WELSH STATUTORY INSTRUMENTS

2006 No. 2799 (W.238)

SEA FISHERIES, WALES

SEA FISH INDUSTRY

The Fishing Boats (Satellite-Tracking Devices) (Wales) Scheme 2006

Made - - - -	*18 October 2006*
Coming into force - -	*20 October 2006*

The National Assembly for Wales in exercise of the powers conferred by section 15 of the Fisheries Act 1981(**1**) and now vested in it(**2**), makes the following Scheme with the approval of the Treasury:

Title, application and commencement

1.—(1) The title of this Scheme is the Fishing Boats (Satellite-Tracking Devices) (Wales) Scheme 2006 and it comes into force on 20 October 2006.

(2) This Scheme applies in relation to Wales.

Interpretation

2.—(1) In this Scheme—

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

"approval" ("*cymeradwyaeth*") means an approval of an application;

"the Assembly provider" ("*darparwr y Cynulliad*") means the provider and installer of satellite-tracking devices selected by the National Assembly for the purposes of the Regulation;

"authorised officer" ("*swyddog awdurdodedig*") means any officer authorised in writing by the National Assembly for the purposes of this Scheme;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

(**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).

(**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.

"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(**3**) is issued;

"the Regulation" ("*y Rheoliad*") means Commission Regulation (EC) No. 2244/2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems(**4**);

"relevant person" ("*person perthnasol*"), in relation to a fishing boat, means its owner, charterer (if any), or master or the representative of any of them;

"satellite-tracking device" ("*dyfais olrhain drwy loeren*") has the same meaning as in the Regulation;

"Wales" ("*Cymru*") has the same meaning as in section 155(1) and (2) of the Government of Wales Act 1998(**5**); and

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

(a) is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995(**6**),

(b) or—

(i) is owned wholly or partly by persons qualified to own British ships for the purposes of that Part of that Act, but

(ii) is not a boat which counts as a British ship for the purposes of that Act solely as a result of the application of section 1(1)(c) of that Act to it by virtue of registration under the law of any of the Channel Islands or of the Isle of Man;

and has its port of administration in Wales at the date of application.

(2) Any obligation of the National Assembly to publish material under this Scheme means an obligation to make it available in a manner in which the National Assembly considers that the material is reasonably likely to be seen by those to whom this Scheme may apply, and publication in anticipation of this Scheme is to be treated for the purposes of this Scheme as having been carried out under it.

Eligibility

3.—(1) Any person who is a relevant person in relation to a Welsh fishing boat to which the Regulation applies may make an application in respect of that vessel for a grant to the National Assembly if that person—

(a) has had a satellite-tracking device provided and installed by the Assembly provider; and

(b) undertakes to comply with any other conditions published by the National Assembly relating to this Scheme.

(2) The National Assembly will publish a notice specifying the Assembly provider.

Applications

4.—(1) The National Assembly may from time to time publish an invitation for applications and where it does so the following provisions of this paragraph apply.

(2) An application must be lodged with the National Assembly as specified in the invitation on or before the closing date in order to be considered for approval except where the National Assembly is satisfied that—

(**3**) 1967 c. 84.
(**4**) OJ No. L333, 20.12.2003, p.17.
(**5**) 1998 c. 38.
(**6**) 1995 c. 21.

(a) the particular circumstances of the applicant render it unreasonable to expect their application to be lodged by the closing date, and

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

(3) In this Scheme "the closing date" ("*y dyddiad cau*") means such date as the National Assembly may from time to time publish as the date on or before which applications must be lodged.

(4) The National Assembly must reject any application relating to a fishing boat if it considers that the port of administration for the fishing boat has been changed for the primary purpose of eligibility to make an application.

(5) Following approval by the National Assembly it may make a grant which is equal to the amount, as agreed between it and the successful applicant, of—

(a) the price of the satellite-tracking device;

(b) the installation costs of the satellite-tracking device on board the vessel in respect of which the application was lodged, and

(c) the price of a three year warranty for the installed satellite-tracking device,

which will be payable in accordance with the following provisions of this Scheme.

(6) The costs specified in sub-paragraph (5)(b) must 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.

Approval of applications

5.—(1) Each successful applicant will be notified by the National Assembly in writing of the approval relating to the applicant's fishing boat and any conditions with which the applicant must comply.

(2) Subject to sub-paragraph (3), the approval of the National Assembly will terminate for the fishing boat in question if the successful applicant fails to comply with any conditions imposed under paragraph 3(1) or paragraph 5(1).

(3) If the successful applicant notifies the National Assembly within a reasonable time of reasons for that failure (or, as the case may be, for anticipating that failure) the National Assembly may amend the conditions imposed under paragraph 3(1) or paragraph 5(1).

Payments under the Scheme

6.—(1) Once the application has been approved and the successful applicant has complied with all conditions imposed under paragraphs 3(1) and 5(1), the National Assembly will, subject to sub-paragraph (2), pay the amount of the price agreed under paragraph 4(5) to the successful applicant.

(2) No payment will be made unless the National Assembly is satisfied that the satellite-tracking device has been provided and the installation undertaken in accordance with procedures agreed by it with the Assembly provider.

Assistance to authorised officers

7. Any applicant or any employee or agent of any applicant must give to an authorised officer such assistance as the officer may reasonably request to exercise the power conferred on the officer by paragraph 8.