



## **ESF Certifying Authority, Department of Education and Skills**

### **Circular 1/2016 (replacing Circular 1/2015)**

#### **ELIGIBILITY RULES FOR THE 2014-2020 EUROPEAN SOCIAL FUND AND YOUTH EMPLOYMENT INITIATIVE**

#### **1. Background**

This Circular updates and replaces the previous Circular 1/2015. The objective of the Circular is to advise all bodies in the financial management and control cascade of the eligibility rules for expenditure concerning the European Social Fund (ESF) 2014-2020 and the Youth Employment Initiative. This applies to all expenditure co-financed through the ESF Operational Programme for Employability Inclusion and Learning 2014-2020 (PEIL) and under Ireland's Partnership Agreement 2014-2020.

This Circular should be read in association with the Department of Public Expenditure and Reform Circular 13/2015 *Management and Control Procedures for the European Structural and Investment Funds (ESIF) Programmes 2014-2020*. The ESIF Circular sets out the procedures to conform with the regulatory framework as laid down in the European Parliament and Council Regulation (EU) 1303/2013 and in particular Articles 72-74 and 122-128.

This Circular sets out the eligibility rules which have been developed in accordance with Regulation EU 1303/2013 Article 65 (1), which states "*The eligibility of expenditure shall be determined on the basis of national rules, except where specific rules are laid down in, or on the basis of, this Regulation or the Fund-specific rules.*"

The Department of Public Expenditure and Reform, as Member State Authority has overall policy responsibility for the ESIF and the Department of Education and Skills has primary responsibility for

the ESF. However, the day-to-day responsibility for the implementation of co-financed operations<sup>1</sup> rests with the appropriate statutory bodies e.g. Government Departments, Agencies and Authorities. These bodies are also accountable both to the Oireachtas and to the Comptroller & Auditor General and/or the Local Government Audit Service, as appropriate, for the National/Exchequer contribution to the co-financed operations.

The Department of Public Expenditure and Reform separately issued Circular 8/2015 which sets out the *National Eligibility Rules for Expenditure co-financed by the European Regional Development Fund (ERDF) under Ireland's Partnership Agreement 2014-2020*.

All bodies in the financial management cascade are required to comply with the requirements of this Circular as failure to do so may lead to the deferment or cancellation of ESF assistance by the European Commission and result in a loss to the Exchequer for which the relevant Bodies in the Financial Management cascade will have to account.

## **2. Scope**

All expenditure declared for operations within the ESF and YEI co-financed 2014-2020 PEIL shall be governed by the ESF national eligibility rules set out in this Circular, in line with Article 65(1) of the European Parliament and Council Regulation (EU) 1303/2013, and in the other sources included in the following list:

- Department of Education and Skills Circular 1/2015, Eligibility Rules for 2014-2020 ESF and YEI;
- Department of Public Expenditure and Reform Circular to be issued on National ERDF Eligibility Rules 2014-2020 (in cases where cross financing of ERDF operations with ESF monies is applied in accordance with Article 98 of Regulation 1303/2013 and section 3.14 below);
- Department of Public Expenditure and Reform Circular to be issued on Financial Management and Control Procedures for ESIF 2014-2020;
- European Parliament and Council Regulation (EU) 1303/2013, in particular Articles 6 and 65-71 of same;

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<sup>1</sup> Article 2(9) of Regulation 1303/2013 defines operation as meaning “*a project, contract, action or group of projects selected by the managing authority of the programmes concerned, or under their responsibility, that contributes to the objectives of a priority or priorities: in the context of financial instruments, an operation is constituted by the financial contributions from a programme to financial instruments and subsequent financial support provided by those financial instruments*”.

- European Parliament and Council Regulation (EU) 1304/2013, in particular Articles 13-15 of same;
- The relevant Administration Agreements/Activity Implementation Plan in place for operations, and;
- Existing National rules that govern the exchequer expenditure whether ESF/EU co-financed or not.

These National and EU rules governing the eligibility of expenditure included in applications for ESF aid under the PEIL 2014-2020 shall be referred to as the ‘National eligibility rules documents’.

Any guidelines/instructions issued by the Intermediate Body<sup>2</sup> and/or Beneficiary Body for their specific operations should be used in conjunction with the ‘National eligibility rules documents’. The purpose of these guidelines/instructions is not to introduce further eligibility rules, but to assist beneficiaries with the completion of the expenditure claims. This reduces the risk of expenditure being included in ESF claims that does not comply with the criteria set out in the ‘National eligibility rules documents’. It is acknowledged that this prudent approach may result in eligible expenditure being excluded from claims. In short, public beneficiaries should follow the advice and guidance as set out in the Intermediate Body’s and/or Beneficiary Body’s guidelines when completing an expenditure declaration, while decisions regarding the eligibility of expenditure shall be determined by reference to the ‘National eligibility rules documents’.

