1995 No. 391

AGRICULTURE

The Fishing Vessels (Decommissioning) Scheme (Northern Ireland) 1995

Made . . . . . *12th October 1995*

Coming into operation . . *13th November 1995*

The Department of Agriculture, in exercise of the powers conferred on it by Article 17(1) and (2) of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987(**a**) 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) 1995 and shall come into operation on 13th November 1995.

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 purposes of this Scheme;

"breadth", in relation to a vessel, means the breadth calculated and measured in accordance with the rules specified in Article 3 of Council Regulation (EEC) No. 2930/86 defining characteristics for vessels(**b**) as amended(**c**);

"capacity units", in relation to a vessel, means—

$$(L \times B) + (0.45 \times P)$$

where:

L is the length of the vessel in metres,

B is the breadth of the vessel in metres, and

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

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

(**a**) S.I. 1987/166 (N.I.1)
(**b**) O.J. No. L274, 25.9.86, p. 1
(**c**) There are no amendments relevant to this Scheme

"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;

"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;

"grant" means decommissioning grant under this Scheme;

"length", in relation to a vessel, except in the case of Article 3(1)(*f*), 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(**a**);

"the register" means the register of vessels established under section 1 of the Merchant Shipping (Registration, etc.) Act 1993(**b**) and references to "registered" shall be construed accordingly;

"the relevant area" means the area consisting of—

(*a*) the Community waters, and

(*b*) the sea falling under the sovereignty or within the jurisdiction of Norway south of latitude 62° north;

"relevant conditions" means any conditions relating to the approval of an application which have been notified to the applicant under Article 6(3)(*b*);

"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.

Decommissioning grants

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

(*a*) which is over 10 metres in length,

(*b*) in respect of which there is a licence which authorises fishing in all

(**a**) 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

(**b**) 1993 c. 22

or any part of the Community waters for all or any of the species of sea fish for which the United Kingdom has a share of the Community total allowable catch(**a**) and which are specified in paragraph (2),

(*c*) in respect of which a licence was granted in the calendar year 1994 by the Secretary of State concerned with the sea fish industry in Northern Ireland which authorised fishing in all or any part of the Community waters for all or any of the species of sea fish for which the United Kingdom has a share of the Community total allowable catch(**b**) and which are specified in paragraph (2),

(*d*) which whilst registered as a United Kingdom vessel has, during each of the calendar years 1993 and 1994, spent at least 100 days at sea on fishing trips in any part of the relevant area,

(*e*) which is a least 25 years old at the date of application,

(*f*) which, in the case of a vessel over 12 metres in registered length had, on the date of the application, either a valid vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975(**c**), or a letter confirming the completion of a satisfactory survey issued by the Secretary of State for Transport, or, in the case of any other vessel, in the opinion of the Department is fit for undertaking fishing trips without the need for major repairs or alterations, and

(*g*) which between 1st January and 31st December 1994 spent more days at sea on nephrops fishing trips than on any other fishing trips,

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

(2) The species of sea fish mentioned in paragraph (1)(*b*) and (*c*) are herring (*Clupea harengus*), mackerel (*Scomber scombrus*), nephrops (*Nephrops norvegicus*), saithe (*Pollachius virens*), anglerfish (*Lophiidae*), cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), whiting (*Merlangius merlangus*), hake (*Merluccius merluccius*), plaice (*Pleuronectes platessa*) and sole (*Solea solea*).

(3) In paragraph (1)(*g*) "nephrops fishing trip" means any day in which the catch landed by the fishing vessel consisted of at least 30% nephrops (*Nephrops norvegicus*) and not more than 60% of other species listed in Annex II to Council Regulation 3094/86(**d**) as amended(**e**).

(4) Notwithstanding paragraph (1), a person may not make an application in respect of any fishing vessel—

(**a**) *See* Council Regulation (EC) No. 3362/94 (O.J. No. L363, 31.12.94, p. 1), as amended by Council Regulation (EC) No. 746/95 (O.J. No. L74, 1.4.95, p. 1), which, for the year 1995, fixes the total allowable catches (TACs) for certain fish stocks and groups of fish stocks and specifies the allocation of the share of the TACs available to each Member State

(**b**) *See* Council Regulation (EC) No. 3676/93 (O.J. No. L341, 31.12.93, p. 1), as amended by Council Regulations (EC) Nos. 2761/94 (O.J. No. L294, 15.11.94, p. 2) and 3021/94 (O.J. No. L321, 14.12.94, p. 1), which, for the year 1994, fixes the total allowable catches (TACs) for certain fish stocks and groups of fish stocks and specifies the allocation of the share of the TACs available to each Member State

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

(**d**) O.J. No. L288, 11.10.86, p. 1

(**e**) The relevant amending regulation of the European Community is Council Regulation (EC) No. 1796/94 (O.J. No. L187, 22.7.94, p. 1)

(*a*) in respect of which an application was approved by the Ministers under the Fishing Vessels (Decommissioning) Scheme 1994(**a**) but which was not decommissioned, or

(*b*) in respect of which an application was approved by the Ministers under the Fishing Vessels (Decommissioning) Scheme 1995(**b**).

(5) In paragraph (4) "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fish industry in Scotland, Wales and Northern Ireland.

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 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.

(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*) identify those applications made in pursuance of that notice which satisfy the foregoing provisions of this Scheme;

(*b*) divide the bid included in each such application by the number of capacity units of the vessel concerned; and

(*c*) place each such application in rank according to the result of the calculation referred to in sub-paragraph (*b*).

(2) 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.

(**a**) S.I. 1994/1568
(**b**) S.I. 1995/1610