

SCOTTISH STATUTORY INSTRUMENTS

2001 No. 332

SEA FISHERIES

SEA FISH INDUSTRY

**The Fishing Vessels (Decommissioning)
(Scotland) Scheme 2001**

Approved by the Scottish Parliament

<i>Made</i>	- - - -	<i>28th June 2001</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>28th June 2001</i>
<i>Coming into force</i>	- -	<i>29th June 2001</i>

The Scottish Ministers in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(1) and of all other powers enabling them in that behalf, hereby make the following Scheme:

Modifications etc. (not altering text)

C1 Scheme modified (23.11.2020) by Fisheries Act 2020 (c. 22), **Sch. 6 para. 5(2)(a)(4)** (with s. 50, Sch. 4 para. 31)

Citation, commencement and extent **S**

1.—(1) This Scheme may be cited as the Fishing Vessels (Decommissioning) (Scotland) Scheme 2001 and shall come into force on 29th June 2001.

(2) This Scheme extends to Scotland only.

Commencement Information

II **Para. 1** in force at 29.6.2001, see **para. 1(1)**

Interpretation **S**

2.—(1) In this Scheme, unless the context otherwise requires—

“the Act” means the Fisheries Act 1981;

(1) 1981 c. 29; section 18(1) contains a definition of “the Ministers”. Section 15(1) and (2) and 18(1) were amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820) Schedule 2, paragraph 68(1), (2) and (3) and have effect in relation to Scotland as modified by section 18A inserted by that Order, Schedule 2, paragraph 68(4).

“application” means an application for grant under this Scheme and “applicant” shall be construed accordingly;

“the appropriate closing date” has the meaning assigned to it in paragraph 4(3);

“the appropriate decommissioning date” has the meaning assigned to it in paragraph 7(3);

“approval” means approval granted under paragraph 6 of this Scheme;

“authorised officer” means any officer authorised in writing by the Ministers for the purposes of this Scheme;

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

“the Community waters” means the sea falling under the sovereignty or within the jurisdiction of the member States;

“Council Regulation 1260/99” means Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the structural funds⁽²⁾;

“Council Regulation 2792/99” means Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector⁽³⁾;

“day” means all or any part of a period of 24 consecutive hours beginning at midnight;

“decommissioning” has the meaning assigned to it in paragraph 8(4) and “decommission”, “decommissioned” and “decommissioning grant” shall be construed accordingly;

[^{F1}“TFEU” means the Treaty on the Functioning of the European Union];

“fishing trips” means time spent by a vessel—

- (a) engaged in fishing for profit; or
- (b) steaming between port and fishing ground and between one fishing ground and another, and for this purpose “fishing for profit” means fishing with a view to securing a financial return deriving from sale of the sea fish landed;

“grant” means decommissioning grant under this Scheme;

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

“member” in the expression “member State”, refers to membership of the European Community;

“the register” means the register of vessels established under section 8 of the Merchant Shipping Act 1995⁽⁴⁾ and references to “registered” shall be construed accordingly;

“the relevant amount” means such amount as the Ministers may, before exercising their functions under paragraph 5(2), determine is available in respect of the decision to invite applications under paragraph 4(1);

“relevant conditions” means any conditions relating to the approval of an application which have been notified to the applicant under paragraph 6(3)(b); and

“sea fish” has the same meaning as in Part II of the Act⁽⁵⁾.

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

(2) O.J. No. L 161, 26.06.99, p.1.

(3) O.J. No. L 337, 30.12.99, p.10.

(4) 1995 c. 21.

(5) See section 18(1) of the Act.

Textual Amendments

- F1** Words in [para. 2\(1\)](#) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 3** (with art. 2(2))

Commencement Information

- I2** [Para. 2](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Decommissioning grants **S**

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

- (a) which is over 10 metres in length;
- (b) in respect of which there is a licence to which sub-paragraph (2) applies;
- (c) which whilst registered has, during each of the calendar years 1999 and 2000, spent at least the appropriate number of days at sea on fishing trips;
- (d) which is at least 10 years old at the date of the application;
- (e) which, in the case of a vessel over 12 metres in registered length had, on the date of application, either a valid vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975(6) or a letter confirming the completion of a satisfactory survey issued by the Secretary of State for Transport, Local Government and the Regions; and
- (f) which is a Scottish based vessel,

may make an application to the Ministers in respect of that vessel.

