STATUTORY RULES OF NORTHERN IRELAND

2013 No. 212

SEA FISHERIES

The Fishing Boats (Satellite-Tracking Devices) Scheme (Northern Ireland) 2013

Made - - - - *13th August 2013*

Coming into operation *27th August 2013*

Approved by resolution of the Assembly on 5th November 2013

The Department of Agriculture and Rural Development, with the approval of the Department of Finance and Personnel(**1**), makes the following Scheme in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(**2**), as read with paragraph 2(1) of Schedule 2 to the Sea Fisheries (Northern Ireland) Order 2002 (**3**), and now vested in it (**4**).

Citation and commencement

1. This Scheme may be cited as the Fishing Boats (Satellite-Tracking Devices) Scheme (Northern Ireland) 2013 and comes into operation on 27th August 2013.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**5**) applies to this Scheme as it applies to an Act of the Assembly.

(2) In this Scheme—

"application", except in relation to an application for review under Article 6, means an application for a grant and "applicant" is to be construed accordingly;

"authorised provider" means the supplier and installer of satellite–tracking devices authorised by the Department and specified in a notice under Article 4(2);

"the Department" means the Department of Agriculture and Rural Development;

"eligible Northern Ireland fishing boat" means a Northern Ireland fishing boat within the meaning of article 2(2) of the Sea Fisheries (Northern Ireland) Order 2002 (**6**) which—

(a) has its port of administration in Northern Ireland; and

(**1**) The function of the Treasury to approve a Scheme under section 15 of the Fisheries Act 1981 is, by virtue of article 3(2) of, and paragraph 2(7)(a) of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790) exercisable by the Department of Finance and Personnel where the Scheme is made by the Department of Agriculture and Rural Development.
(**2**) 1981 c.29.
(**3**) S.I. 2002/790.
(**4**) S.I. 2002/790, article 3(2) and Schedule 2, paragraph 2(2).
(**5**) 1954 c.33 (N.I.).
(**6**) S.I. 2002/790

(b) is 12 metres' length overall or more;

"the Commission Regulation" means Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of the Council Regulation (**7**);

"the Council Regulation" means Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy(**8**);

"grant" means a grant under this Scheme;

"length overall", in relation to a fishing boat, means the length of the boat measured in accordance with Article 2(1) of Council Regulation (EEC) No 2930/86 defining characteristics for fishing vessels (**9**);

"port of administration", in relation to a fishing boat, means the port from which the licence granted in respect of the boat under section 4 of the Sea Fish (Conservation) Act 1967 (**10**) is issued;

"relevant condition" means a condition attached to the approval of an application which has been notified to the applicant under Article 5(1)(c) or, following a successful review, under Article 6; and

"satellite-tracking device" has the same meaning as in Article 2(9) of the Commission Regulation.

Persons eligible to apply for grant

3. A person is eligible to make an application to the Department in respect of an eligible Northern Ireland fishing boat if that person —

(a) is –

(i) the owner or charterer of the fishing boat; or

(ii) a representative of the owner or charterer of the fishing boat; and

(b) satisfies any other eligibility criteria specified in a notice published under Article 4(2).

Applications

4.—(1) The Department may from time to time invite applications in accordance with the following provisions of this Article.

(2) The Department shall publish a notice inviting applications in a manner that will ensure it is reasonably likely to be seen by persons eligible to apply for a grant.

(3) The notice shall specify—

(a) the persons eligible to apply for a grant;

(b) any other eligibility criteria for the purposes of Article 3(b);

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

(d) any information or documents which an applicant is required to provide in support of an application;

(e) the closing date for making an application;

(**7**) O.J. No L 112, 30.04.2011, p.1, as corrected by Corrigendum O.J. L 328, 10.12.2011, p.58.
(**8**) O.J. No L 343,22.12.2009, p.1.
(**9**) O.J. No L 274, 25.09.1986, p.1.
(**10**) 1967 c.84. Section 4 was substituted by the Fishery Limits Act 1976 (c.86), section 3, and relevant amendments have been made by the Fisheries Act 1981 (c.29), section 20, the Sea Fish (Conservation) Act 1992 (c.60), section 1, and S.I. 1999/1820, article 4.

(f) the address to which an application shall be made;

(g) the authorised provider; and

(h) any other information the Department considers relevant to an application.

(4) An application shall be in writing and shall—

(a) be made in the form and manner;

(b) include the information and be accompanied by the supporting documents; and

(c) be made to the Department by the closing date,

specified in the notice published under paragraph (2).

(5) The Department may accept an application received after the closing date if it is satisfied that—

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

(b) the date on which the application was made is as early as can reasonably be expected in those circumstances.

(6) Before determining an application the Department may require the applicant to provide further information relevant to the application.

Determination of applications

5.—(1) As soon as reasonably practicable after the closing date specified in the notice published under Article 4(2), or after the provision of any further information required under Article 4(6), the Department shall—

(a) approve or reject an application;

(b) if an application is approved, determine the conditions, if any, for payment of the grant or of any part of it; and

(c) notify the applicant in writing of its decision and —

(i) if an application is approved, the amount of the grant to be paid and any conditions which it has determined under paragraph (1)(b); or

(ii) if an application is rejected, the reasons for the rejection and the right of review under Article 6.

(2) The Department shall reject an application in respect of a fishing boat—

(a) if it is satisfied that the port of administration of the fishing boat has been changed to a port in Northern Ireland for the primary purpose of ensuring that the fishing boat is an eligible Northern Ireland fishing boat for the purposes of this Scheme; or

(b) if a payment has already been made under this Scheme in respect of the installation of a satellite-tracking device on the fishing boat.

Review of decision

6.—(1) Where the Department rejects an application under Article 5, a person may apply to the Department for a review of the decision in accordance with this Article if that person is—

(a) the applicant whose application has been rejected; or

(b) any other person who is eligible under Article 3 to make an application in respect of the fishing boat specified in the application that has been rejected.

(2) An application for review shall be made to the Department no later than 3 months from the date of the notification of the decision to be reviewed.