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

2001 No. 349

AGRICULTURE

The Fishing Vessels (Decommissioning) Scheme (Northern Ireland) 2001

Made - - - -	*5th October 2001*
Coming into operation	*19th November 2001*

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 Vessels (Decommissioning) Scheme (Northern Ireland) 2001 and shall come into operation on 19th November 2001.

Interpretation

2.—(1) In this Scheme—

"application" means an application for grant;

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

"bid" means the amount of grant for which an applicant offers to decommission his vessel and surrender the associated fishing licence;

"breadth" means the breadth calculated and measured in accordance with the rules specified in Article 3 of Council Regulation (EEC) No. 2930/86(**2**);

"the Community waters" means the sea falling under the sovereignty or within the jurisdiction of the member States;

(**1**) S.I.1987/166 (N.I. 1)
(**2**) O.J. No. L274, 25.9.86, p. 1

"Council Regulation 2792/1999" 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**);

"day" means all or any part of a period of 24 consecutive hours beginning at midnight;

"decommissioning", in relation to a vessel, means the permanent withdrawal of that vessel from operation within the sea fish industry of the European Community by means of scrapping and "decommissioned" and "decommissioning grant" shall be construed accordingly;

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

"fishing trips" means time spent by a vessel—

(a) engaged in fishing for profit;

(b) steaming between port and fishing ground and between one fishing ground and another, 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;

"FQA" means the fixed quota allocation attributed to a vessel licence, in line with the mechanism established on 1st January 1999, and maintained on UK VFQA Database and any reference to an allocation of FQAs in relation to a particular vessel means that allocation as determined by that database;

"grant" means decommissioning grant under this Scheme;

"length", in relation to a vessel means the length calculated and measured in accordance with the rules specified in Article 2(1) of Council Regulation (EEC) No. 2930/86;

"licence" means a licence granted in respect of a vessel under section 4 of the Sea Fish (Conservation) Act 1967(**4**);

"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 is issued;

"the register" means the register of vessels established under section 8 of the Merchant Shipping Act 1995(**5**) and references to "registered" shall be construed accordingly;

"relevant conditions" means any conditions relating to the approval of an application which have been notified to the applicant under Article 6(2)(*b*);

"sea area" means a statistical division or sub area of the International Council for the Exploration of the sea(**6**) specified in the Schedule hereto;

"scrapping", in relation to a vessel, means permanently breaking up the vessel or otherwise permanently disabling it (but not, in either case, by scuttling) so that it is incapable of use for any seagoing purpose and "scrapped" shall be construed accordingly;

"sea fish" has the same meaning as in Article 17(6) of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987;

"strike price" means a price set by the Department under Article 5(1)(*d*);

"UK VFQA Database" means the database maintained by the Fisheries Departments in the UK comprising details concerning, the registered UK fishing fleet, the licences with associated FQA entitlements attached to currently registered fishing vessels and FQA entitlements not currently attached to registered fishing vessels;

"vessel" means a sea fishing boat as defined in the Fisheries Act (Northern Ireland) 1966(**7**);

(**3**) O.J. No. L337, 30.12.99, p. 1
(**4**) 1967 c. 84; section 4 was amended by the Fishery Limits Act 1976 (c. 86) section 3, the Fisheries Act 1981 (c. 29), section 20 and the Sea Fish (Conservation) Act 1992 (c. 60), section 1
(**5**) 1995 c. 21
(**6**) Cmnd. 2586
(**7**) 1966 c. 17 (N.I.)

"VCU" means Vessel Capacity Unit, which is a measure of UK fishing vessel capacity as defined by the formula (L × B) + (0.45 × 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; and

(2) In this Scheme, any reference to a vessel being based in Northern Ireland shall be construed as a reference to a vessel the port of administration for which is a Northern Ireland port.

Decommissioning grants

3.—(1) Any person who owns a registered vessel—

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

(b) in respect of which there is a licence, which authorises fishing in all or any part of the Community waters for all or any of the sea fish for which the United Kingdom has a share of the Community total allowable catch(**8**);

(c) which whilst registered as a United Kingdom vessel has spent at least 75 days at sea on fishing trips in the calendar year 1999 and at least 75 days at sea on fishing trips in the calendar year 2000;

(d) which has been based in Northern Ireland during the period from 1st January 2001 up to and including the date of application relating to the vessel under this Scheme;

(e) which, had, on the date of the application a valid vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975(**9**);

(f) which is at least 10 years old at the date of application; and

(g) which is in the same ownership at the time of application as on 1st January 2001.

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

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 shall be delivered to such address as the Department may from time to time require.

(3) An applicant shall furnish all such further information relating to the application as the Department may require.

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

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

(6) The foregoing provisions of this Article shall apply in respect of any subsequent notices inviting applications.