(2) This sub-paragraph applies to Category A licences excluding Category A (Pelagic Purser), Category A (Pelagic Freezer) and Category A (Pelagic Trawler) licences.

(3) The Ministers shall publish a notice specifying the appropriate number of days in such manner as they consider appropriate.

(4) Notwithstanding sub-paragraph (1), the Ministers may reject an application in respect of a vessel which in their opinion is not fit for undertaking fishing trips.

(5) For the purposes of this paragraph—

“the appropriate number of days” means such number of days as the Ministers may from time to time determine;

“Category A licence” means a licence granted in respect of a vessel under section 4 of the Sea Fish (Conservation) Act 1967(7) which authorises fishing in all or any part of the Community waters for all or any of the species of sea fish for which the United Kingdom has a share of the Community total allowable catch(8); and

“port of administration” means the port from which the licence granted in respect of a vessel under section 4 of the Sea Fish (Conservation) Act 1967 is issued; and

(6) S.I. 1975/330, amended by S.I. 1975/471, 1976/432, 1977/313, 498, 1978/1598, 1873, 1981/567, 1991/1342 (revoked by 1998/3243), 1998/928, 2647, 1999/2998, 3210 and 2001/9 and by the Fisheries Act 1981, Schedule 3, paragraph 8(3). The 1975 Rules now have effect as if made under section 90, 121 and 122 of and paragraph 7 of Schedule 14 to the Merchant Shipping Act 1995 (c. 21).

(7) 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 and has effect in relation to Scotland as modified by section 22A inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 Schedule 2, paragraph 43(13).

(8) See Council Regulation (EC) No. 2848/00 (O.J. No. L 334, 15.12.00, p.1) (as corrected by Corrigenda, O.J. No. L 96. 6.4.01, p.30) which for 2001 fixes the total allowable catches (TACs) for certain fish stock and groups of fish stock and specifies the allocation of the share of the TACs available to each Member State.

“Scottish based vessel” means a vessel the port of administration of which is, throughout the period from 1st January 2001 until the date of the approval relating to the vessel, both dates inclusive, a port in Scotland.

Commencement Information

I3 Para. 3 in force at 29.6.2001, see para. 1(1)

Applications **S**

4.—(1) The Ministers may from time to time invite applications and where they do so the following provisions of this paragraph shall apply.

(2) Without prejudice to the other provisions of this Scheme, an application must be lodged with the Ministers on or before the appropriate closing date in order to be considered for approval.

(3) In this Scheme “the appropriate closing date” means such date as the Ministers may from time to time determine.

(4) The Ministers shall publish in such manner as they consider appropriate a notice inviting applications and specifying the appropriate closing date.

(5) An application made in pursuance of a notice published under sub-paragraph (4) shall be in writing, shall be made in such form and manner, shall include such information and undertakings and shall be delivered to such address as the Ministers may specify in the notice or from time to time require.

(6) An applicant shall furnish all such further information relating to the application as the Ministers may specify in the notice or from time to time require.

(7) An application shall be in respect of one vessel only and shall include a bid stating the amount of grant for which the applicant offers to—

- (a) decommission the vessel,
- (b) surrender all licences and claims to licences in respect of the vessel in accordance with the requirements of paragraph 9(1)(a), and
- (c) remove the vessel from the register.

(8) No more than one application in pursuance of a notice published under sub paragraph (4) may be made in respect of any vessel.

(9) Where an application in respect of a vessel has been approved by the Ministers under paragraph 6, no further application may be made in respect of that vessel.

