

2020 No. 76

SEA FISHERIES

**The Sea Fish Industry (Coronavirus) (Fixed Costs) Scheme
(Northern Ireland) 2020**

Made - - - - *4th May 2020*

Coming into operation - *5th May 2020*

Approved by resolution of the Assembly on 7th July 2020

The Department of Agriculture, Environment and Rural Affairs(a) with the approval of the Department of Finance(b) makes the following Scheme in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(c), as read with paragraph 2(1) of Schedule 2 to the Sea Fisheries (Northern Ireland) Order 2002(d) and now vested in it(e).

Title and commencement

1. This Scheme may be cited as the Sea Fish Industry (Coronavirus) (Fixed Costs) Scheme (Northern Ireland) 2020 and comes into operation on 5th May 2020.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(f) applies to this Scheme as it applies to an Act of the Assembly.

(2) In this Scheme—

“application” means an application for a grant made under Article 5;

“the Commission Communication” means Commission Communication 2020/C 91 I/01(g) on the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak;

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“eligible person” means any person who is the owner or charterer of an eligible Northern Ireland fishing boat;

“eligible Northern Ireland fishing boat” means a Northern Ireland fishing boat within the meaning of article 2(2) of the Sea Fisheries (Northern Ireland) Order 2002 which—

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- (a) Formerly the Department of Agriculture and Rural Development, see the Departments Act (Northern Ireland) 2016 Chapter 5 Article 1(2)
- (b) The function of the Treasury to approve a Scheme under section 15 of the Fisheries Act 1981 is, by virtue of article 3(2) of, and paragraph 2(7)(a) of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002, exercisable by the Department of Finance where the Scheme is made by the Department of Agriculture, Environment and Rural Affairs.
- (c) 1981 c.29.
- (d) S.I. 2002/790.
- (e) S.I. 2002/790, article 3(2) and Schedule 2, paragraph 2(2).
- (f) 1954 c.33 (N.I.).
- (g) O.J. C9111, 20.03.2020, p1-9

- (a) has its port of administration in Northern Ireland;
- (b) is less than 28 metres length overall;
- (c) had a minimum of 3 landings during the period 1st March 2019 to 31st May 2019 (both dates inclusive);
- (d) had fish landings of at least £10,000 in 2019; and
- (e) is available to fish during the period 1st March 2020 to 31st May 2020 (both dates inclusive).

“fixed costs” means the recurring costs of operating an eligible Northern Ireland fishing boat including fees, insurance, repairs and maintenance but not including crew costs;

“grant” means a monthly grant in respect of fixed costs of an eligible Northern Ireland fishing boat of—

- (a) £1,050 where the length overall is less than 10 metres;
- (b) £1,800 where the length overall is greater than or equal to 10 metres and less than 12 metres;
- (c) £3,550 where the length overall is greater than or equal to 12 metres and less than 15 metres;
- (d) £4,550 where the length overall is greater than or equal to 15 metres and less than 28 metres.

“length overall” in relation to a fishing boat, means the length of the boat measured in accordance with Article 2(1) of Council Regulation (EEC) No 2930/86 defining characteristics for fishing vessels(a); and

“port of administration” in relation to a fishing boat, means the port from which the licence granted in respect of the fishing boat under section 4 of the Sea Fish (Conservation) Act 1967(b) is issued.

Award of grant by the Department

3.—(1) The Department may award a grant to an eligible person for all or part of the period 1st March 2020 to 31st May 2020 (both dates inclusive).

(2) That grant must not be payable in any case or to any extent except in compliance with the Commission Communication.

Applications

4.—(1) The Department must publish a notice inviting applications in a manner that will ensure that it is reasonably likely to be seen by eligible persons.

(2) A notice published under paragraph (1) must specify—

- (a) the conditions for an award of grant specified in Article 3;
- (b) the closing date for making an application; and
- (c) the information which an applicant is required to provide in support of the application.

(3) An eligible person may make an application in writing to the Department on or before the closing date specified in the notice published under paragraph 2.

(4) The Department may accept an application received after the closing date if it is satisfied that—

(a) O.J. No. L 274, 25.09.1986, p1

(b) 1967 c.84. Section 4 was substituted by the Fishery limits Act 1976 (c.86), section 3 and relevant amendments have been made by the Fisheries Act 1981 (c.29) section 20, the Sea Fish (Conservation) Act 1992 (c.60) section 1, and S.I. 1999/1820, article 4.

