

2001 No. 140

SEA FISHERIES

SEA FISH INDUSTRY

FISH FARMING

**The Fisheries and Aquaculture Structures (Grants) (Scotland)
Regulations 2001**

Made 5th April 2001

Laid before the Scottish Parliament 5th April 2001

Coming into force 12th May 2001

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The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fisheries and Aquaculture Structures (Grants) (Scotland) Regulations 2001 and shall come into force on 12th May 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“application” means an application for payment of financial assistance under regulation 3(1) and “applicant” shall be construed accordingly;

“approval” means an approval granted under regulation 5 and includes the terms and conditions subject to which such approval has been given and “approve” and “approved” shall be construed accordingly;

“approved operation” means a relevant operation which the Scottish Ministers have approved;

“authorised officer” means a person authorised in writing to be an officer—

(a) for the purposes of these Regulations, by the Scottish Ministers; or

(b) for the purposes of exercising any functions which the Authority is required under regulation 11 to exercise, by the Authority,

and includes any duly appointed official of the Commission who accompanies such person;

“the Authority” means the Sea Fish Industry Authority constituted under section 1 of the Fisheries Act 1981(b);

“beneficiaries” means applicants whose applications have been approved and a “beneficiary” shall be construed accordingly;

“the Commission” means the Commission of the European Communities;

“Community aid” means aid towards eligible expenditure available from the Financial Instrument for Fisheries Guidance and payable in accordance with the Community structural assistance legislation;

“Community fishing vessel” has the meaning given to it in article 3 of Council Regulation (EEC) No. 3760/92 establishing a Community system for fisheries and aquaculture(c);

“the Community structural assistance legislation” means—

(a) Council Regulation 1260/1999;

(b) Council Regulation (EC) No. 1263/1999 on the Financial Instrument for Fisheries Guidance(d);

(c) Council Regulation 2792/1999;

(d) Commission Decision (EC) No. 1999/501 of 1st July 1999 fixing an indicative allocation by Member States of the commitment appropriations for Objective 1 of the Structural Funds for the period 2000 to 2006(e);

(e) Commission Decision (EC) No. 1999/502 of 1st July 1999 drawing up the list of regions covered by Objective 1 of the Structural Funds for the period 2000 to 2006(f);

(f) Commission Regulation (EC) No. 1685/2000 of 28th July 2000 laying down detailed rules for the implementation of Council Regulation (EC) 1260/1999 as regards eligibility of expenditure of operations co-financed by the structural funds(g);

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). 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.

(b) 1981 c. 29

(c) O.J. No. L 389, 31.12.92. p.1.

(d) O.J. No. L 161, 26.6.1999, p.54.

(e) O.J. No. L 194, 27.7.1999, p.49.

(f) O.J. No. L 194, 27.7.1999, p.53.

(g) O.J. No. L 193, 29.7.2000, p.39.

- (g) Commission Decision No. C(2000) 2348 of 8th August 2000 approving the Single Programming Document for Community structural assistance under Objective 1 in the region of Highlands and Islands in the United Kingdom;
- (h) Commission Decision No. C(2000) 4298 of 27th December 2000 approving the Single Programming Document for Community structural assistance in the fisheries sector in the United Kingdom in areas outside Objective 1;
- (i) Commission Regulation (EC) No. 438/2001 of 2nd March 2001 laying down detailed rules for the implementation of Council Regulation (EC) 1260/1999 regarding the management and control systems for assistance granted under the Structural Funds and regarding the form and content of the accounting information that the Member States must hold at the disposal of the Commission for the purposes of checking Structural Fund accounts **(a)**;and
- (j) Commission Regulation (EC) No. 448/2001 of 2nd March 2001 laying down detailed rules for the application of Council Regulation (EC) 1260/1999 regarding the procedure for making financial corrections of assistance granted under the Structural Funds **(b)**.

