WELSH STATUTORY INSTRUMENTS

2010 No. 2369 (W.203)

SEA FISHERIES, WALES

SEA FISH INDUSTRY

The Fishing Boats (Electronic Transmission of Fishing Activities Data) (Wales) Scheme 2010

Made - - - -	*28 September 2010*
Laid before the National Assembly for Wales - -	*28 September 2010*
Coming into force - -	*20 October 2010*

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**), make the following Scheme with the approval of the Treasury.

PART 1

Preliminary

Title, commencement and application

1.—(1) The title of this Scheme is the Fishing Boats (Electronic Transmission of Fishing Activities Data) (Wales) Scheme 2010 and it comes into force on 20 October 2010.

(2) This Scheme applies in relation to Wales.

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;

(**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 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.

"approved software" ("*meddalwedd a gymeradwywyd*") means software specified in a list published by the Welsh Ministers under paragraph 3(1);

"approved supplier" ("*cyflenwr a gymeradwywyd*") means a supplier specified in a list published by the Welsh Ministers under paragraph 3(1) in respect of the approved software;

"the closing date" ("*y dyddiad cau*") means such date as the Welsh Ministers may from time to time determine and publish as the date on or before which an application for grant must be lodged;

"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(**3**);

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

(c) measures 15 metres or more overall in length;

"the EU Regulation" ("*y Rheoliad UE*") means—

(a) until 31 December 2010, the provisions relating to recording and transmission of fishing activities data set out in—

(i) Articles 1 to 3 of Council Regulation (EC) No. 1966/2006 of 21 December 2006 on electronic recording and reporting of fishing activities and on means of remote sensing(**4**); and

(ii) Chapter 2 of Commission Regulation (EC) No. 1077/2008 of 3 November 2008 laying down detailed rules for the implementation of Council Regulation (EC) No. 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing and repealing Regulation (EC) No. 1566/2007(**5**);

(b) on and after 1 January 2011, the provisions relating to recording and transmission of fishing activities data set out in Section 1 of Chapter 1 of Title 4 of 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(**6**);

"fishing activities data" ("*data gweithgareddau pysgota*") means the logbook data, transhipment declaration data and landing declaration data required under the EU Regulation to be recorded and transmitted by electronic means;

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

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

"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.

(**3**) 1995 c. 21.
(**4**) OJ No L409, 30.12.2006, p. 1
(**5**) OJ No L295, 4.11.2008, p. 3.
(**6**) OJ No L343, 22.12.2009, p. 1.
(**7**) 1967 c. 84.
(**8**) 2006 c. 32.

PART 2

Grant for approved software

Approved software and approved suppliers

3.—(1) The Welsh Ministers must publish a list specifying—

(a) software that is capable of—

(i) electronically recording fishing activities data; and

(ii) electronically transmitting fishing activities data in the required format; and

(b) the suppliers of that software.

(2) In this paragraph, "required format" ("y ffurf ofynnol") means a format determined and publis*hed by the We*lsh Ministers for the purposes of the EU Regulation.

Eligibility for grant

4.—(1) A person may apply, in accordance with the provisions of this Scheme, to the Welsh Ministers for a grant, 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, approved software for use on that boat.

(2) In this paragraph, "master" ("*meistr*") includes the person for the time being in charge of the fishing boat.

Payment of grant

5.—(1) The Welsh Ministers may make payment of a grant, or of any part of it, after the application has been approved under paragraph 9(1) and the Welsh Ministers are satisfied that—

(a) the approved supplier has supplied the applicant with the approved software and the software has been installed in the eligible Welsh fishing boat;

(b) the applicant has successfully used the approved software to electronically record and transmit fishing activities data in accordance with the EU Regulation; and

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

(2) The Welsh Ministers may—

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

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

(c) make only one grant in respect of any eligible Welsh fishing boat.

Amount of grant

6. The amount of the grant—

(a) must not exceed the cost of purchase or supply of the approved software; and

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