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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 323**

**SEA FISHERIES**

**The European Fisheries Fund (Grants)  
(Scotland) Amendment Regulations 2010**

*Made* - - - - 8th September 2010  
*Laid before the Scottish  
Parliament* - - - - 10th September 2010  
*Coming into force* - - 2nd October 2010

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the European Fisheries Fund (Grants) (Scotland) Amendment Regulations 2010 and shall come into force on 2nd October 2010.

**Amendment of the European Fisheries Fund (Grants) (Scotland) Regulations 2007**

2.—(1) The European Fisheries Fund (Grants) (Scotland) Regulations 2007<sup>(2)</sup> are amended in accordance with this regulation.

(2) In regulation 1 (citation, commencement and extent), for paragraph (2) there is substituted—

“(2) Subject to regulation 13 these Regulations extend to Scotland only. Insofar as they extend beyond Scotland, they do so only as a matter of Scots law.”.

(3) In regulation 2 (interpretation) in paragraph (1)—

(a) the words “unless the context otherwise requires” are omitted;

(b) for the definition of “the Commission” substitute—

““the Commission” means the European Commission;”;

(c) for the definition of “Community aid” substitute—

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(1) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3) which was amended by the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”), section 27(4). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The function conferred upon a Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) S.S.I. 2007/307.

- ““EU aid” means aid towards eligible expenditure available from the European Fisheries Fund and payable in accordance with Council Regulation 1198/2006 and Commission Regulation 498/2007;”;
- (d) for the definition of “Community fishing vessel” substitute—  
 ““EU fishing vessel” means a fishing boat flying the flag of and registered in a Member State of the European Union;”;
- (e) for the definition of “financial assistance” substitute—  
 ““financial assistance” means any amount by way of grant or EU aid;”;
- (f) for the definition of “grant” substitute—  
 ““grant” means a payment made under these Regulations in addition to any EU aid and includes a payment towards eligible expenditure;” and
- (g) for the definition of “relevant operation” substitute—  
 ““relevant operation” means an investment, project or action which is eligible for EU aid; and”.
- (4) In regulation 3 (financial assistance)—  
 (a) in paragraphs (1) and (2)(a) for “Community aid” substitute “EU aid”; and  
 (b) in paragraph (1)(a)(ii), before “expenditure incurred” insert “in the case of an application for financial assistance which comprises eligible expenditure;”.
- (5) In regulation 6 (eligibility and claims for payment of financial assistance)—  
 (a) in paragraph (1), for “15” substitute “14”;  
 (b) in paragraph (2)(a), before “satisfactory evidence” insert “in the case of an application for financial assistance which comprises eligible expenditure;”; and  
 (c) in paragraph (2)(b), before “satisfactory evidence” insert “in the case of all applications for financial assistance;”.
- (6) In regulation 13 (powers of authorised officers)—  
 (a) in paragraph (1), after “for those purposes” insert “in relation to any Scottish fishing boat, wherever it may be, and”;  
 (b) in paragraph (1)(f), for “Community aid” substitute “EU aid”; and  
 (c) in paragraph (8), before the definition of “premises”, insert—  
 ““Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995(3) and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging;”.
- (7) In regulation 14 (reduction, withholding and recovery of financial assistance)—  
 (a) in paragraph (1)(h), for “Community aid” substitute “EU aid”; and  
 (b) in paragraph (2)(f), for “Community fishing vessel” substitute “EU fishing vessel”.

St Andrew's House,  
Edinburgh  
8th September 2010

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A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the European Fisheries Fund (Grants) (Scotland) Regulations 2007 (“the principal Regulations”). They make amendments designed to ensure that Scottish Ministers may pay public aid as part of the national contribution required when assistance from the European Fisheries Fund is granted, whether or not the amount of such aid is calculated by reference to eligible expenditure incurred by the beneficiary.

The regulations replace references to “Community aid”, “Community fishing vessel” and “European Community” with references to “EU aid”, “EU fishing vessel” and “European Union” and the definition of “the Commission” to reflect changes in terminology following the coming into force of the Lisbon Treaty on 1st December 2009 (regulations 2(3), (b), (c), (d), (e), (f) and (g), and 2(6)(b)). Regulation 2(3)(a) and 2(5)(a) make minor clarifying amendments to the principal Regulations.

They substitute a new definition of “grant” in the principal Regulations to provide that a grant is a payment made under these Regulations and includes a payment towards eligible expenditure (regulation 2(3)(f)).

They amend the principal Regulations to provide that the circumstances in which financial assistance may be paid includes applications made under regulation 5, which comprise an application for eligible expenditure (regulation 2(4)(b)).

They introduce amendments which will provide that financial assistance may be paid to an applicant who provides evidence of expenditure incurred, (where a payment towards eligible expenditure is sought), and (in the case of all applications made for financial assistance) evidence that the approved operation has been executed (regulation 2(5)).

They also amend the powers available to authorised officers to enforce the principal Regulations, to provide that such powers are exercisable by an authorised officer in relation to Scottish fishing boats wherever they may be (regulation 2(6)(a) and (c)) and an amendment is also made to the extent provisions of the principal Regulations to reflect these changes (regulation 2(2)).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.