“Council Regulation 1260/1999” means Council Regulation (EC) No. 1260/1999 of 21st June 1999 laying down general provisions on the structural funds**(c)**;

“Council Regulation 2792/1999” means Council Regulation (EEC) No. 2792/1999 of 17th December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector**(d)**;

“eligible expenditure” means expenditure which is incurred or to be incurred in connection with an approved operation and which the Scottish Ministers have approved for the purpose of receiving financial assistance under regulation 5;

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

“grant” means a grant towards eligible expenditure payable under these Regulations in addition to any Community aid;

“LIBOR”, in relation to any particular day of the month, means the rate of interest per centum notified to the Scottish Ministers by the Bank of England on the first working day of that month, rounded if necessary to two decimal places;

“relevant conditions” means any conditions relating to the approval of an application or the making of a payment of any financial assistance which have been notified to a beneficiary under regulations 5(3)(b) or 7;

“relevant documents” means any invoice, account, drawing, plan, technical specification or other document relating to the approved operation;

“relevant equipment” means any plant, machinery or other equipment for which financial assistance has been claimed or paid;

“relevant operation” means an investment, project or action which is eligible for Community aid; and

“works” means any construction, harbour or other building works, whether completed or not, for which financial assistance has been claimed or paid.

(2) Expressions used in these Regulations which appear or are referred to in the Community structural assistance legislation and which are not defined in this regulation have, insofar as the context admits, the same meaning in these Regulations as in that legislation.

(3) Any reference in these Regulations to a numbered regulation shall, unless the context otherwise requires, be construed as a reference to the regulation so numbered in these Regulations.

(4) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000**(e)**, which has been recorded and is consequently capable of being reproduced.

(a) O.J. No. L 63, 3.3.2001, p.21.

(b) O.J. No. L 64, 6.3.2001, p.13.

(c) O.J. No. L 161, 26.6.1999, p.1.

(d) O.J. No. L 337, 30.12.1999, p.10.

(e) 2000 c. 7.

Financial Assistance

3.—(1) Subject to the provisions of the Community structural assistance legislation and to these Regulations, the Scottish Ministers may pay Community aid and, if they so determine, a grant to any person—

- (a) who has applied, in accordance with regulation 4, for the purpose of obtaining such financial assistance, for approval under regulation 5—
 - (i) of a relevant operation; and
 - (ii) of expenditure incurred or to be incurred in connection with that operation; and
- (b) whose application they have so approved.

(2) In determining under paragraph (1)—

- (a) whether to pay a grant in addition to Community aid; and
- (b) the amount of any such grant,

the Scottish Ministers shall have regard to the requirements of the Community structural assistance legislation and, in particular the limits on total State financial participation (national, regional and other) as set out in Annex IV to Council Regulation 2792/1999.

Applications

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

(2) Applicants shall furnish all such further relevant information and documents relating to the application as the Scottish Ministers may require.

Determination of applications

5.—(1) Subject to the Community structural assistance legislation, the Scottish Ministers may—

- (a) refuse to approve an application for financial assistance; or
- (b) approve it in whole or in part and may do so either unconditionally or subject to such conditions as they may determine.

(2) The Scottish Ministers may at any time vary an approval by amending any conditions to which it has been made subject or by adding conditions.

(3) The Scottish Ministers shall—

- (a) notify applicants in writing of their decision in respect of that application;
- (b) notify beneficiaries of any conditions to which their approval has been made subject or which have been varied pursuant to this regulation.

(4) Where the Scottish Ministers notify an applicant that they have refused to approve an application or a beneficiary that they have granted an approval subject to conditions or have varied the terms of an existing approval, they shall give such applicant or beneficiary—

- (a) written reasons for their decision; and
- (b) an opportunity to make representations in relation to that decision within such time as the Scottish Ministers consider reasonable and have notified to the applicant or beneficiary.

(5) The Scottish Ministers shall consider any representations received pursuant to paragraph (4) and shall make a decision which shall either confirm their decision under paragraph (4) or substitute a different decision and they shall notify the applicant or beneficiary in writing accordingly.

Eligibility and claims for payment of financial assistance

6.—(1) Subject to paragraph (2) and to regulation 15, a beneficiary shall be eligible for payment of financial assistance.

(2) No financial assistance shall be paid in respect of an approved application unless the Scottish Ministers have been supplied with—

- (a) satisfactory evidence that the amount of expenditure for which financial assistance is claimed has been incurred by the beneficiary, including details of any discount received by the beneficiary; and
- (b) satisfactory evidence that the approved operation to which the application relates has been properly executed.

