translation of technical documentation;
- (16) transport and insurance of sample products and technical documentation, sent for certification tests;
- (17) audit of product certificate;
- (18) product certification tests;
- (19) issue and provision of the product certificate;

(20) promotion in relation to informing about the co-financing of the entrepreneur's participation in the trade promotion programme or general promotion programme, with the funds from the European Union budget.

3. Expenditure eligible for aid, incurred in foreign currency is converted into the Polish currency, pursuant to the principles specified in the provisions of the Act of 29 September 1994 on accounting (Dz.U. of 2009 No 152, item 1223, No 157, item 1241 and No 165, item 1316 and of 2010 No 47, item 278).

Article 6. Aid may be granted until 31 December 2013.

Article 7. The Ordinance shall enter into force within 14 days of its publication.

Minister of Economy: *W. Pawlak*