Commencement Information

I4 Para. 4 in force at 29.6.2001, see para. 1(1)

Consideration of applications **S**

5.—(1) As soon as reasonably practicable after the appropriate closing date the Ministers shall—

- (a) identify those applications made in pursuance of the notice published under paragraph 4(4) which satisfy the foregoing provisions of this Scheme,
- (b) reject any application contrary to Article 7 of Council Regulation 2792/1999;
- (c) reject any application they consider to be unreasonable, unnecessary or unwarranted;

- (d) reject any application to which sub-paragraph (5) applies; and
 - (e) subject to sub-paragraph (6), place all other applications in rank.
- (2) The Ministers may–
- (a) select an application for approval according to the rank in which it has been placed under sub-paragraph (1) provided that approval of that application, together with any application higher in rank, will not result in the total of the bids relating to those applications exceeding the relevant amount; and
 - (b) where selection of an application would have that result, place the application on a reserve list in the same rank.
- (3) In exercising their powers under sub-paragraphs (1)(e) or (2) the Ministers shall have regard to–
- (a) the benefit likely to be derived from, and value for money represented by, the bid;
 - (b) the extent to which approval of the application would contribute towards fulfilment of the obligations of the United Kingdom deriving from:
 - (i) Commission Decision [98/124/EC](#) of 16 December 1997 approving the multiannual guidance programme for the fishing fleet of the United Kingdom for the period from 1 January 1997 to 31 December 2001⁽⁹⁾;
 - (ii) Council Decision [97/413/EC](#) relating to the objectives and detailed rules for restructuring the Community fisheries sector over the period 1st January 1997 to 31st December 2001 with a view to achieving a lasting balance between the resources and their exploitation⁽¹⁰⁾; and
 - (c) such other matters as they have intimated in the notice inviting applications published pursuant to paragraph 4(4).
- (4) The Ministers shall select for approval the highest ranked application on the reserve list established in accordance with sub-paragraph (2)(b) where–
- (a) any amount remaining available after deduction from the relevant amount of the total of the bids for which approval has been granted; and
 - (b) any amount of grant unclaimed by the appropriate decommissioning date or thereafter withheld or recovered under this Scheme in relation to any approval,
- together, are sufficient for the approval of that application without exceeding the relevant amount.
- (5) This paragraph applies to any application which the Commission decide is incompatible with the common market having regard to [^{F2}Article 107 of the TFEU].
- (6) The Ministers may reject an application where they have reasonable grounds for suspecting that there has been any fixing or adjustment of the amount of a bid by, under or in accordance with any agreement (whether legally binding or not) or arrangement with another person.

Textual Amendments

- F2** Words in [para. 5\(5\)](#) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 3** (with art. 2(2))

Commencement Information

- I5** [Para. 5](#) in force at 29.6.2001, see [para. 1\(1\)](#)

⁽⁹⁾ O.J. No. L 39, 12.02.98, p.35.

⁽¹⁰⁾ O.J. No. L 175, 3.7.97, p.27.

Approval of applications **S**

6.—(1) The Ministers shall approve any application which they have selected for approval under paragraph 5(2)(a) or (4).

(2) Subject to the provisions of this Scheme, the Ministers may at any time—

- (a) determine conditions to which an approval given under this paragraph shall be subject; and
- (b) amend such conditions.

(3) The Ministers shall in writing—

- (a) notify applicants of the result of their applications; and
- (b) notify applicants whose applications they have approved under this paragraph of any conditions which they have determined or amended under sub paragraph (2).

(4) The Ministers shall publish in such manner as they consider appropriate a notice identifying the vessels to which applications selected for approval relate.

(5) The Ministers shall revoke any approval, which the Commission decide is incompatible with the common market having regard to [^{F3}Article 107 of the TFEU] and, where grant has already been paid in respect of such approval, recover the grant so paid.

(6) Subject to sub-paragraph (7), the Ministers may revoke an approval where they have reasonable grounds for suspecting that there has been any fixing or adjustment of the amount of a bid by, under or in accordance with any agreement (whether legally binding or not) or arrangement with another person.

(7) Paragraph 16(3) shall apply to revocation under sub-paragraph (6) as it applies to revocation under paragraph 16.

Textual Amendments

F3 Words in [para. 6\(5\)](#) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 3** (with art. 2(2))

Commencement Information

I6 [Para. 6](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Eligibility and claims for payment of grant **S**

7.—(1) Subject to sub-paragraph (2) and paragraph 16, applicants whose applications have been approved under paragraph 6 shall be eligible for payment of grant in accordance with paragraph 11.

