SCOTTISH STATUTORY INSTRUMENTS

2004 No. 379

SEA FISHERIES

SEA FISH INDUSTRY

The Fishing Vessels (Satellite-tracking Devices) (Scotland) Scheme 2004

Approved by the Scottish Parliament

Made - - - -	*7th September 2004*
Laid before the Scottish Parliament - - - -	*7th September 2004*
Coming into force - -	*8th September 2004*

The Scottish Ministers, in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(**1**) and of all other powers enabling them in that behalf, hereby make the following Scheme:

Citation, commencement and extent

1.—(1) This Scheme may be cited as the Fishing Vessels (Satellite-tracking Devices) (Scotland) Scheme 2004 and shall come into force on 8th September 2004.

(2) Subject to paragraph (3), this Scheme extends to Scotland and the Scottish zone.

(3) Insofar as it extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.

Interpretation

2.—(1) In this Scheme–

"application" means an application for grant under this Scheme and "applicant" shall be construed accordingly;

"the appropriate closing date" has the meaning assigned to it in paragraph 4(3);

"approval" means approval granted under paragraph 6 of this Scheme;

"authorised officer" means any officer authorised in writing by the Scottish Ministers for the purposes of this Scheme;

(**1**) 1981 c. 29. See section 18(1) of the Fisheries Act 1981 for a definition of "the Ministers" relevant for the purposes of this Scheme. Sections 15(2) and 18(1) were amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820) Schedule 2, paragraph 68(1), (2) and (3) and have effect in relation to Scotland as modified by section 18A inserted by that Order, Schedule 2, paragraph 68(4).

"authorised provider" means the supplier and installer of satellite-tracking devices authorised by the Scottish Ministers and specified in a notice under paragraph 4(4);

"Commission Regulation 2244/2003" means Commission Regulation (EC) No. 2244/2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems(**2**);

"grant" means grant under this Scheme;

"relevant conditions" means any conditions relating to the approval of an application which have been notified to the applicant under paragraph 6(4)(b);

"satellite-tracking device" means a device which sends the data specified at Article 5(1) of Commission Regulation 2244/2003 by way of satellite and land earth station to a Fisheries Monitoring Centre;

"Scotland" and "the Scottish zone" have the same meaning as in section 126(1) of the Scotland Act 1998(**3**).

(2) Any reference in this Scheme to a numbered paragraph shall be construed as a reference to the paragraph so numbered in this Scheme.

Satellite-tracking device grants

3.—(1) Any person who owns a registered vessel which–

(a) measures more than 15 metres overall in length;

(b) is a Scottish based fishing vessel; and

(c) meets such other eligibility criteria as the Scottish Ministers may have determined and published in the notice referred to in paragraph 4(4),

may make an application to the Scottish Ministers in respect of that vessel for a grant equal to the costs specified at sub-paragraph (2).

(2) Subject to sub-paragraph (3), the costs are–

(a) the cost of purchasing a satellite-tracking device from the authorised provider;

(b) the cost of purchasing a three year warranty in respect of the satellite-tracking device from the authorised provider; and

(c) the cost of having the authorised provider install the satellite-tracking device on board the vessel in respect of which the application is made.

(3) The cost specified in sub-paragraph (2)(c) shall not include any cost wholly or partly incurred in respect of the concealment of the satellite-tracking device, its associated cables and wires, or any other associated materials or equipment, for cosmetic purposes.

(4) For the purposes of this paragraph–

"port of administration" means the port from which the licence granted in respect of a vessel under section 4 of the Sea Fish (Conservation) Act 1967(**4**) is issued;

"registered" means registered in the register of vessels established under section 8 of the Merchant Shipping Act 1995(**5**); and

"Scottish based fishing vessel" means a fishing vessel, the port of administration of which is, at the date of the application relating to the vessel, a port in Scotland, and which either had such a port of administration at 30th July 2004 or which is deemed by the Scottish Ministers to be eligible to make an application.

(**2**) O.J. No. L 333, 20.12.03, p.17.
(**3**) 1998 c. 46. The sea within the British Fishery Limits (that is the limits set by or under section 1 of the Fishery Limits Act 1976 (c. 86)) which is adjacent to Scotland is determined by the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).
(**4**) 1967 c. 84.
(**5**) 1995 c. 21.

Applications

4.—(1) The Scottish Ministers may from time to time invite applications and where they do so the following provisions of this paragraph shall apply.

(2) An application must be lodged with the Scottish Ministers on or before the appropriate closing date in order to be considered for approval except where the Scottish Ministers are satisfied that–

(a) the particular circumstances of the applicant render it unreasonable to expect the applicant's application to have been lodged by the appropriate closing date; and

(b) in those particular circumstances, the date by which the application was lodged is as early as can reasonably be expected.

(3) In this Scheme "the appropriate closing date" means such date as the Scottish Ministers may from time to time determine.

(4) The Scottish Ministers shall publish in such manner as they consider appropriate a notice inviting applications and specifying–

(a) the authorised provider;

(b) the appropriate closing date;

(c) other eligibility criteria for the purposes of paragraph 3(1)(c); and

(d) such other matters as they consider it is appropriate for them to have regard to for the purposes of the Scheme.

(5) An application made in pursuance of a notice published under sub-paragraph (4) shall be in writing and shall–

(a) be made in such form and manner;

(b) include such information and undertakings; and

(c) be delivered to such address,

as the Scottish Ministers may specify in the notice or from time to time require.

(6) An applicant shall furnish all such further information relating to the application as the Scottish Ministers may specify in the notice or from time to time require.

Consideration of applications

5. As soon as reasonably practicable after the appropriate closing date the Scottish Ministers shall–

(a) identify those applications made in pursuance of the notice published under paragraph 4(4) which satisfy the foregoing provisions of this Scheme; and

(b) reject any application they consider to be unreasonable, unnecessary or unwarranted.

Approval of applications

6.—(1) The Scottish Ministers shall approve any application which they have identified under paragraph 5(a).

(2) Subject to the provisions of this Scheme, the Scottish Ministers may–

(a) determine conditions to which an approval given under this paragraph shall be subject; and

(b) at any time amend such conditions.

(3) Without prejudice to the generality of sub-paragraph (2), conditions may be determined which require the applicant to provide such undertakings as the Scottish Ministers may consider appropriate to the application.