- (a) the particular circumstances of the eligible person render it unreasonable to expect the application to have been made by the closing date; and
- (b) the date on which the application was received is as early as can reasonably be expected in those circumstances.

(5) The Department must reject an application in respect of a fishing boat if it is satisfied that the port of administration of the fishing boat has been changed to a port in Northern Ireland for the primary purposes of ensuring that the fishing boat is an eligible Northern Ireland fishing boat for the purposes of this Scheme.

Payment of Grant

5.—(1) Where the Department has received an application it must determine whether that application satisfies Article 3 and provides the information required in the notice published under Article 4(1) and if it does, the Department may, subject to Article 7, pay a grant to the eligible person.

(2) The Department must notify the eligible person in writing of its decision to approve or reject an application and—

- (a) if an application is rejected, the reasons for the rejection and the right of review under Article 6; and
- (b) if an application is approved, the amount of the grant to be paid.

(3) Where more than one eligible person makes an application in respect of the same eligible Northern Ireland fishing boat only one grant is payable.

Review of decision

6.—(1) Where the Department rejects an application under Article 5, a person may apply to the Department for a review of the decision in accordance with this paragraph if that person is an eligible person.

(2) An application for review must be made to the Department no later than one month from the date of the notification of the decision to be reviewed.

(3) An application for review shall be in writing and shall specify—

- (a) the name and address of the eligible person;
- (b) the decision of the Department in respect of which the application for review is made and its date; and
- (c) full particulars of the grounds upon which the review of the decision is sought.

(4) Where an application for review is made under this paragraph the Department shall review the decision which is specified in it.

(5) In reviewing a decision the Department may—

- (a) consider any document or other evidence produced by the eligible person (whether or not that document or evidence was available at the time of the decision).
- (b) invite the eligible person to provide such further information relevant to the review as it considers appropriate; and
- (c) give the eligible person or his representative an opportunity to make representations orally or in writing.

(6) Following a review of the decision the Department may—

- (a) confirm the decision; or
- (b) substitute for it for a new decision.

(7) As soon as reasonably practicable after reviewing the decision, the Department must notify in writing the person applying for the review and, if different, the person whose application was rejected under Article 5, of its decision under paragraph (6) and the reasons for it.

Withholding and recovery

7.—(1) This paragraph applies where, having approved an application (either under Article 5 or following a successful review under Article 6), it appears to the Department that—

- (a) the person who made the application was not an eligible person;
- (b) any condition notified to the eligible person under Article 4(1) has not been complied with;
- (c) the requirements of the Commission Communication have not been complied with; or
- (d) the eligible person knowingly or recklessly provided materially false or misleading information or any document which is false in a material particular in relation to the application.

(2) Where this paragraph applies, subject to sub-paragraph (3), the Department may—

- (a) revoke the approval of an application;
- (b) withhold the payment of any grant, or any part of it, to be made under Article 5(1); or
- (c) where any payment of grant has already been made under Article 5(1), recover on demand from the applicant an amount equal to the whole or any part of such payment.

(3) Before exercising the power under paragraph (2) the Department must—

- (a) give the eligible person a written explanation of the reasons for the proposed action;
- (b) afford the eligible person the opportunity to make written representations within a reasonable time specified by the Department; and
- (c) consider any such representations made.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on
4 May 2020



Claire Vincent
A senior officer of the
Department of Agriculture, Environment and Rural Affairs

The Department of Finance approves this Scheme

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on
4 May 2020



Emer Morelli
A senior officer of the
Department of Finance

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme makes provision for payments of grant to the sea fishing industry to address financial difficulties as a result of the global Coronavirus pandemic. The grants are to assist with fishing boats' fixed costs.

Article 3 provides that the Department may award a grant to an eligible person only where it complies with the Commission Communication on the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak.

Article 4 provides that the Department may publish a notice inviting applications for the grant, and also provides for the form and manner in which applications are made.

Article 5 provides for the Department to, approve or reject applications, make payments of grant, and advise applicants of its decision regarding payment.

Article 6 provides for a review of the decision by the Department to reject any applications.

Article 7 provides for the withholding and recovery of grant in certain circumstances.

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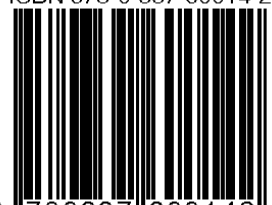
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