STATUTORY RULES OF NORTHERN IRELAND

2009 No. 177

AGRICULTURE

The Sea Fish Industry (Harbour, Landing and Light Dues) Scheme (Northern Ireland) 2009

Made - - - -	*27th April 2009*
Coming into operation	*28th April 2009*

Approved by resolution of the Assembly on 16th June 2009

The Department of Agriculture and Rural Development makes the following Scheme, in exercise of the powers conferred by section 15 of the Fisheries Act 1981(**1**) and now vested in it(**2**), and with the approval of the Department of Finance and Personnel.

Title, commencement and application

1.—(1) This Scheme may be cited as the Sea Fish Industry (Harbour, Landing and Light Dues) Scheme (Northern Ireland) 2009 and shall come into operation on 28th April 2009.

(2) This Scheme shall apply in relation to Northern Ireland.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to this Scheme as it applies to an Act of the Northern Ireland Assembly.

(2) In this Scheme—

"application" means an application under Article 4(1) or (2);

"authorised officer" means any officer authorised in writing by the Department for the purposes of this Scheme;

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

"harbour" means any person, persons, port authority, harbour authority, or other body responsible for the management of ports or harbours located in the United Kingdom and entitled to charge for the provision of harbour services;

"harbour dues" means charges made by a harbour in the United Kingdom in relation to berthing a Northern Ireland fishing boat at that harbour during the period 1st January 2008 to 31st December 2008 (both dates inclusive);

(**1**) 1981 c.29
(**2**) S.I. 2002/790 Article 3(2) and Schedule 2
(**3**) 1954 c.33 (N.I.)

"landing dues" means charges made by a harbour in the United Kingdom in relation to landing fish from a Northern Ireland fishing boat at that harbour during the period 1st January 2008 to 31st December 2008 (both dates inclusive);

"light dues" means charges made by the Department of Transport for the operation of the General Lighthouse Authorities (Trinity House, The Northern Lighthouse Board and The Commissioners for Irish Lights), for the use of navigational aids, during the period 1st April 2008 to 31st March 2009 (both dates inclusive);

"Northern Ireland fishing boat" means a fishing boat which—

(a) is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995(**4**),

(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 Northern Ireland at the date of application;

"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(**5**) is issued;

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

"undertakings in the fisheries sector" has the same meaning as in Commission Regulation (EC) 875/2007(**6**).

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

Invitations for applications

3.—(1) The Department shall from time to time publish in accordance with this Scheme an invitation for applications for grant in respect of—

(a) harbour dues and landing dues; and

(b) light dues.

(2) Each invitation published under paragraph (1)(a) shall relate to such period in the year 2008 as the Department may determine.

(3) The Department shall exercise its powers under paragraphs (1)(a) and (2) so as to ensure that invitations published under paragraph (1)(a) when taken together, relate to the whole of the year 2008.

(4) Each invitation published under paragraph (1)(b) shall relate to such period in the year 1 April 2008 to 31 March 2009 (both dates inclusive) as the Department may determine.

(5) The Department shall exercise its powers under paragraphs (1)(b) and (4) so as to ensure that invitations published under paragraph (1)(b), when taken together, relate to the whole of the year from 1 April 2008 to 31 March 2009 (both dates inclusive).

(**4**) 1995 c.21
(**5**) 1967 c.84*see also*S.I. 2002/790 Article 3(1) and Schedule 1
(**6**) O.J. No. L193, 25.7.2007, p.6

Applications

4.—(1) In response to an invitation published under Article 3(1), any person who, as owner, charterer or master or the representative of any of them of a fishing boat becomes liable to pay during the period to which the invitation relates any harbour or landing dues in respect of that boat may apply for a grant for the expense of that payment.

(2) In response to an invitation published under Article 3(1)(b), any person who, as owner charterer or master or the representative of any of them of a Northern Ireland fishing boat, becomes liable to pay during the period to which the invitation relates any light dues in respect of that boat may apply for a grant for the expense of that payment.

(3) An application must be received by the Department on or before the closing date specified in the invitation in question unless the Department is satisfied that—

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

(b) the date on which the application is received is as early as, in the circumstances, can reasonably be expected.

(4) The closing date specified in each invitation published under Article 3(1) shall not be before the expiry of 3 weeks after the end of the period to which the invitation in question relates.

(5) The Department shall specify in each invitation published under Article 3(1) the information required by it for the purposes of any application made in response to the invitation and the person making that application shall furnish all such information with the application.

(6) The Department shall not accept 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 purposes of eligibility for grant under this Scheme.

Payment of grant

5.—(1) Where, in response to an invitation published under Article 3(1), the Department has received an application, the Department shall determine whether it satisfies the conditions under Article 4 and if it does, shall pay to the applicant an amount equal to any harbour, landing or light dues that became payable by that person during the period to which the invitation in question relates.

(2) The Department may make any grant under paragraph (1) subject to such conditions as it may determine.

(3) The Department shall notify each applicant in writing of—

(a) any decision made by the Department in respect of his application; and

(b) if the decision is to pay grant, the amount of that grant and any conditions to which it is to be made subject under paragraph (2).

De-minimis aid

6.—(1) Any payments of grant under this Scheme shall be deemed to be de-minimis aid payable to undertakings in the fisheries sector under Commission Regulation (EC) 875/2007.

(2) Any payment of de-minimis aid made in respect of an undertaking under this Scheme may not, when added to other de-minimis payments made in respect of the same undertaking over a three year period, exceed the aid payment ceilings set in the Regulation referred to in paragraph (1).