

1999 No. 1110

SEA FISHERIES

SEA FISH INDUSTRY

FISH FARMING

**The Fish Producers' Organisations (Formation Grants)
Regulations 1999**

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| <i>Made - - - -</i> | <i>12th April 1999</i> |
| <i>Laid before Parliament</i> | <i>13th April 1999</i> |
| <i>Coming into force</i> | <i>4th May 1999</i> |

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the common agricultural policy of the European Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Fish Producers' Organisations (Formation Grants) Regulations 1999 and shall come into force on 4th May 1999.

Interpretation

2. In these Regulations—

“administrative expenses” means—

- (a) the expenses specified in Article 1(1)(a) of Commission Regulation 1452/83/EEC (which relate to the formation of an organisation); and
- (b) any administrative expenses specified in the other provisions of that Article which are incurred by a recognised organisation during the specified period;

“the appropriate Minister” means, in relation to an organisation's economic area or such part of its area as lies within the United Kingdom, where the area or that part is located wholly or mainly—

- (a) in England, the Minister of Agriculture, Fisheries and Food;
- (b) in Wales, the Secretary of State for Wales;
- (c) in Scotland, the Secretary of State for Scotland; and
- (d) in Northern Ireland, the Department of Agriculture for Northern Ireland;

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

(a) S.I. 1972/1811.
(b) 1972 c. 68.

“Commission Regulation 1452/83/EEC” means Commission Regulation 1452/83/EEC defining the administrative expenses of producers’ organisations in the fishery products sector**(a)**;

“Council Regulation 105/76/EEC” means Council Regulation 105/76/EEC on the recognition of producers’ organisations in the fishing industry**(b)** (as amended by Commission Regulation 3940/87/EEC**(c)**), and the reference below in the definition of “recognised” to Article 2 of Council Regulation 105/76/EEC includes the requirements of that Article as amplified by Commission Regulation 2939/94/EC**(d)** and Commission Regulation 1762/96/EC**(e)**;

“Council Regulation 3759/92/EEC” means Council Regulation 3759/92/EEC on the common organisation of the market in fishery and aquaculture products**(f)** (as amended by Council Regulation 3318/94/EC**(g)**);

“the Court of Auditors” means the Court of Auditors established by Article 15 of the Treaty amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council of the European Communities**(h)**;

“economic area”, in relation to an organisation, means (as the case may require) the area referred to in Article 2(1) of, or the production area referred to in Article 2(3) of, Commission Regulation 2939/94/EC (as amended by Commission Regulation 1762/96/EC);

“grant” means a formation grant under these Regulations;

“organisation” means a fish or aquaculture producers’ organisation, or an association of such organisations, which has its registered office in the United Kingdom;

“recognised” means recognised by the appropriate Minister, for the purposes of Council Regulation 3759/92/EEC, in accordance with Article 2 of Council Regulation 105/76/EEC, and “recognition” shall be construed accordingly;

“the specified period” means the period of three years immediately following the date on which an organisation was recognised.

Payment of grant

3. The appropriate Minister may make grants to recognised organisations in respect of any administrative expenses incurred to the extent permitted under the rules contained in—

- (a) Council Regulation 3140/82/EEC on granting and financing aid granted by Member States to producers’ organisations in the fishery products sector**(i)**;
- (b) Commission Regulation 1452/83/EEC (defining the administrative expenses of producers’ organisations in the fishery products sector);
- (c) Council Regulation 3759/92/EEC (on the common organisation of the market in fishery and aquaculture products);
- (d) Council Regulation 2468/98/EC laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products**(j)**.

Application for grant

4. An application for grant shall be made in writing to the appropriate Minister in such form and with such information and such documents relating to that application as the appropriate Minister may require.

(a) OJ No. L149, 7.6.83, p. 5.

(b) OJ No. L20, 28.1.76, p. 39.

(c) OJ No. L373, 31.12.87, p. 6.

(d) OJ No. L310, 3.12.94, p. 12.

(e) OJ No. L231, 12.9.96, p. 6.

(f) OJ No. L388, 31.12.92, p. 1.

(g) OJ No. L350, 31.12.94, p. 15.

(h) OJ No. L359, 31.12.77, p. 1.

(i) OJ No. L331, 26.11.82, p. 7.

(j) OJ No. L312, 20.11.98, p. 19.

Conditions of grant

5.—(1) An organisation whose application for grant has been accepted shall preserve and make available for inspection by persons appointed for that purpose by the appropriate Minister, the Comptroller and Auditor General, the Commission or the Court of Auditors during business hours all books, papers and other records relating to the application for grant, until the expiry of the period of five years immediately following the date on which the final sum by way of grant is paid to the organisation.