(2) No grant shall be paid to an applicant in respect of any vessel unless—

- (a) a claim form in respect of that application, signed by the applicant, has been lodged with the Ministers on or before the appropriate decommissioning date; and
- (b) the Ministers are satisfied that the requirements set out in paragraphs 8 and 9 have been complied with.

(3) In this Scheme “the appropriate decommissioning date” means such date as the Ministers may from time to time determine.

(4) The Ministers shall publish a notice specifying the appropriate decommissioning date in such manner as they consider appropriate.

(5) A claim form submitted in pursuance of a notice published under sub-paragraph (4) shall be in writing, shall be made in such form and manner, shall include such information and declarations

and shall be delivered to such address as the Ministers may specify in the notice or from time to time require and (without prejudice to the generality of the foregoing) shall include declarations that—

- (a) the vessel has been decommissioned in accordance with the requirements of paragraph 8;
- (b) all licences and claims to licences have been surrendered in accordance with the requirements of paragraph 9(1)(a); and
- (c) the vessel has been removed from the register.

(6) An applicant shall furnish all such further information in support of the claim form as the Ministers may specify in the notice or from time to time require.

(7) The Ministers shall revoke an approval in respect of which no claim has been lodged on or before the appropriate decommissioning date.

Commencement Information

I7 Para. 7 in force at 29.6.2001, see para. 1(1)

Decommissioning of the vessel **S**

8.—(1) At least two weeks prior to the decommissioning of the vessel the applicant shall notify the Ministers in writing of the intended date and place of decommissioning (which shall be within a member State) and the proposed method of decommissioning.

(2) The vessel shall not be decommissioned until the method of decommissioning notified under sub-paragraph (1) has been approved by the Ministers.

(3) The vessel shall be decommissioned—

- (a) before the appropriate decommissioning date; and
- (b) in accordance with—
 - (i) the method of decommissioning which has been approved by the Ministers under sub-paragraph (2); or
 - (ii) in exceptional circumstances and with the consent of the Ministers (which may be given before or after the decommissioning), any other method of decommissioning which accords with sub-paragraph (4).

(4) In this Scheme “decommissioning”, in relation to a vessel, means the permanent withdrawal of that vessel from operation within the sea fish industry of the European Community by any means within the provisions of Article 7 of Council Regulation 2792/1999.

Commencement Information

I8 Para. 8 in force at 29.6.2001, see para. 1(1)

Surrender of licences and removal from the register **S**

9.—(1) The applicant shall before the appropriate decommissioning date—

- (a) surrender the licence referred to in paragraph 3(1)(b), and all current licences in respect of the vessel granted, whether under section 4 of the Sea Fish (Conservation) Act 1967 or otherwise, and any claims to any new licences arising from such licences, to the person who granted such licences and in the case of any licences granted by a person other than by the Ministers furnish to the Ministers evidence that all such licences have been so surrendered; and

(b) take all necessary steps to ensure that the vessel is removed from the register and furnish to the Ministers evidence that it has been so removed.

(2) In sub-paragraph (1)(a) “licences”, in relation to licences granted otherwise than under section 4 of the Sea Fish (Conservation) Act 1967, includes any written authorisation, consent or permit.

Commencement Information

I9 [Para. 9](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Substantial damage or destruction of vessel **S**

10.—(1) In the event of the substantial damage or destruction of the vessel to which an application which has been approved under paragraph 6 relates—

- (a) the applicant shall forthwith in writing notify and provide full details to the Ministers of the damage or destruction;
- (b) the applicant shall with the notice referred to in paragraph (a) furnish the Ministers with information concerning—
 - (i) any policy of insurance in respect of the vessel which was in force at the time of that event; and
 - (ii) any criminal or civil proceedings which to the knowledge of the applicant are contemplated or in progress in respect of the event;
- (c) the applicant shall provide the Ministers with such further information as they may require concerning the incident, the insurance arrangements relating to the vessel and any such criminal or civil proceedings;
- (d) the applicant shall if requested by the Ministers provide them with written authority authorising contact with the insurers of the vessel; and
- (e) the applicant shall notify the Ministers of any amount received under such policy of insurance, or by way of compensation or damages, as a result of the event.

