1995 No. 385

FISHERIES

Fisheries and Aquaculture Structures (Grants) Regulations (Northern Ireland) 1995

Made . . . . . *9th October 1995*

Coming into operation . . *6th November 1995*

The Department of Agriculture, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Fisheries and Aquaculture Structures (Grants) Regulations (Northern Ireland) 1995 and shall come into operation on 6th November 1995.

Interpretation

2.—(1) In these Regulations—

"application" means an application as described in regulation 3(1);

"authorised officer" means an officer authorised in writing by the Department for the purposes of these Regulations and includes any duly appointed official of the Commission who accompanies such an authorised officer;

"the Commission" means the Commission of the European Communities;

"the Commission Notice" means Commission Notice 94/C180 laying down guidelines for global grants or integrated operational programmes for which Member States are invited to submit applications for assistance within the framework of a Community initiative (the Pesca initiative) concerning the restructuring of the fisheries sector(**c**);

"Community aid" means aid available from the Financial Instrument for Fisheries Guidance and payable in accordance with the Community Acts;

"the Community Acts" means—

(*a*) Council Regulation (EEC) No. 2052/88 on the tasks of the Structural Funds and their effectiveness and on co-ordination of

(a) S.I. 1972/1811

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3), S.R. 1984 No. 253 and S.I. 1994/2795 (N.I. 15)

(c) O.J. No. 94/C180, 1.7.94, p. 1

their activities between themselves and with the operations of the European Investment Bank and other existing financial instruments(**a**);

(*b*) Council Regulation (EEC) No. 4253/88 laying down provisions for implementing Regulation (EEC) No. 2052/88(**b**);

(*c*) Council Regulation (EEC) No. 2080/93 laying down provisions for implementing Council Regulation (EEC) No. 2052/88 as regards the Financial Instrument for Fisheries Guidance(**c**);

(*d*) the Council Regulation;

(*e*) the Commission Notice; and

(*f*) Commission Decision 94/637/EC on the adoption of the single programming document for Community structural assistance in the region of Northern Ireland concerned by Objective 1 in the United Kingdom(**d**);

"the control period", in relation to a relevant operation, means a period of three years commencing with the last payment of financial assistance in respect of that operation;

"the Council Regulation" means Council Regulation (EC) No. 3699/93 laying down the criteria and arrangements regarding Community structural financial assistance in the fisheries and aquaculture sector and the processing and marketing of its products(**e**);

"the Department" means the Department of Agriculture for Northern Ireland;

"eligible expenditure" has the meaning assigned to it in regulation 3(2);

"financial assistance" means any amount by way of grant or Community aid;

"grant" means a fisheries and aquaculture structures grant under these Regulations;

"relevant conditions" means any conditions relating to an approval of an application which have been notified to the applicant under regulation 5(2)(*b*);

"relevant documents" has the meaning assigned to it in regulation 10;

"relevant operation" means—

(*a*) an investment or project in respect of which Community aid is claimed or paid in respect of:

(i) aquaculture (Article 11(1) of the Council Regulation);

(ii) the construction of protected underwater areas with a view to the development of coastal waters (Article 11(1) of the Council Regulation);

(**a**) O.J. No. L185, 15.7.88, p. 9 as amended by Council Regulation (EEC) No. 2087/93 (O.J. No. L193, 31.7.93, p. 5)
(**b**) O.J. No. L374, 31.12.88, p. 1 as amended by Council Regulation (EEC) No. 2082/93 (O.J. No. L193, 31.7.93, p. 20)
(**c**) O.J. No. L193, 31.7.93, p. 1
(**d**) O.J. No. L250, 26.9.94, p. 52
(**e**) O.J. No. L346, 31.12.93, p. 1

(iii) improvement of fishing port facilities (Article 11(1) of the Council Regulation);

(iv) processing and marketing of fisheries and aquaculture products (Article 11(1) of the Council Regulation);

(v) promotion of fisheries and aquaculture products (Article 12 of the Council Regulation);

(vi) any measure falling within Part IV of the Commission Notice;

(*b*) an investment or project in respect of which Community aid is claimed or paid in respect of the modernisation or construction of fishing vessels as follows—

(i) any investments or projects where modernisation of the vessel takes the form of the acquisition, installation, modification, renewal or replacement of any equipment required for, or installed or used on or in, the vessel (excluding engines or other machinery for propelling the vessel or any items of a structural nature) for the purpose of obtaining for that vessel a fishing vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975(**a**);

(ii) as regards investments or projects where modernisation does not fall within head (i), modernisation and construction measures which fall within the single programming document for Community structural assistance approved by Commission Decision 94/637/EC (Article 10 of the Council Regulation).