(2) Payment of grant to an organisation may be made subject to such other condition or conditions as (subject to the rules mentioned in regulation 3) the appropriate Minister may think fit.

Recovery of grant

6.—(1) If during the specified period an organisation to which any sum by way of grant has been paid ceases to be recognised or is dissolved the appropriate Minister may on demand recover an amount equal to that sum or such part thereof as he may specify.

(2) If, at any time after a sum by way of grant has been paid to an organisation, it appears to the appropriate Minister—

- (a) that a requirement of regulation 5(1), or that any other condition subject to which that sum was paid, has not been complied with; or
- (b) that the organisation, or any person acting on its behalf, when applying for payment of that sum gave information on any matter relevant to the consideration of that application which was false or misleading in a material respect,

he may on demand recover an amount equal to that sum or such part thereof as he may specify.

Offences and penalties

7.—(1) If an organisation or any other person, for the purposes of obtaining a grant for the organisation, in furnishing any information in purported compliance with a requirement imposed under regulation 4 intentionally or recklessly makes a statement or produces a document which is false or misleading in a material respect, it or he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If an organisation fails to comply with any requirement imposed by regulation 5(1), or intentionally obstructs a person appointed as mentioned in that regulation (or a person accompanying him and acting on his instructions) acting for the purpose of that regulation, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for an offence under paragraph (1) or (2) above may, subject to paragraph (4) below, be commenced within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(4) No such proceedings shall be commenced by virtue of this regulation more than five years after the commission of the offence.

(5) For the purposes of this regulation—

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

(6) In relation to proceedings in Scotland, subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995^(a) (date of commencement and proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

(7) Where an offence under this regulation 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, a director, manager, secretary or other similar officer of the body corporate,

(a) 1995 c. 46.

or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(8) Where the affairs of a body corporate are managed by its members, paragraph (7) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Prosecutions

8. Proceedings for an offence under regulation 7 shall not, in England and Wales or Northern Ireland, be instituted except by the appropriate Minister.

Revocations and transitional saving

9.—(1) The Fish Producers' Organisations (Formation Grants) Scheme 1982(a) ("the 1982 Scheme") and the Fish Producers' Organisations (Formation Grants) (Amendment) Scheme 1985(b) are hereby revoked, subject to paragraph (2) below.

(2) The revocations in paragraph (1) shall not affect the continued operation of paragraphs 5 and 6 of the 1982 Scheme in the case of any sum paid by way of grant under either of the Schemes.

12th April 1999

Elliot Morley
Parliamentary Secretary
Ministry of Agriculture, Fisheries and Food

9th April 1999

Sewel
Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1982/498.

(b) S.I. 1985/987.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in the United Kingdom to the relevant provisions of Council Regulation 3759/92/EEC on the common organisation of the market in fishery and aquaculture products (OJ No. L388, 31.12.92, p. 1), Council Regulation 3140/82/EEC on granting and financing aid granted by Member States to producers' organisations in the fishery products sector (OJ No. L331, 26.11.82, p. 7), Commission Regulation 1452/83/EEC defining the administrative expenses of producers' organisations in the fishery products sector (OJ No. L149, 7.6.83, p. 5) and Council Regulation 2468/98/EC laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products (OJ No. L312, 20.11.98, p. 19), which together govern the payment of formation grants to fish producers' organisations. The Regulations enable the appropriate fisheries Minister to pay to a recognised fish or, for the first time, aquaculture producers' organisation an annual grant in respect of the administrative expenses incurred on its formation and during its operation for a period of three years following the date on which that organisation was recognised (regulation 3).

The Regulations contain provisions relating to the method of application for grant (regulation 4). In addition, they require an organisation to which grant is paid to preserve and make available for inspection by the proper authorities its records relating to an application for grant under the Regulations, and enable other conditions to be imposed (regulation 5).

The Regulations specify circumstances in which demand may be made for the recovery of grant (regulation 6) and in which offences are committed (regulations 7 and 8).

The Regulations revoke, subject to a transitional saving, the provisions of the Fish Producers' Organisations (Formation Grants) Scheme 1982 (S.I. 1982/498) and the Fish Producers' Organisations (Formation Grants) (Amendment) Scheme 1985 (S.I. 1985/987), which are consolidated and extended by the Regulations (regulation 9).

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£2.00

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WO 4657 4/99 ON (MFK)