Method of payment of financial assistance

7. Payments by way of financial assistance may be made—
- (a) at such time, or by such instalments at such intervals or times; and
 - (b) subject to such conditions,
- as the Scottish Ministers may reasonably determine and any conditions in relation to any payment shall be notified to the beneficiary in writing.

Undertakings

8. A beneficiary shall give to the Scottish Ministers such undertakings as the Scottish Ministers consider appropriate for the purposes of these Regulations.

Information

9.—(1) A beneficiary shall supply the Scottish Ministers with such information in relation to an approved operation as the Scottish Ministers may from time to time reasonably require.

(2) Where the Scottish Ministers require information under paragraph (1), the beneficiary shall supply them with that information within such period as the Scottish Ministers may reasonably determine.

Records

- 10.—(1) A beneficiary shall—
- (a) keep a record of all expenditure incurred in connection with an approved operation; and
 - (b) during the carrying out of and after completion of the approved operation for the duration of the control period, retain such record together with any relevant documents, except to the extent that an authorised officer has removed and retained any of the same under regulation 13(6).
- (2) Subject to paragraph (3), “the control period” is—
- (a) the period of six years commencing with the last payment of financial assistance in respect of the approved operation; or
 - (b) such further period beyond the end of that six year period as has been notified in writing by the Scottish Ministers to the beneficiary at any time before the expiry of that six year period.
- (3) In determining in any case the date on which the control period expires, no account shall be taken of any time between the commencement and final determination of any proceedings brought pursuant to regulation 14 for the recovery of any financial assistance paid in respect of that approved operation.

Exercise of functions by the Sea Fish Industry Authority

11.—(1) Any functions of the Scottish Ministers under these Regulations either generally or in relation to financial assistance in connection with particular categories of relevant operation which the Authority has been required to exercise pursuant to section 2(5) of the Fisheries Act 1981^(a) shall be discharged on behalf of the Authority by members of the Authority appointed in accordance with section 1(3) of the Fisheries Act 1981 to the exclusion of the other members and the Scottish Ministers may from time to time issue directions as to the manner in which such functions may be exercised.

(a) 1981 c.29. Section 2(5) was amended by the Scotland Act (Cross Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747) Schedule 23, paragraph 3(3).

(2) The Authority shall keep such accounts with respect to any payments made by or to it pursuant to its exercise of functions under these Regulations as the Scottish Ministers may direct and shall prepare, in respect of each financial year, a statement of the accounts in such form and giving such information as may be directed.

(3) The accounts for each financial year shall, in accordance with a scheme of audit approved by the Scottish Ministers, be audited by the persons appointed in respect of that year to audit the other accounts of the Authority and the auditors shall be furnished by the Authority with copies of the statements of accounts.

(4) The auditors shall complete the audit of the accounts and shall send the Scottish Ministers copies of the statement of accounts and of their report on the accounts and the statement as soon as possible after the end of the financial year to which they relate and in any event not later than 30th September following the end of that year.

(5) The Scottish Ministers and the Auditor General for Scotland shall be entitled to inspect all books, papers and other records of the Authority relating to, or to matters dealt with, in the accounts required to be kept pursuant to this regulation.

Assistance to authorised officers

12. Any beneficiary and any employee, servant or agent of a beneficiary shall give to an authorised officer such assistance as the officer may reasonably request to exercise any power conferred on the officer by regulation 13.

Powers of authorised officers

13.—(1) An authorised officer may at all reasonable hours and on producing, if requested to do so, a duly authenticated document showing the authority of the officer, exercise the powers specified in this regulation for the purposes of—

- (a) verifying the accuracy of any information or evidence contained in or included with an application or supplied pursuant to regulation 6;
- (b) ascertaining whether and to what extent any expenditure in respect of which financial assistance is claimed should be approved;
- (c) ascertaining whether and to what extent any undertaking given by a beneficiary under regulation 8 or any relevant condition has been complied with;
- (d) ascertaining whether and to what extent any amount of financial assistance is payable, or should be reduced, withheld or recovered under regulation 14;
- (e) ascertaining whether an offence under regulation 16 has been or is being committed; or
- (f) otherwise ascertaining, pursuant to Article 38 of Regulation 1260/1999, whether Community aid is being efficiently and correctly used,

and such powers shall be exercisable for those purposes on a random, spot-check or sample basis as well as by reference to the particular circumstances or suspected circumstances of individual cases.

