

Scheme made by the Department of Agriculture, Environment and Rural Affairs under section 15(1) and (2) of the Fisheries Act 1981 and laid before the Assembly under article 3(2) of, and paragraph 2(4) of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002 for approval by resolution of the Assembly before the expiration of the period of 3 months beginning with the day on which the Scheme was made.

STATUTORY RULES OF NORTHERN IRELAND

2021 No. 65

SEA FISHERIES

**The Sea Fish Industry (Coronavirus) (Fixed Costs) Scheme
(Northern Ireland) 2021**

Made - - - - *12 March 2021*
Coming into operation- - *13 March 2021*

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) 2021 and comes into operation on 13 March 2021.

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—

“applicant” means an applicant for a grant under article 6(3);

“application”, except in relation to an application for a review under article 9, means an application for a grant under article 6(3);

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- (a) The Department of Agriculture and Rural Development was renamed the Department of Agriculture, Environment and Rural Affairs by the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)), section 1(2).
(b) In its application to a scheme made by the Department of Agriculture and Rural Development, section 15(1) of the Fisheries Act 1981 has effect with the substitution of “the Department of Finance and Personnel” for “the Treasury” by virtue of article 3(2) of, and paragraph 2(7)(a) of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002. The Department of Finance and Personnel was renamed the Department of Finance by the Departments Act (Northern Ireland) 2016, section 1(4).
(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.).

“the Commission Communication” means the Communication from the EU Commission dated 19 March 2020 (2020/C 91 I/01) laying down a Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak(a);

“the Commission Decision” means the Decision of the EU Commission of 6 April 2020 (SA. 56841(2020/N) – United Kingdom)(b) approving the United Kingdom COVID-19 Temporary Framework for UK Authorities, as read with the Decision of the EU Commission of 8 December 2020(c) (SA. 58823 (2020/N) – United Kingdom) approving the amendments to the Temporary Framework notified by the United Kingdom;

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

“eligible person” has the meaning given in article 3;

“eligible Northern Ireland fishing boat” has the meaning given in article 4;

“fixed costs” means any of the costs listed in the Schedule;

“grant” means a grant in respect of fixed costs of an eligible Northern Ireland fishing boat calculated in accordance with article 8;

“in difficulty” has the meaning given in article 3(2);

“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(d) is issued;

“qualifying period” means the period 1st September 2020 to 31st December 2020 (both dates inclusive);

“sea fishing activity” means searching for sea fish, shooting, setting, towing or hauling of fishing gear, taking catch on board, transshipping, retaining on board, processing on board, transferring, caging, fattening and landing of sea fish and sea fisheries products;

“static fishing gear” means any pot, creel, receptacle or container with one or more openings or entrances and which is capable of being left at sea to catch crustaceans or molluscs.

Meaning of eligible person

3.—(1) An eligible person is a person who—

- (a) is the owner or charterer of an eligible Northern Ireland fishing boat; and
- (b) on 31st December 2019 was a micro or small-sized enterprise and—
 - (i) was not already in difficulty; or
 - (ii) was already in difficulty and the conditions set out in paragraph (3) are met.

(2) A person is “in difficulty” if the person is an undertaking in difficulty within the meaning of Article 3(5) of the Fisheries Block Exemption Regulation.

(3) The conditions are that the person—

- (a) is not subject to insolvency proceedings;
- (b) has not received rescue aid(e) or, if the person has received rescue aid, has reimbursed the loan or terminated the guarantee before a grant is paid to that person;

(a) OJ C911, 20.3.2020, p.1, as amended on 3 April 2020 (OJ C1121, 4.4.2020, p.1), 8 May 2020 (OJ C164, 13.5.2020, p.3), 29 June 2020 (OJ C218, 2.7.2020, p.3), and 13 October 2020 (OJ C340, 13.10.2020, p.1) and as amended on 28 January 2021 (OJ C34 1.2.2021 p.6)

(b) OJ C144, 30.4.2020, p.1 as amended on 23 April 2020 (OJ C421, 4.12.2020, p.6) as amended on 31 July 2020 (OJ C269, 14.08.2020, p.15)

(c) OJ C439, 18.12.2020, p.1

(d) 1967 c.84. section 4 was substituted by the Fisheries 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.