In instances where expenditure is eligible under the ‘National eligibility rules documents’ but is not in line with the guidelines/instructions issued by the Intermediate Body and/or the Public Beneficiary Body, and has already been included in a claim to the European Commission, the inclusion of such expenditure in a claim is not then considered a financial irregularity/error and no financial correction is required. Consequently, the action to be taken shall be limited to preventing such types of risk-related expenditure (but not necessarily ineligible expenditure) being included in future ESF claims.

### **3. National ESF Eligibility Rules**

3.1 Expenditure shall be eligible for a contribution from the ESF if it has been **incurred by a beneficiary and paid** between 1 January 2014 and 31 December 2023. By way of derogation to

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<sup>2</sup> Any guidelines on the completion of ESF claims issued by Intermediates Bodies should be submitted to the ESF Managing Authority for approval.

the 1 January 2014 date, expenditure allocated to YEI co-financed operations shall be eligible as of 1 September 2013. Other derogations to this section are set out in sections 3.4, 3.11 and 3.12 below and Articles 37(10), 67(1) and 69 of the Common Provision Regulation (CPR) 1303/2013 and Article 13(5) of the ESF Regulation 1304/2013.

- 3.2 Expenditure shall be eligible for a contribution from the ESF where incurred for **operations approved by the managing authority** of the operational programme concerned or under its responsibility, in accordance with criteria fixed by the monitoring committee and set out in the individual Activity Implementation Plans (AIP's). These approved operations must be within the scope of the Thematic Objectives set out under Article 9 of the CPR 1303/2013.
- 3.3 Proof of expenditure incurred and paid is required and, as a general rule, the **expenditure must be supported** by receipted invoices or accounting documents of equivalent probative value, which have a proven link with the operation. These supporting documents must be available upon request for the period set out under Article 140 of the CPR and within the Department of Public Expenditure and Reform 2014-2020 ESIF Financial Management and Control Procedures Circular to be issued.
- 3.4 **Simplified Cost Options** (SCOs) are allowed for under Articles 67 and 68 of CPR 1303/2013 and Article 14 of ESF Regulation 1304/2013.

These SCOs provide a derogation from the reimbursement of eligible costs incurred and paid that are set out under section 3.1 above. This means that certain operations can be ESF co-financed using:

- i. Standard scales of unit costs (Article 67(1)(b)) of CPR and Article 14.1 of ESF Regulation);
- ii. Lump sums not exceeding EUR 100,000 of public contribution (Article 67(1)(c)) of CPR and Article 14.1 of ESF Regulation);
- iii. Flat-rate financing, determined by the application of a percentage to one or more defined categories of costs (Articles 67(1)(d) and 68 of CPR and Article 14.2 of ESF Regulation).

The SCOs referred to above and, the costs actually incurred and paid option, may be combined only where each option:

- Covers different categories of costs, or;
- Is used for different projects forming a part of an operation, or;
- Is used for successive phases of an operation.

The SCOs must be used where the public support of grants and repayable assistance does not exceed €50,000. The use of SCO is voluntary where the public support exceeds €50,000. Where an operation is implemented exclusively through public procurement only simplified costs options available under Article 14(1) of the ESF Regulation are permitted. However, where public procurement within an operation, or project forming part of an operation, is limited to certain categories of costs, all the SCOs referred to above may be applied.

Any SCOs being availed of by operations must be stipulated in the Activity Implementation Plans (AIPs) agreed between the Managing Authority and relevant Intermediate Body. This will establish the specific SCO(s), if any, being applied when claiming any element of the operations' expenditure. The AIP will also indicate the relevant rules that set out the conditions for this type of support.

The European Commission have issued *Guidance on Simplified Cost Options (SCOs): Flat rate financing, Standard scales of unit costs, Lump sums* and *Guidance on standard scales of unit costs and lump sums adopted under Article 14(1) Reg. (EU) 1304/2013* which are located at

<http://ec.europa.eu/esf/main.jsp?catId=3&langId=en&keywords=&langSel=&pubType=580>.

