Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Fishing Boats (Satellite — Tracking Devices and Electronic Transmission of Fishing Activities Data) (Wales) Scheme 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Scheme made by the Welsh Ministers and laid before the National Assembly for Wales under section 15(3) of the Fisheries Act 1981, for approval by resolution of the National Assembly for Wales within forty days beginning with the day on which the Scheme was made, subject to extension for periods of dissolution or recess for more than four days.

WELSH STATUTORY INSTRUMENTS

2012 No. 3172 (W.318)

SEA FISHERIES, WALES

The Fishing Boats (Satellite — Tracking Devices and Electronic Transmission of Fishing Activities Data) (Wales) Scheme 2012

Made - - - -	*21 December 2012*
Laid before the National Assembly for Wales - -	*21 December 2012*
Coming into force - -	*31 December 2012*

The Welsh Ministers, in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(**1**), and now vested in them (**2**), as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**), make the following Scheme with the approval of the Treasury.

This Scheme makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for certain references to Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy and to Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for implementation of Council Regulation (EC) No 1224/2009 to be construed as references to those Regulations as amended from time to time.

(**1**) 1981 c. 29. *See* section 18(1) for the definition of "the Ministers". Sections 15(2) and 18(1) were amended by S.I.1999/1820, Schedule 2, paragraph 68(1), (2) and (3).

(**2**) By virtue of article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under section 15 of the 1981 Act were transferred to the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c. 38)) in so far as they are exercisable in relation to Wales. Those functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). The Treasury approval requirements under section 15 of the 1981 Act continue in effect.

(**3**) 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), Part 1 of the Schedule. Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), section 28 and amended by the European Union (Amendment) Act 2008 (c. 7), section 3(3), Part 1 of the Schedule and the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (SI 2007/1388), article 3, paragraph 1 of Schedule 1.

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Fishing Boats (Satellite — Tracking Devices and Electronic Transmission of Fishing Activities Data) (Wales) Scheme 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART 1

Introductory Provisions

Title, commencement and application

1.—(1) The title of this Scheme is the Fishing Boats (Satellite — Tracking Devices and Electronic Transmission of Fishing Activities Data) (Wales) Scheme 2012 and it comes into force on 31 December 2012.

(2) This Scheme applies in relation to Wales.

Commencement Information

I1 Para. 1 in force at 31.12.2012, see **para. 1(1)**

Interpretation

2.—(1) In this Scheme—

"application" ("*cais*") means an application for a grant under this Scheme and "applicant" ("ceisydd") is to be construed accordingly;

"the closing date" (*y dyddiad cau*") means such date as the Welsh Ministers specify as the date on or before which applications must be lodged;

"the Control Regulation" ("*y Rheoliad Rheoli*") means Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006(**4**) as amended from time to time;

"the Implementing Regulation" ("*y Rheoliad Gweithredu*") means the Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy(**5**) as amended from time to time;

"eligible Welsh fishing boat" ("*cwch pysgota Cymreig cymwys*") means a fishing boat which—

(a) is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995(**6**); and

(b) has its port of administration in Wales at the date of the application for the grant;

"grant" ("*grant*") means a grant under this Scheme;

"master ("*meistr*") means the person for the time being in charge of the eligible Welsh fishing boat;

"port of administration" ("*porthladd gweinyddu*"), in relation to a fishing boat, means the port from which the licence granted in respect of that boat under section 4 of the Sea Fish (Conservation) Act 1967(**7**) is issued; and

(**4**) OJ L 343, 22.12.2009.
(**5**) OJ L 112, 30.4.2011.
(**6**) 1995 c. 21.
(**7**) 1967 c. 84.

"Wales" ("*Cymru*") has the meaning given in section 158 of the Government of Wales Act 2006(**8**).

(2) Any obligation of the Welsh Ministers to publish material under this Scheme means an obligation to make that material available in a manner that will ensure it is reasonably likely to be seen by those eligible for a grant.

Commencement Information
I2 Para. 2 in force at 31.12.2012, see **para. 1(1)**

PART 2

Grant for Satellite-Tracking Devices

Interpretation of Part 2

3. In this Part—

"approved supplier" ("*cyflenwr cymeradwy*.") means the provider and installer of satellite-tracking devices selected by the Welsh Ministers and published in the invitation for applications for grant pursuant to paragraph 4(1) of this Scheme; and

"satellite-tracking device" ("*dyfais olrhain drwy loeren*") has the same meaning as in Article 2(9) of the Implementing Regulation.