(2) Other expressions used in these Regulations have the same meanings as in the Community Acts.

(3) The Interpretation Act (Northern Ireland) 1954(**b**) applies to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Fisheries and aquaculture structures grants

3.—(1) Any person who proposes to undertake a relevant operation which is eligible for Community aid may make an application to the Department in accordance with regulation 4 for approval under regulation 5 of—

(*a*) that operation; and

(*b*) expenditure incurred in connection with that operation,

with a view to obtaining financial assistance towards such expenditure in accordance with the Community Acts and these Regulations.

(2) Subject to the provisions of these Regulations, the Department may make to an applicant whose application it has so approved a grant towards such expenditure as it has approved as eligible for the receipt of Community aid (in these Regulations referred to as "eligible expenditure").

(3) The amount of any such grant shall be ascertained in accordance with regulation 7.

(**a**) S.I. 1975/330, 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)

(**b**) 1954 c. 33 (N.I.)

Applications

4.—(1) An application shall be made in such form and manner and at such time, shall include such information, and shall be delivered at such address, as the Department may from time to time require.

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

Approval of applications

5.—(1) Subject to the Community Acts and the provisions of these Regulations, the Department may as it thinks fit—

(*a*) refuse to approve an application or approve it in whole or in part for the purposes of financial assistance;

(*b*) cause any such approval to be given, and any payment by way of financial assistance to be made, subject to conditions; or

(*c*) amend such conditions with the applicant's written consent.

(2) The Department shall in writing—

(*a*) notify an applicant of the result of his application;

(*b*) notify any applicant whose application it has approved under this regulation of any conditions, relating to such approval, which it has determined or amended under paragraph (1).

Eligibility for payment of financial assistance

6.—(1) Subject to paragraph (2) and regulation 14, an applicant whose application has been approved under regulation 5 shall be eligible for payment of grant in accordance with regulation 7.

(2) Financial assistance shall not be paid in respect of an approved application unless the Department has been supplied with evidence that—

(*a*) the amount of expenditure for which financial assistance is claimed has been incurred including details of any discount received by the applicant; and

(*b*) the relevant operation to which the application relates has been properly executed.

Amount of grant

7.—(1) Subject to paragraphs (2) and (3), the amount of grant which an applicant, who is eligible for payment of grant under paragraph 6, shall be paid shall be at least five per cent of the eligible expenditure, in respect of the application.

(2) Where any other grant is payable under United Kingdom public funds in relation to the eligible expenditure, the amount of grant shall be such sum which, when added to that grant, equals at least five per cent of such expenditure.

(3) Grant shall not be payable in respect of any application made by the Sea Fish Industry Authority(**a**) for approval of an investment or project for the promotion of fisheries products.

Methods of payment of financial assistance

8. Payments by way of financial assistance may be made at such time, or by such instalments at such intervals or times, as the Department may determine.

Undertakings

9. Any person whose application has been approved under regulation 5 may be required by the Department to give such undertakings as it may consider appropriate to the case.

Records

10. Any person whose application has been approved under regulation 5 shall keep a record of expenditure incurred in connection with the relevant operation to which the approved application relates and during the carrying out of the relevant operation, on completion of the relevant operation and thereafter for the duration of the control period shall retain such record and any invoice, account or other document which relates to the relevant operation (in these Regulations together referred to as "relevant documents") except to the extent that an authorised officer had required the production of, or has removed, any such record or document under regulation 12(5).

Assistance to authorised officers

11. Any applicant, or any of his employees, servants or agents, shall give to an authorised officer such assistance as he may reasonably request to exercise any power conferred upon him by regulation 12.

Powers of authorised officers

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

(*a*) the relevant operation to which the application relates should be approved;

(*b*) any expenditure in respect of which financial assistance is claimed should be approved;

(*c*) any relevant conditions and any undertakings given by the applicant have been complied with;

(*d*) any amount of financial assistance should be reduced, withheld or recovered under regulation 14;

(*e*) an offence under regulation 15 has been or is being committed.

(**a**) Established by section 1 of, and Schedule 1 to, the Fisheries Act 1981, c. 29