(2) Sub-paragraph (1) shall apply regardless of whether or not the method of decommissioning the vessel had been approved under paragraph 8(2) before the event occurred.

Commencement Information

I10 [Para. 10](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Amount of grant **S**

11. The amount of grant which applicants who are eligible for payment of grant shall be paid shall be the amount of the bid made by such applicants in their applications.

Commencement Information

I11 [Para. 11](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Method of payment **S**

12.—(1) Payments by way of grant may be made by the Ministers at such time, or by such instalments at such intervals or times, as they may determine.

(2) The Ministers may decline to make payment of grant to any person other than—

- (a) the applicant;
- (b) a bank or building society nominated by the applicant; or
- (c) a person to whom the applicant has assigned the grant.

Commencement Information

I12 [Para. 12](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Undertakings **S**

13. Without prejudice to the generality of paragraph 6(2), any person whose application has been approved under paragraph 6 may be required by the Ministers to provide, or arrange for the provision of, such undertakings as the Ministers may consider appropriate to the case.

Commencement Information

I13 [Para. 13](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Assistance to authorised officers **S**

14. Any applicant or any employee, servant or agent of any applicant shall give to an authorised officer such assistance as the officer may reasonably request to exercise the power conferred on the officer by paragraph 15.

Commencement Information

I14 [Para. 14](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Powers of authorised officers **S**

15.—(1) An authorised officer at all reasonable hours and on producing, if required to do so, some duly authenticated document showing the authority of the officer, may exercise the powers specified in this paragraph for the purpose of ascertaining whether and to what extent—

- (a) a person is entitled under paragraph 3 to make the application;
- (b) the application should be selected under paragraph 5 for approval;
- (c) paragraphs 8 to 10 and 14, any relevant conditions and any undertakings given by the applicant have been complied with;
- (d) the decommissioning of the vessel is being, or has been, carried out;
- (e) any amount of grant is recoverable in accordance with paragraph 16;
- (f) an offence under section 17 of the Act has been or is being committed.

(2) Subject to sub-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 sub-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, 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 premises by virtue of this paragraph may be accompanied by such other person as the officer considers necessary and sub-paragraphs (2), (4), (6) and (7) and paragraph 14 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 applicant or an employee, servant or agent of the applicant to produce any relevant documents and to supply such additional information in possession of the person or under their control relating to an application 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 of proceedings under this Scheme or which the Ministers may be required to make available to the Commission pursuant to Article 38(6) of Council Regulation 1260/99 and, where any such document is kept by means of 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 civil or criminal proceedings for anything done in the purported exercise of the powers conferred on the officer by this Scheme if the court hearing such proceedings is satisfied that—

- (a) the act was done in good faith;
- (b) that there were reasonable grounds for doing it; and
- (c) that it was done with reasonable skill and care.

(8) In this Scheme—

“premises” includes any vessel or other vehicle; and

“relevant documents” means any documents relating to the vessel in respect of which of which an application has been made;

“relevant premises” means the vessel in respect of which of which an application has been made and any premises in which relevant documents are retained or in which an authorised officer has reasonable grounds to believe such documents may be retained.

Commencement Information

I15 [Para. 15](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Reduction, withholding and recovery of grant S

16.—(1) If at any time after the Ministers have approved an application in respect of any vessel it appears to them that—

- (a) any of the relevant conditions, or any undertakings provided in relation to that vessel under paragraph 13, have been breached or have not been complied with; or
- (b) without prejudice to the generality of paragraph (a), that any of the circumstances specified in sub-paragraph (2) exist or have occurred,

they may revoke the approval of such application or withhold the grant or any part of the grant in respect of the application and, where any payment by way of grant has been made, may recover on demand as a debt an amount equal to the whole or any part of the payment which has been so made.

(2) For the purposes of sub-paragraph (1)(b), the circumstances are—

- (a) the application or any part of it was not an application which the applicant was entitled under paragraph 3 to make;
- (b) the applicant or an employee, servant or agent of an applicant—
 - (i) has failed to comply with any requirement imposed under paragraph 8, 9, 10 or 14;
 - (ii) has intentionally obstructed any officer in the exercise of the powers of the officer under paragraph 15; 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; or
- (c) there has been damage or destruction of the vessel resulting in the payment to any person of any amount under a policy of insurance or by way of compensation or damages (regardless of whether or not the method of decommissioning the vessel had been approved under paragraph 8(2) before such damage or destruction occurred).