Commencement Information
I3 Para. 3 in force at 31.12.2012, see **para. 1(1)**

Invitation to apply for grant

4.—(1) The Welsh Ministers may from time to time publish an invitation for applications for a grant for a satellite-tracking device.

(2) An invitation must contain—

(a) details of the satellite tracking device and approved suppliers;

(b) details of conditions of eligibility for a grant;

(c) requirements as to the form and manner of making an application;

(d) any requirements for providing documents, information and undertakings in support of the application;

(e) the closing date for making an application; and

(f) any other information the Welsh Ministers consider relevant to an application.

Commencement Information
I4 Para. 4 in force at 31.12.2012, see **para. 1(1)**

(**8**) 2006 c. 32.

Eligibility to make an application

5.—(1) A person may apply to the Welsh Ministers for a grant for a satellite-tracking device, in accordance with the provisions of this Scheme, if the person—

(a) is the master, owner or charterer of an eligible Welsh fishing boat; and

(b) has purchased from an approved supplier, or has commissioned an approved supplier to supply, a satellite-tracking device for use on that boat.

Commencement Information

I5 Para. 5 in force at 31.12.2012, see **para. 1(1)**

Applications

6.—(1) An application for a grant must be made in writing to the Welsh Ministers in accordance with the requirements of the invitation made under paragraph 4(1).

(2) Save as provided in sub-paragraph (3), an application must be received by the Welsh Ministers on or before the closing date.

(3) The Welsh Ministers may accept an application after the closing date if satisfied that—

(a) the particular circumstances of the applicant render it unreasonable to expect the application to be made by the closing date; and

(b) the date by which the application is made is as early as can reasonably be expected.

(4) The Welsh Ministers may, before determining any application, require the applicant to provide any additional information.

Commencement Information

I6 Para. 6 in force at 31.12.2012, see **para. 1(1)**

Determination of applications

7.—(1) As soon as reasonably practicable after the closing date, or after the supply of any additional information requested pursuant to paragraph 6(4), the Welsh Ministers must—

(a) identify and approve, subject to such conditions as they consider appropriate, those applications made in pursuance of an invitation made under paragraph 4(1) which satisfy the provisions of this Scheme; and

(b) reject any other applications.

(2) The Welsh Ministers must reject an application if they are of the opinion that the port of administration of the fishing boat has been changed to a port in Wales for the primary purpose of ensuring that the fishing boat is an eligible Welsh fishing boat for the purposes of this Scheme.

(3) Where the Welsh Ministers approve an application under sub-paragraph (1)(a), they must notify the applicant in writing of that approval and any conditions to which it is subject.

(4) Where the Welsh Ministers reject an application under sub-paragraphs (1)(b) or (2), or approve an application subject to any condition under sub-paragraph (1)(a), they must notify the applicant in writing of—

(a) the reasons for that rejection or approval subject to condition(s); and

(b) the right to apply for a review under paragraph 18.

Commencement Information
I7 Para. 7 in force at 31.12.2012, see **para. 1(1)**

Payment of grant

8.—(1) The Welsh Ministers may make payment of a grant, or of any part of it, after the application has been approved under paragraph 7(1) and the Welsh Ministers are satisfied that—

(a) the approved supplier has supplied the applicant with a satellite tracking device which has been installed in the eligible Welsh fishing boat;

(b) the applicant has successfully used the satellite tracking device to transmit position data at regular intervals in accordance with the requirements of the Control Regulation; and

(c) any condition for payment of the grant, or any part of it, has been complied with.

(2) The Welsh Ministers may—

(a) make payment of the grant to the applicant or direct to the approved supplier on behalf of the applicant; and

(b) make payment of the grant at such time, or by such instalments at such intervals or times, as the Welsh Ministers may determine.

Commencement Information
I8 Para. 8 in force at 31.12.2012, see **para. 1(1)**

Amount of Grant

9. The amount of the grant—

(a) must not exceed the cost of purchase or supply of the satellite-tracking device; and

(b) may be such lesser amount as determined by the Welsh Ministers.

Commencement Information
I9 Para. 9 in force at 31.12.2012, see **para. 1(1)**

PART 3

Grant for Approved Software

Interpretation of Part 3

10. In this Part—

"approved supplier"("*cyflenwr cymeradwy*") means a supplier specified in a list published by the Welsh Ministers under paragraph 11(1) in respect of the approved software;

"approved software" ("*meddalwedd gymeradwy*") means software specified in a list published by the Welsh Ministers under paragraph 11(1); and