- 3.5 Expenditure that becomes eligible as a result of an amendment to a programme shall only be eligible from the date of submission to the Commission of the request for amendment or, in the event of application of Article 96(11) of Regulation 1303/2013 where the amendments are the responsibility of the Member State, the date from which the decision amending the programme enters into force, shall be eligible from the date of adoption of the decision.
- 3.6 The eligible expenditure of the operation to be co-financed from the ESF shall be reduced by the net revenue<sup>3</sup> not taken into account at the time of approval of the operation, and which is directly generated only during its implementation. The reduction shall be implemented no later than at the final payment claim submitted by the beneficiary. Where not all the costs are eligible for co-financing, the net revenue shall be allocated pro rata to the eligible and non-eligible parts of

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<sup>3</sup> Article 61 of Regulation 1303/2013 defines 'net revenue' as meaning cash in-flows directly paid by users for the goods or services provided by the operation.

the cost. As an exception, this shall not apply to the areas identified under Article 65(8)(a) to (i) and the final paragraph of the same Article of CPR 1303/2013.

- 3.7 The purchase cost of **equipment** is fully eligible for ESF co-financing except where part of the economic life of the equipment falls outside the period of the operation being co-financed **and also** costs over €1,000<sup>4</sup>. In such an exception, only the depreciation costs of the equipment can be claimed in line with section 3.11 below.

For the purpose of 2014-2020 ESF co-financed operations in Ireland an item is considered equipment if it meets all of the following conditions.

- i. Under normal conditions of use, including reasonable care and maintenance, there is an anticipated useful life of more than one year;
- ii. It retains its original shape and appearance with use, and;
- iii. It does not lose its identity through incorporation into a different or more complex unit.

- 3.8 In line with Article 16 of ESF Regulation 1304/2013, YEI co-financing is claimable for a young person if at the moment of entering the YEI operation the person is:

1. Not less than 15 and under 25 years of age, and,
2. Not in employment. This can include persons that meet any of the following criteria:
  - i. On fulltime Jobseekers payments or credits, One Parent Family Payment, Disability Allowance or Illness Benefit. This can include persons eligible for fulltime Jobseekers payment or credits due to lack of work even if registered as self-employed, or,
  - ii. That have not been in employment for 312 days or more in the previous 18 months (which is equivalent to national thresholds for entitlement to unemployment welfare payments) or in receipt of earnings less than €9,776 (€188x52) in the previous 12 months (which is the current standard unemployed single person's welfare allowance). This allows for some 'casual work' in the period prior to entering the YEI operation, or,
  - iii. That have self-certified or self-declared that they are not in employment/inactive. A record must be available from the relevant body to demonstrate this self-certification or self-declaration.

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<sup>4</sup> €1,000 is equivalent to the National accountancy threshold as set out in the Department of Finance Circulars 02/2004 regarding the rules for the inclusion of assets in capital asset registers.

3. Not in fulltime education leading to an accredited qualification. This can include persons that meet any of the following criteria:
  - i. On fulltime Jobseekers payments or credits, One Parent Family Payment, Disability Allowance or Illness Benefit. This can include person eligible for fulltime Jobseekers payment or credits due to lack of work even if registered as self-employed, or,
  - ii. On work experience programme where fulltime accredited education is not an element of the programme, or,
  - iii. From disadvantaged groups that may be registered for, though not necessarily actively participating in, fulltime accredited education that have demonstrated (e.g. through needs and risk assessments) the necessity for more focused supports to tackle the risk and needs identified, to better prepare them for the labour market and improve their employment prospects, or,
  - iv. That have self-certified or self-declared that they are not in formal fulltime education. A record must be available from the relevant body to demonstrate this self-certification or self-declaration.
  
4. Not in fulltime training leading to an accredited qualification. This can include persons that meet any of the following criteria:
  - i. On fulltime Jobseekers payments or credits, One Parent Family Payment, Disability Allowance or Illness Benefit. This can include person eligible for fulltime Jobseekers payment or credits due to lack of work even if registered as self-employed, or,
  - ii. On work experience programme where fulltime accredited training is not an element of the programme, or,
  - iii. From disadvantaged groups that may be registered for, though not necessarily actively participating in, fulltime accredited training that have demonstrated (e.g. through needs and risk assessments) the necessity for more focused supports to tackle the risk and needs identified, to better prepare them for the labour market and improve their employment prospects, or,
  - iv. That have self-certified or self-declared that they are not in formal fulltime training. A record must be available from the relevant body to demonstrate this self-certification or self-declaration.
  