(**8**) *See* Council Regulation (E.C.) No. 2848/00 (O.J. No. L334, 15.12.00, p. 1) as amended by Council Regulation (O.J. No. L96, 6.4.01, p. 1), which, for the year 2001, fixes the total allowable catches (TACs) for certain fish stock and groups of fish stock and specifies the allocation of the share of the TACs available to each Member State

(**9**) S.I. 1975/330, as amended by S.I. 1975/471, 1976/432, 1977/313, 1977/498, 1978/1598, 1978/1873, 1981/567, 1991/1342 and by the Fisheries Act 1981, Schedule 3, paragraph 8(3)

(7) Where an application in respect of a vessel has been approved by the Department under Article 6, 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—

(a) reject any application which is contrary to Article 7 of Council Regulation 2792/99;

(b) establish a bid price per VCU, by dividing the bid by respective VCUs;

(c) divide the vessels in respect of which an application has been made into two classes, namely—

(i) vessels having an allocation for Irish Sea Cod, whiting, haddock and hake in excess of 300 FQAs; and

(ii) any vessel having an allocation for such fish of 300 FQAs or less.

(d) set a strike price for each class of vessel established under sub-paragraph (*c*);

(e) announce strike price for each such class of vessel after all bids have been received; and

(f) in relation to each such class approve each application for grant aid made under Article 3 by starting with the lowest bid price and proceeding in ascending order to highest or until the amount of money allocated to the Scheme has been exhausted.

(2) For the purposes of paragraph (1)—

"Irish Sea Cod" means cod (*Gadus morhua*) in the sea area ICES Statistical Division VIIa;

"whiting" means whiting (*Melangus merlangus*) in the sea area ICES Statistical Division VIIa;

"haddock" means haddock (*Melanogrammus aeglefinus*) in the sea area ICES Statistical Sub-Area VII; and

"hake" means hake (Merluccuis merluccius) in the sea areas ICES Statistical Division VB and ICES Statistical Sub-Areas VI, VII, XII and XIV.

(3) In relation to each class of vessel established under paragraph (1)(*c*) the strike price shall be set at the level of the highest bid price per VCU which relates to a vessel of that class and is determined by the Department to be reasonable.

(4) The Department may reject any application if it considers the amount of the bid in the application to be unreasonable, having regard to the amount of money allocated to this Scheme.

(5) The Department shall reject any application if 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.

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 given under Article 5(1)(*f*) shall be subject; and

(b) amend such conditions.

(2) The Department shall in writing—

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

(b) notify applicants whose applications it has approved under Article 5(1)(*f*) of any conditions which it has determined or amended under paragraph (2).

(3) The amount of grant aid payable in relation to any vessel under this Scheme shall be the strike price determined in relation to the class to which that vessel belongs multiplied by the number of VCUs for that vessel.

(4) For the purposes of paragraph (3) "class" means any class referred to in Article 5(1)(*c*).

Eligibility for payment of grant

7.—(1) Subject to paragraph (2) and Article 16, applicants whose applications have been approved under Article 5(1)(*f*) shall be eligible for payment of grant aid under Article 6(3).

(2) A grant shall not be paid to an applicant in respect of any vessel unless the Department is satisfied that the requirements set out in Articles 8 and 9 have been complied with.

Scrapping requirements

8.—(1) At least two weeks prior to the scrapping of the vessel the applicant shall notify the Department in writing of the intended date and place of scrapping (which shall be within a member State) and the proposed method of scrapping.

(2) The vessel shall not be scrapped until the method of scrapping notified under paragraph (1) has been approved by the Department.

(3) The applicant shall before a date to be determined by the Department, furnish to the Department a declaration that the vessel has been scrapped in accordance with this Scheme.

Surrender of licences and removal from the register

9.—(1) The applicant shall before the date to be determined by the Department—

(a) surrender the licence referred to in Article 3(1)(*b*), and any current licence in respect of the vessel granted otherwise than under section 4 of the Sea Fish (Conservation) Act 1967, to the person who granted the licence and in the case of any licences granted by a person other than the Department furnish to the Department evidence that all such licences have been so surrendered;

(b) take all necessary steps to ensure that the vessel is removed from the register and furnish to the Department evidence that it has been so removed.

(2) In this Article a "licence" includes any written authorisation, consent or permit.

Substantial damage or destruction of vessel

10.—(1) Where an application has been approved under Article 5(1)(*f*) and thereafter the vessel to which the approved application relates is substantially damaged or destroyed—

(a) the applicant shall forthwith in writing notify and provide full details to the Department of the damage or destruction;

(b) the applicant shall with the notice referred to in sub-paragraph (*a*) furnish the Department with information concerning—

(i) any policy of insurance in respect of the vessel which was in force at the time of, and

(ii) any criminal or civil proceedings which to his knowledge are contemplated or in progress in respect of,

the incident;

(c) the applicant shall provide the Department with such further information as it may require concerning the incident, the insurance arrangements relating to the vessel and any such criminal or civil proceedings;