(2) Subject to paragraph (3), an authorised officer may enter upon any premises which are, or which such officer has reasonable cause to believe are, relevant premises.

(3) The power conferred by paragraph (2) may be exercised in relation to premises used as a dwelling house only where reasonable notice of the intended exercise of the power has been given to all residents of that dwelling house.

(4) Any authorised officer who has entered any premises in accordance with paragraph (2) may inspect those premises, any equipment which is, or which such officer has reasonable cause to believe is, relevant equipment and any documents on those premises which are, or which such officer has reasonable cause to believe are, relevant documents.

(5) An authorised officer entering any premises by virtue of this regulation may be accompanied by such other person as the officer considers necessary and paragraphs (2), (4), (6) and (7) and regulation 12 shall apply in relation to such other person when acting under the instructions of the officer as if they were authorised officers.

- (6) An authorised officer may–
- (a) require any beneficiary or an employee, servant or agent of a beneficiary to produce any relevant documents and to supply such additional information in the possession of that person or under their control relating to an application or an approved operation as the officer may reasonably request;
 - (b) inspect any such documents and, where any such documents are kept by means of a computer, have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with those documents;
 - (c) require that copies of, or extracts from, any relevant documents be produced; or
 - (d) remove and retain for a reasonable period any such relevant document which the officer has reason to believe may be required as evidence in proceedings under these Regulations or which the Scottish Ministers may be required to make available to the Commission pursuant to Article 38(6) of Regulation 1260/1999 and, where any such document is kept by means of a computer, require it to be produced in a form in which it may be taken away and in which it is visible and legible.
- (7) An authorised officer shall not be liable in any proceedings for anything done in purported exercise of the powers conferred on an authorised officer by these Regulations if the court hearing such proceedings is satisfied that–
- (a) the act was done in good faith;
 - (b) there was reasonable grounds for doing it; and
 - (c) it was done with reasonable skill and care.

- (8) In this regulation–
- “premises” includes any vessel or other vehicle; and
- “relevant premises” means any premises to which an approved operation relates or in which relevant documents or relevant equipment are retained or in which an authorised officer has reasonable grounds to believe such documents or equipment may be retained.

Reduction, withholding and recovery of financial assistance

14.—(1) Subject to the provisions of this regulation if, at any time after the Scottish Ministers have approved an application, it appears to them that–

- (a) any relevant condition has not been complied with in whole or in part;
- (b) the application so approved or any part of it was not an application which the beneficiary was eligible to make;
- (c) the beneficiary or an employee, servant or agent of a beneficiary–
 - (i) has failed to comply with a requirement imposed by regulation 10 or under regulation 9, 12 or 13(6);
 - (ii) has intentionally obstructed any authorised officer in the exercise of their powers under regulation 13; or
 - (iii) has given information on any matter relevant to the giving of the approval or the making of a payment relevant to the approval which is false or misleading in a material respect;
- (d) the approved operation was commenced before the date on which the Scottish Ministers gave written permission to do so;
- (e) the approved operation in respect of which the expenditure was incurred has not been carried out or has not been carried out properly or in accordance with the approval;
- (f) the approved operation has been or is being unreasonably delayed beyond the time limit set out in the notification of approval or is unlikely to be completed;
- (g) any undertaking given by the beneficiary has not been complied with;
- (h) the Commission has decided pursuant to Articles 38 and 39 of Council Regulation 1260/1999 to suspend or recover Community aid;
- (i) in any case of financial assistance for the construction or modernisation of a fishing vessel, any of the events specified in paragraph (2) has occurred before ten years have elapsed from the completion of the construction or five years have elapsed from the completion of the modernisation of the vessel; or

- (j) in any case of financial assistance for any relevant operation other than for the construction or modernisation of a fishing vessel, any of the events specified in paragraph (3) has occurred before six years have elapsed from the date of purchase of the relevant equipment or ten years have elapsed from the date of purchase of the premises or the completion of the works,

the Scottish Ministers may revoke the approval in whole or in part or reduce or withhold any financial assistance in respect of the approved operation and, where any such financial assistance has been paid, may recover on demand as a debt an amount equal to the financial assistance which has been so paid or such part thereof as they may determine.