(e) Commission Communication – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C249, 31.7.2014, p.1 see page 11

- (c) has not received restructuring aid^(a) or, if the person has received restructuring aid, is no longer subject to a restructuring plan at the date a grant is paid to that person.

(4) In this article—

“the Fisheries Block Exemption Regulation” means Commission Regulation (EU) No 1388/2014^(b) declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union;

“micro or small-sized enterprise” means a person who is within the category of micro or small-sized enterprises in Article 2 of Annex 1 to the Fisheries Block Exemption Regulation.

Meaning of eligible Northern Ireland fishing boat

4.—(1) An eligible Northern Ireland fishing boat is a Northern Ireland fishing boat within the meaning of article 2(2) of the Sea Fisheries (Northern Ireland) Order 2002 which—

- (a) is owned or chartered by an eligible person;
- (b) has a valid safety certificate issued by the Maritime and Coastguard Agency;
- (c) at the date of the application is insured for the purposes of commercial sea fishing;
- (d) has, during the period 1st November 2018 to 31st October 2020 (both dates inclusive), conducted more than 50% of its sea fishing activity using static fishing gear;
- (e) has, during the period 1st November 2018 to 31st October 2020 (both dates inclusive), landed more than 50% of its value of declared sea fish landings into ports in the United Kingdom;
- (f) has declared sea fish landings for the year 2019 which were valued at £10,000 or more;
- (g) had a minimum of 12 declared sea fish landings during the period 1st June 2020 to 31st October 2020 (both dates inclusive); and
- (h) is not the subject of an application for financial support under the Department’s Temporary Cessation of Fishing Scheme 2020^(c).

(2) In this article, “declared sea fish landing” means a declaration made to the Department giving information about the quantities and weight of each species of sea fish landed by a fishing boat.

(3) For the purposes of paragraph (1)(f), the value of declared sea fish landings is the value of sea fish landed by a fishing boat calculated by the Department by reference to the average weekly market price per kilogramme at first sale for each species of sea fish at the date of landing.

Award of grant by the Department

5.—(1) The Department may pay a grant to an eligible person in respect of an eligible Northern Ireland fishing boat for all or part of the qualifying period.

(2) A grant must not be paid in any case or to any extent except in compliance with the relevant conditions set out in the Commission Communication and the Commission Decision.

Applications

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

(a) Commission Communication – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C249, 31.7.2014, p.1 see page 12
(b) OJ L369, 24.12.2014, p.37. Regulation (EU) No 1388/2014 was amended by Commission Regulation (EU) 2020/2008 (OJ L414 9.12.2020 p.15)
(c) This scheme is delivered under Article 33 of the Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund

- (2) A notice published under paragraph (1) must specify—
- (a) the relevant conditions for grant aid set out in the Commission Communication and the Commission Decision;
 - (b) any other eligibility conditions for a grant;
 - (c) the information and documents which an applicant must provide in support of the application;
 - (d) the closing date for making an application; and
 - (e) the address to which applications must be sent.

(3) An applicant may make an application in writing to the Department at the address on or before the closing date specified in the notice published under paragraph (1).

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

- (a) the particular circumstances of the applicant 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 purpose of ensuring that the fishing boat is an eligible Northern Ireland fishing boat for the purposes of this Scheme.

Payment of grant

7.—(1) Where the Department has received an application it may pay a grant to the applicant if—

- (a) it is satisfied that the application meets the applicable conditions for payment of a grant; and
- (b) the required supporting information and documents have been provided by the applicant.

(2) The Department must notify the applicant 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 9; and
- (b) if an application is approved, the amount of 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.

(4) In this article—

“applicable conditions” means the relevant conditions set out in the Commission Communication and Commission Decision and any other eligibility conditions specified in the notice published under article 6(1);

“supporting information and documents” means the information and documents specified in the notice published under article 6(1).

Amount of grant

8.—(1) The amount of grant payable to an eligible person for one month of the qualifying period is calculated as the total of the eligible Northern Ireland fishing boat’s fixed costs in the audited accounts for that fishing boat in each of the three most recent financial years divided by 72.

(2) The maximum amount of grant payable for the qualifying period in respect of an eligible Northern Ireland fishing boat is £5,000.

