
STATUTORY INSTRUMENTS

1994 No. 1568

SEA FISHERIES

SEA FISH INDUSTRY

The Fishing Vessels (Decommissioning) Scheme 1994

Approved by both Houses of Parliament

<i>Made</i>	- - - -	<i>15th June 1994</i>
<i>Laid before Parliament</i>		<i>15th June 1994</i>
<i>Coming into force</i>	- -	<i>6th July 1994</i>

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, in exercise of the powers conferred on them by sections 15(1) and (2) and 18(1) of the Fisheries Act 1981(1), and of all other powers enabling them in that behalf, with the approval of the Treasury in accordance with the said section 15(1), hereby make the following Scheme:

Title and commencement

1. This Scheme may be cited as the Fishing Vessels (Decommissioning) Scheme 1994 and shall come into force on 6th July 1994.

Interpretation

2.—(1) In this Scheme, unless the context otherwise requires—
“capacity units”, in relation to a vessel, means—

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

where:

L is the length of the vessel expressed in metres,

B is the breadth of the vessel expressed in metres, and

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

“Commission Decision 92/593” means Commission Decision [92/593/EEC](#) on a multiannual guidance programme for the fishing fleet of United Kingdom for the period 1993 to 1996 pursuant to Council Regulation ([EEC](#)) No. [4028/86](#)(2);

(1) 1981 c. 29.

(2) O.J. No. L401, 31.12.92, p.33; the reference for Council Regulation ([EEC](#)) No. [4028/86](#) is O.J. No. L376, 31.12.86, p.7.

“Council Regulation 2930/86” means Council Regulation (EEC) No. 2930/86 defining characteristics for fishing vessels (3);

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

“fishing trips” includes time spent steaming between port and fishing ground and between one fishing ground and another;

“length”, in relation to a vessel, except in the case of paragraph 3(1)(e), means the length calculated in accordance with the rules specified in Article 2(1) of Council Regulation 2930/86;

“licence” means one or more licences granted in respect of a vessel under section 4 of the Sea Fish (Conservation) Act 1967 (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;

“the register” means the register of fishing vessels established under section 1 of the Merchant Shipping (Registration, etc) Act 1993 (5) and references to “registered” shall be construed accordingly;

“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.

(2) Any reference in this Scheme to a numbered paragraph shall, unless the context otherwise requires, be construed as a reference to the paragraph bearing that number in this Scheme.

(3) Any payment of grant made under this Scheme by the Ministers may be made by any of them and any reference in the Scheme to such a payment shall be construed accordingly.

Eligibility for decommissioning grant

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

- (a) which is over 10 metres in length,
- (b) in respect of which there is a licence which authorises the fishing throughout Community waters for the following species of fish for which the United Kingdom has a share of the Community total allowable catch (6): herring (*Clupea harengus*), mackerel (*Scomber scombrus*), saithe (*Pollachius virens*), anglerfish (*Lophiidae*), cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), whiting (*Merlangius merlangus*), hake (*Merluccius merluccius*), plaice (*Pleuronectes platessa*) and sole (*Solea solea*),
- (c) which has spent at least 100 days at sea on fishing trips in Community waters whilst registered as a United Kingdom fishing vessel during each of the calendar years 1992 and 1993,
- (d) which is at least 10 years old at the date of the application, and
- (e) which, in the case of a vessel over 12 metres in length had, on the date of application, either a valid fishing vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975 (7) 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

(3) O.J. No. L274, 25.9.86, 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) 1993 c. 22.

(6) See article 1 of Council Regulation (EEC) No. 3676/93 (O.J. No. L341, 31.12.93, p.1).

(7) S.I.1975/330, amended by S.I. 1975/471, 1976/432, 1977/313, 498, 1978/159, 1873, 1981/567, 1991/1342 and by the Fisheries Act 1981, Schedule 3, paragraph 8(3).

opinion of the Ministers is fit for undertaking sea fishing trips without the need for major repairs or alterations, is eligible to apply for a decommissioning grant.

(2) Any person who owns a registered fishing vessel in respect of which an application was approved by the Ministers under the Fishing Vessels (Decommissioning) Scheme 1993⁽⁸⁾ but which was not decommissioned, shall not be eligible to apply for a decommissioning grant in respect of that vessel under this Scheme.

(3) For the purposes of subparagraph (1)(c) above—

- (a) a “day” means all or any part of a period of 24 consecutive hours beginning at midnight,
- (b) “Community waters” means waters which are under the sovereignty or jurisdiction of a member State.

(4) For the purposes of subparagraph (1)(e) above, “length” in relation to a vessel means its registered length.

Application for decommissioning grant

4.—(1) The Ministers shall publish in such manner as they consider appropriate a notice inviting applications for grant under this Scheme and specifying the closing date for such applications.

(2) An application made in pursuance of a notice under subparagraph (1) above shall be in writing in such form and manner and with such information and documentation as the Ministers may require and shall be delivered to such address as they may direct.

(3) No more than one application in pursuance of a notice under subparagraph (1) above may be made in respect of a vessel.

(4) The foregoing provisions of this paragraph shall apply in respect of any subsequent notices inviting applications for grant under this Scheme.

(5) If an application for grant under this Scheme has been approved in respect of a vessel, no further application in respect of that vessel may be made under this Scheme.