- (2) The events referred to in paragraph (1)(i) are—
 - (a) the total loss of the vessel;
 - (b) the damage or destruction of any relevant equipment resulting in payment under an insurance policy or by way of compensation or damages;
 - (c) a mortgage of the vessel (other than a mortgage created for the raising of money applied to the cost of construction or modernisation of the vessel, being a mortgage approved by the Scottish Ministers before it was made);
 - (d) the use of the vessel primarily for purposes other than those in respect of which financial assistance was approved;
 - (e) a disposal whether by sale or otherwise of the vessel or any part thereof, its engine or any part thereof or any relevant equipment or other equipment or apparatus used on or in connection with the vessel; or
 - (f) the vessel ceasing to be a Community fishing vessel.
- (3) The events referred to in paragraph (1)(j) are—
 - (a) the total loss of the relevant equipment;
 - (b) the damage or destruction of any relevant equipment, premises, or works resulting in payment under an insurance policy or by way of compensation or damages;
 - (c) the creation of a right in security over the relevant equipment, premises, or works (other than a right in security created for the raising of money applied to the cost of construction or modernisation of the relevant equipment, premises, or works, being a right in security approved by the Scottish Ministers before it was made);
 - (d) the use of the relevant equipment, premises, or works primarily for purposes other than those in respect of which financial assistance was approved; or
 - (e) a disposal whether by sale or otherwise of the relevant equipment, premises, or works or any part thereof.

(4) Where paragraph (1)(i) or (j) applies and none of the other sub-paragraphs of paragraph (1) apply, the maximum amount which the Scottish Ministers may recover from a beneficiary pursuant to this regulation shall be that proportion of the total payment of financial assistance which the unexpired part of the ten, or as the case may be, five or six year period bears to that period together with interest thereon under regulation 15.

(5) Before revoking an approval in whole or in part or reducing or withholding any financial assistance or making a demand by virtue of paragraph (1), the Scottish Ministers shall—

- (a) give the beneficiary a written explanation of the reasons for the step proposed to be taken;
- (b) afford the beneficiary the opportunity of making written representations within such time as the Scottish Ministers consider reasonable; and
- (c) consider any representations.

Interest

15.—(1) Where the Scottish Ministers intend to recover on demand financial assistance in whole or in part in accordance with regulation 14, they may, in addition, recover interest on that amount at a rate of 1 per cent above LIBOR calculated on a daily basis for the period from—

- (a) in any case to which regulation 14(4) applies, the date when the event in question occurred until the date of recovery; or
- (b) in any other case, the date of payment of the financial assistance until the date of recovery.

(2) In any proceedings for recovery under these Regulations, a certificate issued by the Scottish Ministers showing the rate or rates of interest, the amount of such interest recoverable and the period for which interest is calculated shall, unless the contrary is shown, be conclusive of those matters.

Offences and penalties

16.—(1) Any person, who for the purposes of obtaining financial assistance for themselves or any other person—

- (a) furnishes any information in purported compliance with a requirement imposed by or, under regulation 4(1) or (2) or 13(6)(a) knowingly or recklessly makes a statement which is false or misleading in a material particular; or
- (b) in purported compliance with a requirement imposed under regulation 4(2), or 13(6)(a) or (c) knowingly or recklessly produces a document which is false or misleading in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any person who—

- (a) fails to comply with the requirement imposed under regulation 9 or by regulation 10;
- (b) fails to comply with a request made under regulation 12; or
- (c) intentionally refuses to supply any information, make any return, or produce any document when required to do so by, or otherwise intentionally obstructs, an authorised officer (or a person accompanying and acting on the instructions of the officer) acting in exercise of a power conferred by regulation 13,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Proceedings for an offence under these Regulations may, subject to paragraph (4), be commenced at any time within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(4) No proceedings for an offence under these Regulations shall be commenced more than 5 years after commission of the offence.

