SCOTTISH STATUTORY INSTRUMENTS

2003 No. 116

SEA FISHERIES

SEA FISH INDUSTRY

The Sea Fishing (Transitional Support) (Scotland) (No. 2) Scheme 2003

Approved by the Scottish Parliament

Made - - - -	*26th February 2003*
Laid before the Scottish Parliament - - - -	*26th February 2003*
Coming into force - -	*27th February 2003*

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 Sea Fishing (Transitional Support) (Scotland) (No. 2) Scheme 2003 and shall come into force on 27th February 2003.

(2) Subject to sub-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. In this Scheme–

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

"the appropriate closing date" means such date as the Scottish Ministers may from time to time determine;

"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) 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 has effect in relation to Scotland as modified by section 18A inserted by that Order, Schedule 2, paragraph 68(4).

"LIBOR", in relation to any particular day of the month, means the rate of interest per centum notified by the Bank of England on the first working day of the month, rounded if necessary to two decimal places;

"registered vessel" means a vessel which is registered in the register established under section 8 of the Merchant Shipping Act 1995(**2**);

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

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

"Scottish based vessel" means a vessel the port of administration of which is, throughout the period from 1st January 2003 until the date of the application relating to the vessel, both dates inclusive, a port in Scotland.

Transitional support grant

3. Any person who owns a registered vessel which–

(a) is a Scottish based vessel;

(b) is at least 10 metres overall in length;

(c) in the case of a vessel over 12 metres in registered length had, on the date of application, either a valid vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975(**4**) or a letter confirming the completion of a satisfactory survey issued by the Secretary of State for Transport;

(d) meets such other eligibility criteria as the Scottish Ministers may determine and, if so determined, shall publish in the notice referred to in paragraph 4(3)(b),

may make an application to the Scottish Ministers for a grant in respect of that vessel.

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) Without prejudice to the other provisions of this Scheme, an application must be lodged with the Scottish Ministers on or before the appropriate closing date in order to be considered for approval.

(3) The Scottish Ministers shall publish in such manner as they consider appropriate a notice–

(a) inviting applications;

(b) specifying other eligibility criteria for the purposes of paragraph 3(d); and

(c) specifying the appropriate closing date.

(4) An application made in pursuance of a notice published under sub-paragraph (3) shall be in writing, shall be made in such form and manner, shall include such information and undertakings and shall be delivered to such address as the Scottish Ministers may specify in the notice or from time to time require.

(5) 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.

(**2**) 1995 c. 21.
(**3**) 1998 c. 46.
(**4**) S.I. 1975/330, amended by S.I. 1975/471, 1976/432, 1977/313 and 498, 1978/1598 and 1873, 1981/567, 1991/1342 (revoked by 1998/3243), 1998/928 and 2647, 1999/2998, 3210 and 2001/9 and by the Fisheries Act 1981, Schedule 3, paragraph 8(3). The 1975 Rules now have effect as if made under section 90, 121 and 122 of and paragraph 7 of Schedule 14 to the Merchant Shipping Act 1995 (c. 21).

Consideration of applications

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

(a) reject any application they consider to be unreasonable, unnecessary or unwarranted;

(b) identify and select for approval those applications made in pursuance of the notice published under paragraph 4(3) which satisfy the foregoing provisions of this Scheme.

(2) Before rejecting an application under sub paragraph (1)(a) the Scottish Ministers shall–

(a) give the applicant a written explanation of the reasons for the step proposed to be taken;

(b) afford the applicant the opportunity of making written representations within such time as the Scottish Ministers consider reasonable; and

(c) consider any such representations.

Approval of applications

6.—(1) The Scottish Ministers shall approve any application which they have selected for approval under paragraph 5(1)(b).

(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.

(4) The Scottish Ministers shall in writing–

(a) notify applicants of the result of their applications; and

(b) notify applicants whose applications they have approved under this paragraph of any conditions which they have determined or amended under sub paragraph (2).

Rate of payment

7.—(1) The Scottish Ministers shall pay such grants at such rates and for such periods as they may from time to time determine, to applicants whose applications they have approved under paragraph 6.

(2) In determining such grants, the Scottish Ministers shall have regard to–

(a) the historic activity of the vessel in respect of which the application was made;

(b) the capacity of that vessel; and

(c) the application of Annex XVII of Council Regulation (EC) No 2341/2002 in relation to that vessel(**5**).

(3) In this paragraph–

"capacity" means the capacity of the vessel measured in gross tonnage, vessel capacity units, or its engine power (expressed in kilowatts);

"fishing trips" means time spent by a vessel–

(a) steaming between port and fishing ground and between one fishing ground and another;

(b) engaged in fishing for profit,

(**5**) O.J. No. L 356, 31.12.02, p.12.

and for this purpose "fishing for profit" means fishing with a view to securing a financial return deriving from sale of the sea fish landed;

"historic activity" means any or all of the following:–

(a) the time spent at sea by a vessel on fishing trips or such part of that time as the Scottish Ministers may from time to time determine;

(b) the gear deployed by a vessel on fishing trips during such period as the Scottish Ministers may from time to time determine;

(c) the recorded landings of sea fish in respect of a vessel during such period as the Scottish Ministers may from time to time determine;

"recorded landings" means the information recorded, in relation to the quantities of species caught, in landing declarations submitted in compliance with Article 8.1 of Regulation 2847/93(**6**); and

"vessel capacity units" means–

$$(L \times B) + (P \times 0.45)$$

where–

L is the length of the vessel in metres;

B is the breadth of the vessel in metres; and

P is the recorded engine power of the vessel expressed in kilowatts.

Method of payment

8. Payments by way of grant may be made by the Scottish Ministers at such time, or by such instalments at such intervals or times, as they may determine.

Assistance to authorised officers

9. Any applicant or any employee or agent of any applicant shall give to an authorised officer such assistance as the officer may reasonably request in order to exercise the powers conferred on the officer by paragraph 10.

Powers of authorised officers

10.—(1) An authorised officer at all reasonable hours and on producing, if required to do so, some duly authenticated document showing the authority of the officer, may exercise the powers specified in this paragraph for the purpose of ascertaining whether and to what extent–

(a) a person is entitled under paragraph 3 to make the application;

(b) the application should be selected under paragraph 5 for approval;

(c) any relevant conditions have been complied with;

(d) any amount of grant is recoverable in accordance with paragraph 11;

(e) an offence under section 17 of the Fisheries Act 1981(**7**) has been or is being committed.

(**6**) O.J. No. L 261, 20.10.93, p.1 as amended by Council Regulation (EC) No. 2870/95, O.J. No. L 301, 14.12.95, p.1, Council Decision (EC) No. 95/528, O.J. No. L 301, 14.12.95, p.35, Council Regulation (EC) No. 2489/96, O.J. No. L 338, 28.12.96, p.12, Council Regulation (EC) No. 686/97, O.J. No. L 102, 19.4.97, p.1, Council Regulation (EC) No. 2205/97, O.J. No. L 304, 7.11.97, p.1, Council Regulation (EC) No. 2635/97, O.J. No. L 356, 31.12.97, p.14 and Council Regulation (EC) No. 2846/98, O.J. No. L 358, 31.12.98, p.5.

(**7**) 1981 c. 29.