Scheme made by the Department of Agriculture and Rural Development and laid before the Assembly under Article 17(3) of the Agriculture and Fisheries (Financial Assistance) (NI) Order 1987 for approval of the Assembly before the expiration of 40 days beginning with the date of its coming into operation

STATUTORY RULES OF NORTHERN IRELAND

2003 No. 366

AGRICULTURE

The Fishing Vessel (Decommissioning) Scheme (Northern Ireland) 2003

Made - - - -	*31st July 2003*
Coming into operation	*31st July 2003*

The Department of Agriculture and Rural Development, in exercise of the powers conferred on it by Article 17(1), (2) and (3) of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987(**1**) and of every other power enabling it in that behalf, and with the approval of the Department of Finance and Personnel, hereby makes the following Scheme:

Citation and commencement

1. This Scheme may be cited as the Fishing Vessel (Decommissioning) Scheme (Northern Ireland) 2003 and shall come into operation on 31st July 2003.

Interpretation

2. In this Scheme –

"application" means an application for grant under this Scheme and "applicant" shall be construed accordingly;

"the appropriate decommissioning date" has the meaning assigned to it in paragraph 7(3);

"approval" means approval granted under Article 5(4);

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

"Council Regulation 1260/99" means Council Regulation (EC) No. 1260/99 of 21 June 1999 laying down general provisions on the Structural Funds(**2**);

(**1**) S.I.1987/166 (N.I. 1)
(**2**) O.J. No. L161, 26.6.99, p. 1

"Council Regulation 2792/99" means Council Regulation (EC) No. 2792/1999 of 17th December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector(**3**) corrected by Corrigenda, O.J. No. L83, 4.4.00 and O.J. No. L2, 5.1.01 and amended by Council Regulation (EC) No. 1451/2001 of 28th June 2001(**4**) Council Regulation (EC) No. 179/2002 of 28th January 2002(**5**) and Council Regulation 2369/2002(**6**);

"Council Regulation 2370/02" means Council Regulation (EC) No. 2370/2002 of 20th December 2002 establishing an emergency Community measure for scrapping fishing vessels(**7**);

"decommissioning" has the meaning assigned to it in Article 8(4);

"fishing trips" means time spent by a vessel –

(a) steaming between port and fishing ground and between one fishing ground and another or;

(b) engaged in fishing for profit,

and for this purpose "fishing for profit" means fishing with a view to securing a financial return deriving from sale of the sea fish landed;

"grant" means a grant under this Scheme;

"LIBOR", in relation to any particular day of the month, means the rate of interest per centum notified by the Bank of England on the first working day of the month, rounded if necessary to two decimal places;

"member" in the expression "member State", refers to membership of the European Community;

"the register" means the register of vessels established under section 8 of the Merchant Shipping Act 1995(**8**);

"the relevant amount" means such amount as the Department may determine is available for the payment of grant in respect of the decision to invite applications under Article 4(1); and

"VCU" means Vessel Capacity Unit, which is a measure of UK fishing vessel capacity as defined by the formula $(L \times B + 0.45 \times P)$ where: –

L is the length of the vessel measured in metres

B is the breadth of the vessel measured in metres

P is the engine power of the vessel expressed in kilowatts.

Decommissioning grants

3.—(1) Subject to paragraph (2), any person who owns a registered vessel –

(a) which is at least 10 metres in length;

(b) in respect of which there is a relevant licence;

(c) which whilst registered has spent at least 75 days at sea on fishing trips in each of the years 2001 and 2002;

(d) which, in the case of a vessel over 12 metres in registered length had, on the date of application, either a valid vessel certificate under the provisions of the Fishing Vessels

(**3**) O.J. No. L337, 30.12.99, p. 10
(**4**) O.J. No. L198, 21.7.01, p. 9
(**5**) O.J. No. L31, 1.2.02, p. 5
(**6**) O.J. No. L31, 1.2.02, p. 49
(**7**) O.J. No. L358, 31.12.02, p. 57
(**8**) 1995 c. 21

(Safety Provisions) Rules 1975(**9**) or a letter confirming the completion of a satisfactory survey issued by the Secretary of State for Transport;

(e) which is a Northern Ireland based vessel;

(f) which is over 10 years age; and

(g) landed in total at least 3 tonnes of cod caught in the Irish Sea, North Sea and West of Scotland in each of the calendar years 2001 and 2002,

may make an application to the Department in respect of that vessel.

(2) Notwithstanding paragraph (1), the Department may reject an application in respect of a vessel which in its opinion is not fit for undertaking fishing trips.

(3) For the purposes of this Article –

"cod" means the species *Gadus morhua;*

"Irish Sea" means the sea area ICES Statistical Division VIIa as described in the Schedule;

"North Sea" means the sea area ICES Statistical Sub Area IV as described in the Schedule;

"Northern Ireland based vessel" means a vessel the port of administration of which is throughout the period from 1st January 2003 until the date of decommissioning relating to the vessel, both dates inclusive, a port in Northern Ireland;

"port of administration" means the port from which the licence granted in respect of a vessel under Section 4 of the Sea Fish (Conservation) Act 1967(**10**) is issued;

"relevant licence" means a licence granted under Section 4 of the Sea Fish (Conservation) Act 1967 and categorised as a Category A licence other than a Category A (Pelagic Purser), Category A (Pelagic Freezer) and Category A (Pelagic Trawler) licence; and

"West of Scotland" means the sea area ICES Statistical Sub Area VI as described in the Schedule.

Applications

4.—(1) The Department shall publish in such manner as it considers appropriate a notice inviting, and specifying the closing date for applications.