Review of decision

9.—(1) An applicant may apply to the Department for a review of a decision in relation to this Scheme in accordance with this paragraph.

(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 person applying for the review;
- (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 a review of the decision is sought.

(4) Where an application for review is made the Department shall review the decision.

(5) In reviewing a decision the Department may—

- (a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the decision);
- (b) invite the applicant to provide such information relevant to the review as the applicant considers appropriate; and
- (c) give the applicant, or their 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 a new decision.

(7) As soon as reasonably practicable after reviewing the decision, the Department must notify the applicant in writing of its decision and the reasons for it.

Withholding and recovery

10.—(1) This article applies where, having approved an application (either under article 7 or following a successful review under article 9), it appears to the Department that—

- (a) the applicant was not an eligible person;
- (b) any condition specified in the notice published under article 6(1) has not been complied with;
- (c) any condition set out in the Commission Communication or the Commission Decision has not been complied with;
- (d) the applicant 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) 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 7(1); or
- (c) where any payment of grant has already been made under article 7(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 applicant a written explanation of the reasons for the proposed action;
- (b) afford the applicant the opportunity to make written representations within a reasonable time specified by the Department; and
- (c) consider any such representations made.

Revocation

11. The Sea Fish Industry (Coronavirus) (Fixed Costs) Scheme (Northern Ireland) 2020(a) and the Sea Fish Industry (Coronavirus) (Fixed Costs) (Amendment) Scheme (Northern Ireland) 2020(b) are revoked.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 12th March 2021.



Owen Lyttle
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 Finance on 12th March 2021.



Patrick Neeson
A senior officer of the
Department of Finance

(a) S.R. 2020 No. 76
(b) S.R. 2020 No. 95

SCHEDULE

article 2(2)

List of fixed costs

Administrative Expenses
Administration wages
Advertising
Berthing fees and associated charges
Commissioners of Irish Lights fees
Cleaning and waste (premises)
Depreciation
Directors' pension contribution
Directors' remuneration
Directors' salaries
Directors' social security
Distribution Costs
Electronics
Freight
Gear Repair
Haulage
Hire purchase
Hire and Maintenance of equipment
Laundry and cleaning
Legal and professional fees
Light and heat
Marketing
Navigational aids
Postage and stationary
Premises costs
Printing and stationery
Rates
Rent
Ship's Telephone
Staff training
Storage

Sundries

Telephone/telecommunications

Transport and packing charges

Use of home as office

VAT (if not VAT registered)

Vehicle expenses

Vessel Insurances

Vessel Repairs

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 the fixed costs of Northern Ireland fishing boats that deploy static fishing gear to catch crustaceans or molluscs.

Articles 3 and 4 define an eligible person and eligible Northern Ireland fishing boat for the purposes of the Scheme. An eligible Northern Ireland fishing boat must, among other things, be insured for commercial sea fishing purposes, conducted most of their fishing activity using static fishing gear, landed the majority of its catch into UK ports, and had declared landings in 2019 valued at more than £10,000.

Article 5 provides that the Department may award a grant to an eligible person for the qualifying period and only where it complies with the Commission Communication and Commission Decision of 8 December 2020 which approved amendments to the Temporary Framework for State aid measures in the United Kingdom to support the economy in the current COVID-19 outbreak.

Article 6 provides that the Department must publish a notice inviting applications for the grant, and also provides for the form and manner in which applications are made.

Article 7 provides for the Department to, approve or reject applications, make payments of grant, and notify applicants of its decision regarding payment.

Article 8 provides for the calculation of the grant, and the maximum amount payable in respect of an eligible fishing boat.

Article 9 provides for a review of the decision by the Department to reject an application.

Article 10 provides for the withholding and recovery of grant in certain circumstances.

Article 11 revokes the Sea Fish Industry (Coronavirus) (Fixed Costs) Scheme (Northern Ireland) 2020 and the Sea Fish Industry (Coronavirus) (Fixed Costs) (Amendment) Scheme (Northern Ireland) 2020.

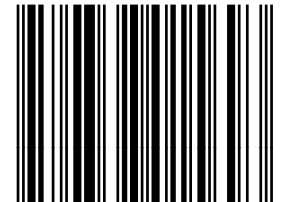
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