- 3.9 An operation may receive support from one or more ESI Funds, or from one or more programmes, and from other European Union instruments, provided that the expenditure item included in a request for payment for reimbursement by one of the ESI Funds does not receive

support from another Fund or European Union instrument, or support from the same Fund under another programme.

3.10 The ESF may provide support for expenditure incurred for operations which take place outside the programme area, but within the European Union, provided that the following conditions are satisfied:

- i. The operation is for the benefit of the programme area, and;
- ii. The obligations of the authorities for the operational programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the operational programme under which that operation is supported, or they enter into agreements with authorities in the Member State in which the operation is implemented, provided that in that Member State the obligations in relation to management, control and audit concerning the operation are met.

3.11 By way of derogation from section 3.1 above, depreciation costs are eligible where the following conditions are fulfilled:

- i. The amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices for eligible costs and where reimbursed in the form referred to in point (a) of the first subparagraph of Article 67(1) of CPR;
- ii. The costs relate exclusively to the period of support for the operation;
- iii. Public grants have not contributed towards the acquisition of the depreciated assets.
- iv. The depreciation costs are calculated in accordance with generally accepted accounting practices and standards.

3.12 By way of derogation from section 3.1 above, contributions-in-kind in the form of salaries and allowances by a third party for the benefit of the participants in an operation are eligible provided the contributions-in-kind are:

- i. Incurred in accordance with national rules, including accountancy rules;
- ii. Do not exceed the cost borne by the third party, and;
- iii. Meets the criteria set out under Article 69(1) of CPR 1303/2013.

3.13 The following costs shall not be eligible for a contribution from the ESF:

- i. Interest on debt, except in relation to grants given in the form of an interest rate subsidy or guarantee fee subsidy;
- ii. The purchase of infrastructure, land and real estate;
- iii. Value Added Tax except where it is non-recoverable under national VAT legislation.

- 3.14 The ESF, in a complementary manner and subject to a limit of 10 % of European Union funding for each priority axis of an operational programme, may finance a part of an operation for which the costs are eligible for support from the ERDF on the basis of eligibility rules applied to that Fund, provided that such costs are necessary for the satisfactory implementation of the operation and are directly linked to it.
- 3.15 The technical assistance allocation for ESF may support actions:
- i. For preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit;
  - ii. For the reduction of the administrative burden on beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use the ESF and other ESF related EU funds;
  - iii. To reinforce the capacity of relevant partners in line with point (e) of Article 5(3) of the CPR and to support exchange of good practices between such partners.

The actions referred to in the above paragraph may concern previous and subsequent programming periods.

- 3.16 The data required to confirm that the participant is eligible to partake in the specific ESF co-financed operation must be captured and available to support expenditure claims. In addition, the data to support the conditions set out under section 3.8 is required for operations that are YEI co-financed.

This requirement is separate from the participant's complete data that still needs to be collected and reported on for compliance with Article 5 and Appendix I (and Appendix II for YEI co-financed operations) of ESF Regulation 1304/2013. Such compliance is needed to avoid potential suspension or financial corrections of ESF monies but is considered independent from compliance with the National ESF Eligibility Rules.

- 3.17 The Financial Management and Control system for ESF co-financed operations in Ireland is based on the principle of shared responsibilities by way of delegation and administrative agreements. Each level of the cascade must, therefore, take responsibility for ensuring that the requirements of the Management and Control systems are adhered to at their own level and that ESF and national eligibility rules are complied with.

3.18 The Department of Public Expenditure and Reform Circular to be issued will set out the Financial Management and Control Procedures required for 2014-2020 ESIF Programmes 2014-2020. This Circular will include procedures for State aids, public procurement, information and publicity, irregularities, audit trail and retention of records that are required to safeguard the eligibility of expenditure for EU co-financing.

#### **4. Conclusion**

Conformity with this ESF Circular and the other National eligibility rule documents listed in section 2 above is obligatory for all operations within the ESF co-financed 2014-2020 PEIL. Failure to abide by the ESF eligibility rules may lead to the deferment or cancellation of ESF assistance to Ireland and a loss to the National Exchequer. Therefore, these rules must be adhered to and introduced into the procedures of all organisations involved in implementing and administering ESF co-financed operations.

Finally, where the eligibility of expenditure is considered uncertain, clarification should, in the first instance, be sought by contacting the 2014-2020 PEIL ESF Managing Authority, Department of Education and Skills. Any additional clarifications required can be sought from the ESF Certifying Authority, Department of Education and Skills. The contact details for the ESF Managing and Certifying Authorities can be located at [www.esf.ie](http://www.esf.ie).

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