5. An application for grant under this Scheme shall include a bid stating the amount of grant for which the applicant offers to scrap the vessel.

Consideration of applications

6.—(1) As soon as reasonably practicable after the date specified in a notice under paragraph 4(1) as the closing date for applications the Ministers 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 subparagraph (b) above.

(2) The Ministers may reject any application for grant under this Scheme if they consider the amount of the bid in the application to be unreasonable, having regard to—

- (a) the extent to which approval of the application would contribute towards the objectives of the United Kingdom’s multiannual guidance programme for its fishing fleet as approved in Commission Decision 92/593;
- (b) the amount of money allocated for this Scheme.

⁽⁸⁾ S.I. 1993/1345.

(3) The Ministers shall reject any application for grant under this Scheme if they have reasonable grounds for suspecting that there has been any fixing or adjustment of the amount of a bid by or under or in accordance with any agreement (whether legally binding or not) or arrangement with another person.

(4) Subject to subparagraphs (2) and (3) above, the Ministers shall approve applications by proceeding through the rank referred to in subparagraph (1)(c) above from the application incorporating the lowest amount bid per capacity unit towards the application incorporating the highest amount bid per capacity unit until the maximum amount of money allocated for the Scheme is reached.

(5) Where as a result of the procedure referred to in subparagraph (4) above there are two or more identical bids per capacity unit which are higher than the amount of any other bid which has been approved, and there is insufficient money to meet all of them, in deciding which bid or bids to accept the Ministers may take into account the amount of time spent at sea on fishing trips in Community waters by each of the vessels concerned during the calendar years 1992 and 1993 with a view to giving preference to vessels that spent more time at sea in those years.

Approval of applications

7.—(1) The Ministers shall notify each applicant in writing of the result of his application.

(2) Applicants whose bids have been approved shall be eligible for payment of grant.

Conditions for payment of grant

8. No grant shall be paid under this Scheme unless the conditions set out in paragraphs 9 to 12 have been complied with.

9. The vessel shall not be scrapped before the applicant has been notified in accordance with paragraph 7(1) and the method has been approved under paragraph 10(3).

10.—(1) The applicant shall ensure that the vessel is scrapped in a member State.

(2) At least two weeks prior to the scrapping of the vessel the applicant shall notify the Ministers in writing of the intended date and place of scrapping and of the proposed method of scrapping.

(3) The method of scrapping shall conform to that proposed to, and approved by, the Ministers.

11.—(1) The applicant shall surrender the licence referred to in paragraph 3(1)(b) above and any other current licence in respect of the vessel to the Ministers.

(2) The applicant shall take all necessary steps to ensure that the vessel is removed from the register.

(3) The applicant shall furnish to the Ministers before 1st March 1995 a declaration that the vessel has been scrapped, that it has been removed from the register and that the licence in respect of the vessel has been surrendered.

12. The applicant shall take all necessary steps to ensure that any person authorised in writing by the Ministers shall on producing, if required to do so, some duly authenticated document to show his authority, have the right at any reasonable time to inspect the vessel, and the carrying out of its scrapping, for the purpose of establishing that the provisions of this Scheme have been met.

Amount of grant

13. The amount of decommissioning grant in respect of a vessel shall be the amount of the bid made by the applicant in his application.

False statements

14. If any person makes a false statement or furnishes false information in connection with an application for a decommissioning grant under this Scheme, any payment of grant to that applicant may at any time be refused and any such payment already made in relation to that application may be recovered as a civil debt or, in Scotland, as a debt.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 14th June 1994.

L.S.

Gillian Shephard
Minister of Agriculture, Fisheries and Food

Scottish Office
13th June 1994

Hector Monro
Parliamentary Under Secretary of State,

Signed by authority of the Secretary of State for Wales.

Welsh Office
14th June 1994

Gwilym Jones
Parliamentary Under Secretary of State,

15th June 1994

Patrick Mayhew
Secretary of State for Northern Ireland

We approve,

14th June 1994

Timothy Wood
Irvine Patnick
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme provides for the making of grants by 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, in respect of the decommissioning (by scrapping) of fishing vessels registered in the United Kingdom.

Provision for decommissioning grant is made pursuant to Council Regulation (EEC) No. 3699/93 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products (O.J. No. L346, 31.12.93, p.1) (as read with Council Decision 94/15/EC relating to the objectives and detailed rules for restructuring the Community fisheries sector over the period 1st January 1994 to 31st December 1996 with a view to achieving a lasting balance between the resources and their exploitation (O.J. No. L10, 14.1.94, p.20)) which supersedes Council Regulation (EEC) No. 4028/86 on Community measures to improve and adapt structures in the fisheries and aquaculture sector (O.J. No. L376, 31.12.86, p.7).

Applications for grant will be considered in respect of vessels meeting the requirements set out in paragraph 3 of the Scheme. Applications must be made in accordance with paragraph 4 and must include a bid by the applicant for the amount of grant for which he offers to scrap his vessel (paragraph 5). Bids will be considered in accordance with paragraph 6.

No grant will be paid unless the conditions set out in paragraphs 9 to 12 have been complied with (paragraph 8). Successful applicants will receive by way of grant the amount for which they bid (paragraph 13).

Provision is made for the refusal or recovery of grant in specified circumstances (paragraph 14).

Offences and penalties in connection with this Scheme are provided by section 17 of the Fisheries Act 1981.