(2) An application made in pursuance of a notice published under paragraph (1) shall be in writing, shall be made in such form and manner, shall include such information and undertakings and shall be delivered to such address as the Department may specify in the notice or from time to time require.

(3) An applicant shall furnish all such further information relating to the application as the Department may specify in the notice or from time to time require.

(4) An application shall be in respect of one vessel only and shall include a bid stating the amount of grant for which the applicant offers to –

(a) decommission the vessel;

(b) surrender all licences and claims to licences in respect of the vessel in accordance with the requirements of Article 9(1)(a); and

(c) remove the vessel from the register.

(**9**) S.I. 1975/330, amended by S.I. 1975/471, 1976/432, 1977/313, 498, 1978/1598, 1873, 1981/1342 (revoked by 1998/3243), 1998/928, 2647, 1999/2998, 3210 and 2001/9 and by the Fisheries Act 1981, Schedule 3, paragraph 8(3). The 1975 Rules now have effect as if made under section 90, 121 and 122 of, and paragraph 7 of Schedule 14 to, the Merchant Shipping Act 1995 (c. 21)

(**10**) 1967 (c. 84)

(5) No more than one application in pursuance of a notice published under paragraph (1) may be made in respect of any vessel.

(6) Where an application in respect of a vessel has been approved no further application may be made in respect of that vessel.

Consideration of applications

5.—(1) As soon as reasonably practicable after the date specified as the closing date for applications in a notice published under Article 4(1) the Department shall subject to the following provisions –

(a) identify those applications which satisfy the foregoing provisions of the Scheme;

(b) reject any application which is contrary to Article 7 of Council Regulation 2792/99 as read with Council Regulation 2370/02;

(c) divide the bid indicated in each application by the number of VCUs of the vessel concerned;

(d) in the case of an application in respect of a vessel which has spent more time fishing in both 2001 and 2002 with a demersal trawl, seine or similar towed net with a minimum mesh size of 100 millimetres in the codend and extension piece if fitted, reduce the calculation referred to in sub-paragraph (c) above by 20%; and

(e) place each application in rank beginning with the lowest and moving to the highest according to the result of the calculation referred to in sub-paragraph (c) and as necessary adjusted by sub-paragraph (d).

(2) The Department may reject an application if it considers the amount of the bid in the application to be unreasonable, having regard to the relevant amount.

(3) The Department shall reject an application it if has reasonable grounds for suspecting that there has been any fixing or adjustment of the amount of a bid by, under or in accordance with any agreement (whether legally binding or not) or arrangement with another person.

(4) Subject to paragraphs (2) and (3), the Department shall approve applications by proceeding through the rank referred to in sub-paragraph 1(e) from the application incorporating the lowest amount bid per VCU towards the application incorporating the highest amount bid per VCU until the relevant amount is reached.

(5) Where as a result of the procedure referred to in paragraph (4) there are two or more identical bids per VCU which are higher than the amount of any other bid which has been approved, and the relevant amount is insufficient to fund grants in respect of all of them, in deciding which application or applications to approve the Department may take into account the amount of cod caught by each of the vessels concerned during the calendar years 2001 and 2002 with a view to giving preference to vessels that caught more in these years.

(6) For the purposes of this Article –

"codend" means the rearmost part of a net being made up of one or more panels (pieces of netting) of the same mesh size attached to one another along their sides in the long axis of the net;

"extension piece" means an extension piece located immediately in front of the codend and excludes the tapered part of the net.

Approval of applications

6.—(1) Subject to the provisions of this Scheme, the Department may at any time –

(a) determine conditions to which an approval shall be subject; and

(b) amend such conditions.

(2) Without prejudice to the generality of paragraph (1), any person whose application has been approved may be required by the Department to provide, or arrange for the provision of, such undertakings as the Department may consider appropriate in the case.

(3) The Department shall in writing –

(a) notify applicants of the result of their applications; and

(b) notify applicants whose applications they have approved of any conditions which it has determined or amended under paragraph (2).

(4) The Department shall publish in such manner as it considers appropriate a notice identifying the vessels to which applications selected for approval relate.

(5) Subject to paragraph (6), the Department may revoke an approval where it has reasonable grounds for suspecting that there has been any fixing or adjustment of the amount of a bid by, under or in accordance with any agreement (whether legally binding or not) or arrangement with another person.

(6) Article 15(3) shall apply to revocation under paragraph (5) as it applies to revocation under Article 15.

Eligibility and claims for payment of grant

7.—(1) Subject to paragraph (2) and Article 15, applicants whose applications have been approved shall be eligible for payment of grant in accordance with Article 11.

(2) No grant shall be paid to an applicant in respect of any vessel unless –

(a) a claim form in respect of that application, signed by the applicant, has been lodged with the Department on or before the appropriate decommissioning date; and

(b) the Department is satisfied that the requirements set out in Articles 8 and 9 have been complied with.

(3) In this Scheme "the appropriate decommissioning date" means such date as the Department may from time to time determine for the purposes of Article 8(3).

(4) The Department shall publish a notice specifying the appropriate decommissioning date in such manner as it considers appropriate.

(5) A claim form submitted in pursuance of a notice published under sub-paragraph (4) shall be in writing, shall be made in such form and manner, shall include such information and declarations and shall be delivered to such address as the Department may specify in the notice or from time to time require and (without prejudice to the generality of the foregoing) shall include declarations that –

(a) the vessel has been decommissioned in accordance with the requirements of Article 8;

(b) all licences and claims to licences have been surrendered in accordance with the requirements of Article 9(1)(a); and

(c) the vessel has been removed from the register.

(6) An applicant shall furnish all such further information in support of the claim form as the Department may specify in the notice or from time to time require.

(7) The Department may revoke an approval in respect of which no claim has been lodged on or before the appropriate decommissioning date.