(5) Section 136(3) of the Criminal Procedure (Scotland) Act 1995^(a) (date of commencement of proceedings) shall apply for purposes of this regulation as it applies for the purposes of that section.

(6) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor stating the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the knowledge the prosecutor shall be conclusive evidence of that fact; and
- (b) a certificate stating that matter purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Offences by bodies corporate

17.—(1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any person to whom this paragraph applies that person as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Paragraph (1) applies to any director, manager, secretary or other similar officer of the body corporate and to any person who was purporting to act in any such capacity.

(3) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the functions of management of the member as if the member were a director of the body corporate.

(a) 1995 c.46.

(4) Where an offence under these Regulations has been committed by a Scottish partnership and the contravention in question is proved to have occurred with the consent or connivance of, or to be attributable to any act on the part of, a partner, that partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

St Andrew's House,
Edinburgh
5th April 2001

RHONA BRANKIN
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, supplement the Community structural assistance legislation defined and listed in regulation 2. That legislation provides, *inter alia*, for assistance (“Community aid”) to be paid from the Financial Instrument for Fisheries Guidance (“FIFG”) in respect of certain categories of investments, projects and actions (“relevant operations”) in the fisheries and aquaculture sector and the industry sector processing and marketing its products.

These Regulations provide for and regulate the payment of grants and Community aid by the Scottish Ministers towards expenditure in respect of relevant operations which the Scottish Ministers have approved in accordance with these Regulations and the Community structural assistance legislation.

The Regulations (regulations 3, 4 and 5) lay down a procedure for applications for the approval of relevant operations and expenditure to be made and approved for the purpose of the payment of Community aid and, if the Scottish Ministers so determine, grant in addition to that aid (such aid and grant being together referred to as “financial assistance”). In determining whether to pay grant in addition to Community aid and, if they determine to pay such grant, the amount thereof, the Scottish Ministers are required to have regard to the requirements of the Community structural assistance legislation (regulation 3). Among other things Community legislation requires a certain level of financial participation by Member States to enable relevant operations to qualify for Community aid, the requisite levels of participation being set out in Annex IV to Council Regulation (EEC) No. 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (O.J. No. L 337, 30.12.1999 p.10).

Payment of financial assistance is dependent on the provision of satisfactory evidence of the expenditure incurred and of the proper execution of the relevant operation (regulation 6).

Provision is made concerning the method of payment of financial assistance (regulation 7) and the Scottish Ministers may require undertakings to be given by a person whose application is approved (regulation 8).

Provision is made (regulation 9) for persons whose applications for financial assistance have been approved (“the beneficiaries”) to supply to the Scottish Ministers such information as they may from time to time reasonably require and (under regulation 10) for them to retain certain records for a period of six years (which period may be extended by the Scottish Ministers).

Provision is made in relation to the keeping of accounts and records by the Sea Fish Industry Authority (the “Authority”) where it has made or received payments in the exercise of any functions under these Regulations which the Authority has been required by the Scottish Ministers under section 2(5) of the Fisheries Act 1981 to exercise for the Scottish Ministers (regulation 11).

Applicants are required, on request, to give assistance to authorised officers, who are given power of entry and inspection for specified purposes (regulations 12 and 13). Provision is made for the reduction, withholding and recovery, in certain circumstances, of financial assistance (regulation 14) and for the payment of interest on amounts recovered (regulation 15).

The Regulations creates offences and provides penalties in respect of false statements made to obtain financial assistance, failure to keep records or provide information reasonably requested by the Scottish Ministers, failure to comply with requests made by authorised officers in exercise of their powers of entry and inspection and the obstruction of such officers in the exercise of those powers (regulation 16). They also make provision in relation to offences committed by bodies corporate and Scottish partnerships (regulation 17).

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

Copies of Commission Decisions Nos. C(2000) 2348 of 8th August 2000 approving the Single Programming Documents for the Highlands and Islands Objective 1 region and of Commission Decision No. C(2000) 4298 approving the Single Programming Document for Community structural assistance in the fisheries sector in the United Kingdom in areas outside Objective 1 (each as referred to in regulation 2) are available for inspection, together with the Single Programming Documents at Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY.

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**The Fisheries and Aquaculture Structures (Grants) (Scotland)
Regulations 2001**

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