STATUTORY RULES OF NORTHERN IRELAND

2004 No. 387

AGRICULTURE

Fishing Boats (Satellite-Tracking Devices) Scheme (Northern Ireland) 2004

Made - - - - 10th September 2004

Coming into operation 8th October 2004

The Department of Agriculture and Rural Development, 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, hereby makes the following Scheme:

Title, commencement and application

1.—(1) This Scheme may be cited as the Fishing Boats (Satellite-Tracking Devices) Scheme (Northern Ireland) 2004 and shall come into operation on 8th October 2004.

(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 this Scheme and "applicant" shall be construed accordingly;

"approval" means an approval of an application;

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

"the Defra provider" means the provider and installer of satellite-tracking devices selected by the Secretary of State for Environment, Food and Rural Affairs for the purposes of the Regulation;

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

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

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

(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;

"the Regulation" means Commission Regulation (EC) No. 2244/2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems(**6**);

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

"satellite-tracking device" has the same meaning as in the Regulation.

(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 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 shall 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 Northern Ireland fishing boat to which the Regulation applies may make an application for a grant to the Department if he –

(a) chooses to have a satellite-tracking device provided and installed by the Defra provider under an agreement to which he and the Defra provider are both parties;

(b) undertakes not to contravene the agreement; and

(c) undertakes to comply with any other conditions published by the Department relating to this Scheme.

(2) The Department shall publish a notice specifying the approved Defra provider.

Applications

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

(2) An application must be lodged with the Department as specified in the invitation on or before the closing date in order to be considered for approval, except where 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 by which the application is lodged is as early as, in those circumstances, can reasonably be expected.

(3) In this Scheme "the closing date" means such date as the Department may from time to time publish as the date on or before which applications must be lodged.

(**4**) 1995 c. 21
(**5**) 1967 c. 84; *see also* S.I. 2002/790 Article 3(1) and Schedule 1
(**6**) O.J. No. L333, 20.12.2003, p. 17

(4) The Department shall 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 Department of any application, it shall make a grant which is equal to the price, as agreed between it and the Defra provider, of –

(a) the satellite-tracking device,

(b) the installation costs of the satellite-tracking device, and

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

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

Installation of satellite-tracking devices

5.—(1) Each successful applicant shall be notified by the Department in writing of the approval relating to his fishing boat, any conditions with which he must comply and the place at which, and the period within which, he must present his fishing boat to be fitted with the satellite-tracking device by the Defra provider.

(2) Subject to paragraph (3), the approval of the Department shall terminate for the fishing boat in question if the successful applicant fails to present the boat at the place notified, and during the period notified, to him by the Department.

(3) If the successful applicant notifies the Department within a reasonable time of reasons for that failure (or, as the case may be, for anticipating that failure) the Department may grant him an alternative period or place or both within which to have the satellite-tracking device fitted and, as a consequence, the approval shall operate on the basis of that grant.

Payments under the Scheme

6.—(1) Once the installation of the satellite-tracking device has been completed and the Defra provider has informed the Department of this fact, the Department shall, subject to paragraph (2), pay the amount of the price agreed under Article 4(5) to the Defra provider.

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

Assistance to authorised officers

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

Powers of authorised officers

8.—(1) An authorised officer at all reasonable hours and on producing, if required to do so, some duly authenticated document showing the authority of the officer, may exercise the powers specified in this Article for the purpose of ascertaining whether and to what extent –

(a) a person is eligible to make an application under Article 3;

(b) conditions under Articles 3(1)(c) and 5(1) have been complied with;

(c) an offence under section 17 of the Fisheries Act 1981 has been, or is being, committed; and

(d) the satellite-tracking device is fully functioning.

(2) Subject to paragraph (3) an authorised officer may enter upon any relevant premises.