(3) Before revoking an approval or reducing or withholding any grant or making a demand by virtue of paragraph (1), the Ministers shall—

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

Commencement Information

I16 [Para. 16](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Interest **S**

17.—(1) Where the Ministers intend to recover on demand payment by way of grant in whole or in part in accordance with paragraph 6(5) or 16, they may, in addition, recover interest on that amount at a rate of 1% above LIBOR calculated on a daily basis for the period from the date of payment until the date of recovery.

(2) In any proceedings for recovery under this Scheme, a certificate issued by the 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.

Commencement Information

I17 [Para. 17](#) in force at 29.6.2001, see [para. 1\(1\)](#)

Changes to legislation: There are currently no known outstanding effects for the The Fishing
Vessels (Decommissioning) (Scotland) Scheme 2001. (See end of Document for details)

St Andrew's House,
Edinburgh

RHONA BRANKIN
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme provides for the making of grants by the Scottish Ministers, in respect of the decommissioning of fishing vessels.

Applications for grant will be considered in respect of vessels meeting the requirements set out in paragraph 3 of the Scheme. These include a requirement that to be eligible a vessel must be over 10 metres in length and licensed with a Category A licence, other than a Category A (Pelagic Pursuer), a Category A (Pelagic Freezer) or a Category A (Pelagic Trawler) licence. The vessel must be a “Scottish based vessel” as defined in paragraph 3(5).

Paragraphs 4 to 6 of the Scheme lay down a procedure for the making, consideration and approval of applications. Applications must be in respect of one vessel only and include a bid by the applicant for the amount of grant for which the applicant offers to decommission and de-register the vessel and surrender all licences and claims to licences in respect of the vessel. Bids will be selected for approval in accordance with paragraph 5.

The Scottish Ministers are empowered from time to time to determine a date (“the appropriate decommissioning date”) by which a claim for grant in respect of an approved application must be lodged. In order for grant to be payable the Scottish Ministers must be satisfied that decommissioning (by a method having the prior approval of the Scottish Ministers) has taken place, that the vessel has been deregistered and licences and claims to licences have been surrendered (paragraphs 7, 8 and 9). In the event of substantial damage or destruction of the vessel the applicant is required to provide the Scottish Ministers with certain information (paragraph 10).

The amount of grant in respect of an approved application is the amount of the bid (paragraph 11) and provision is made concerning the method of payment of grant (paragraph 12). The Scottish Ministers may require a person whose application is approved to provide, or arrange for the provision of, undertakings (paragraph 13).

Applicants are required, on request, to give assistance to authorised officers of the Scottish Ministers, who are given powers of entry and inspection for specified purposes (paragraphs 14 to 15), and provision is made for the reduction, withholding and recovery of grant in certain circumstances and for the payment of interest on grant recovered (paragraphs 16 and 17).

Section 17 of the Fisheries Act 1981 creates offences in respect of the production of false statements or documents in purported compliance with any requirement imposed by the Scheme and wilful refusal to supply information, make returns or produce documents when required to do so by or under the Scheme.

This Scheme is made by virtue of Article 7 of Council Regulation (EC) No. 2792/99 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. L 337, 30.12.99, p.10), as corrected by Corrigenda, O.J. No. L 83, 04.04.00, p.35 and O.J. No. L 2, 05.01.01, p.41 and as read with–

- (a) Commission Decision [98/124/EC](#) on the multiannual guidance programme for the fishing fleet of the United Kingdom for the period 1st January 1997 to 31st December 2001 (O.J. No. L39, 12.02.98, p.35); and
- (b) Council Decision [97/413/EC](#) relating to the objectives and detailed rules for restructuring the Community fisheries sector over the period 1st January 1997 to 31st December 2001 with a view to achieving a lasting balance between the resources and their exploitation (O.J. No. L 175, 3.7.97, p.27).

Changes to legislation: There are currently no known outstanding effects for the *The Fishing Vessels (Decommissioning) (Scotland) Scheme 2001*. (See end of Document for details)

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