STATUTORY RULES OF NORTHERN IRELAND

2011 No. 25

SEA FISHERIES

The Fishing Boats (Electronic Transmission of Fishing Activities Data) Scheme (Northern Ireland) 2011

Made - - - - 3rd February 2011

Coming into operation 4th February 2011

Approved by resolution of the Assembly on 21 March 2011

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

Citation and commencement

1. This Scheme may be cited as the Fishing Boats (Electronic Transmission of Fishing Activities Data) Scheme (Northern Ireland) 2011 and comes into operation on 4th February 2011.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**4**) 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 paragraph 8, means an application for a grant and "applicant" is to be construed accordingly;

"approved software" means software specified in the list published by the Department under paragraph 3(1);

"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 (**5**) which—

(a) has its port of administration in Northern Ireland at the date of application; and

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

(**1**) 1981 c.29
(**2**) S.I. 2002/790
(**3**) S.I. 2002/790, article 3(2) and Schedule 2, paragraph 2(2)
(**4**) 1954 c.33(NI)
(**5**) S.I. 2002/790

"the Control Regulation" means Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy(**6**);

"fishing activities data" means the fishing logbook data, transhipment declaration data and landing declaration data required under Articles 15, 22 and 24 of the Control Regulation to be recorded and transmitted by electronic means;

"grant" means a grant under this Scheme;

"length overall" has the same meaning as in Council Regulation (EEC) No. 2930/86 defining characteristics for fishing vessels (**7**);

"port of administration" means the port from which the licence granted in respect of a fishing boat under section 4 of the Sea Fish (Conservation) Act 1967 (**8**) is issued;

"relevant condition" means any condition relating to the approval of an application which has been notified to the applicant under paragraph 7(1)(c); and

"supplier" means a supplier specified in the list published by the Department under paragraph 3(1) in respect of approved software.

Approved software

3.—(1) The Department shall 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 the software.

(2) The list shall be published in a manner that will ensure it is reasonably likely to be seen by persons eligible to apply for a grant under paragraph 5(1).

(3) In sub-paragraph (1)(a) "required format" means a format determined and published by the Department for the purpose of Articles 15, 22 and 24 of the Control Regulation.

Invitation to apply for grant

4.—(1) The Department shall from time to time publish an invitation for applications.

(2) An invitation shall be published in a manner that will ensure it is reasonably likely to be seen by persons eligible to apply for a grant under paragraph 5(1).

(3) An invitation shall contain—

(a) details of approved software and suppliers;

(b) details of eligible fishing boats and persons eligible to apply for a grant;

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

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

(e) the closing date for making an application.

Persons eligible to apply for grant

5.—(1) A person may apply to the Department for a grant to contribute to the cost of purchase or supply of approved software for use on an eligible Northern Ireland fishing boat if the person—

(**6**) O.J. No L343,22.12.2009, p.1.
(**7**) O.J. No L 274, 25.09.1986, p.1
(**8**) 1967 c.84

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

(b) has purchased from a supplier, or has commissioned a supplier to supply, approved software for use on that boat.

(2) In sub-paragraph (1)(a) "master" includes the person for the time being in charge of the fishing boat.

Applications

6.—(1) An application shall be in writing and shall,

(a) be made in the form and manner;

(b) be accompanied by the supporting documents; and

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

specified in the invitation published under paragraph 4(1).

(2) But 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.

(3) The Department, before determining any application, may require the applicant to provide additional information.

Determination of applications

7.—(1) As soon as reasonably practicable after the closing date specified in the invitation published under paragraph 4(1), or after the provision of any additional information required under paragraph 6(3), 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 sub-paragraph (1)(b); or

(ii) if an application is rejected, the reasons for the rejection and the right of review under paragraph 8.

(2) The Department shall reject an application in respect of a fishing boat if it is of the opinion 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.

Review of decision

8.—(1) A person may apply to the Department for the review of a decision by the Department to reject an application under paragraph 7(1)(a) in accordance with this paragraph.

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

(3) An application for review shall be in writing and shall specify—