

Scheme made by the Secretary of State for Environment, Food and Rural Affairs, laid before Parliament under section 15(3) of the Fisheries Act 1981, for approval by resolution of each House of Parliament within forty days beginning with the day on which the Scheme was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2003 No. 2669

SEA FISHERIES, ENGLAND

SEA FISH INDUSTRY

The Fishing Vessels (Decommissioning) Scheme 2003

Made - - - - 14th October 2003

Laid before Parliament 16th October 2003

Coming into force - - 17th October 2003

The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(1) and now vested in her(2), hereby makes the following Scheme:

Title, commencement and extent

1.—(1) This Scheme may be cited as the Fishing Vessels (Decommissioning) Scheme 2003 and shall come into force on the day after the day on which it is laid before Parliament.

(2) This Scheme shall apply in relation to England only.

Interpretation

2.—(1) In this Scheme—

“the Secretary of State” means the Secretary of State for Environment, Food and Rural Affairs;

“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);

(1) 1981 c. 29. See section 18(1) of the Fisheries Act 1981 for a definition of “the Ministers” relevant for the purposes of this Scheme. Sections 15(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).

(2) S.I. 2002/794, Article 2(1).

- “approval” means approval granted under paragraph 6 of this Scheme;
- “authorised officer” means any officer authorised in writing by the Secretary of State 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 21st June 1999 laying down general provisions on the structural funds⁽³⁾;
- “Council Regulation 2792/99” means Council Regulation (EC) No 2792/1999 of 17th December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector⁽⁴⁾;
- “Council Regulation 2370/02” means Council Regulation (EC) No. 2370/2002 of 20th December 2002 establishing an emergency Community measure for scrapping fishing vessels⁽⁵⁾;
- “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;
- “EC Treaty” means the Treaty establishing the European Community;
- “fishing trips” means time spent by a vessel—
- (a) steaming between port and fishing ground and between one fishing ground and another; or
 - (b) engaged in fishing for profit,
- 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 a decommissioning grant under this Scheme;
- “the register” means the register of vessels established under section 8 of the Merchant Shipping Act 1995⁽⁶⁾ and “registered” shall be construed accordingly;
- “the relevant amount” means such amount as the Secretary of State may from time to time determine; and
- “relevant conditions” means any conditions relating to the approval of an application which have been notified to the applicant under paragraph 6(4)(b).

(2) Any reference in this Scheme to a European Community instrument which has been amended as at the date this Scheme is made is a reference to the instrument as so amended.

(3) Where any action has been taken in anticipation of the coming into force of paragraphs 3 to 5, the action shall be treated for the purposes of this Scheme as if it had taken place after their coming into force, save in so far as that treatment alone would cause an application to be ineligible for consideration for approval through being lodged after the appropriate closing date.

Decommissioning grants

3.—(1) Subject to sub-paragraph (2), any person who owns a registered vessel—

(3) OJ No. L161, 26.6.1999, p. 1, amended by Council Regulation (EC) No.2001/1447 (O No. L198, 21.7.2001, p. 1).
(4) OJ No. L 337, 30.12.1999, p. 10, the last amending instrument is Council Regulation (EC) No.2369/2002 (OJ No. L358, 31.12.2002, p.49).
(5) OJ No. L 358, 31.12.02, p. 57.
(6) 1995 c. 21.

- (a) which is at least 10 metres in length;
- (b) in respect of which there is a relevant licence;
- (c) which whilst registered has, during the relevant period, spent at least the appropriate number of days at sea on fishing trips;
- (d) 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(7) or a letter confirming the completion of a satisfactory survey issued by the Secretary of State for Transport; and
- (e) which is an English based vessel,

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

(2) The Secretary of State shall publish a notice specifying the relevant period and the appropriate number of days in such manner as she considers appropriate.

(3) For the purposes of this paragraph—

“the appropriate number of days” means such number of days as the Secretary of State 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(8) 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(9);

“English based vessel” means a vessel the port of administration of which is, throughout the period from 1st January 2003 until the date of the approval relating to the vessel, both dates inclusive, a port in England;

“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;

“relevant licence” means a licence granted under section 4 of the Sea Fish Conservation Act 1967 and categorised by the Secretary of State as a Category A licence, other than a Category A (Pelagic Purser), Category A (Pelagic Freezer) and Category A (Pelagic Trawler) licence; and

“the relevant period” means such period as the Secretary of State may from time to time determine.

Applications

4.—(1) The Secretary of State may from time to time invite applications and where she does so the following provisions of this paragraph shall apply.

(2) An application must be lodged with the Secretary of State on or before the appropriate closing date in order to be considered for approval except where the Secretary of State is satisfied that—

- (a) the particular circumstances of the applicant render it unreasonable to expect his application to be lodged by then, and

(7) 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).

(8) 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 by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 Schedule 2, paragraph 43.

(9) See Council Regulation (EC) No. 2341/02 (O.J. No. L 356, 31/12/02, p. 12) which for 2003 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.

- (b) the date by which his application is lodged is as early as in those circumstances can reasonably be expected.
- (3) In this Scheme “the appropriate closing date” means such date as the Secretary of State may from time to time determine.
- (4) The Secretary of State shall publish in such manner as she considers 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 addresses as the Secretary of State 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 Secretary of State 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 Secretary of State under paragraph 6, no further application may be made in respect of that vessel without the authority of the Secretary of State.

Consideration of applications

- 5.—**(1) As soon as reasonably practicable after the appropriate closing date the Secretary of State 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) subject to sub-paragraph (2), reject any application contrary to Article 7 of Council Regulation 2792/99, as read with Council Regulation 2370/02;
 - (c) reject any application she considers to be unreasonable, unnecessary or unwarranted; and
 - (d) subject to sub-paragraph (6), place all other applications in rank.
- (2) Notwithstanding sub-paragraph (1)(b), the Secretary of State may consider and, if appropriate, approve any application—
- (a) made in respect of a vessel which is less than 10 years old at the date of application, or
 - (b) made at an amount higher than the highest available for the vessel under Article 7 of Council Regulation 2792/99, as read with Council Regulation 2370/02, if the Secretary of State is satisfied that it is reasonable to treat the application as if it had been made at the highest amount in question.
- (3) The Secretary of State 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.
- (4) In exercising her functions under sub-paragraphs (1)(d) and (3) the Secretary of State 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 Annex XVII of Council Regulation (EC) 2341/2002⁽¹⁰⁾; and
 - (c) such other matters as she has intimated in the notice inviting applications published pursuant to paragraph 4(4).
- (5) The Secretary of State shall select for approval the highest ranked application on the reserve list established in accordance with sub-paragraph (3)(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.
- (6) The Secretary of State may reject an application where—
 - (a) she has 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; or
 - (b) she is of the opinion that the vessel in respect of which the application is made is not fit for undertaking fishing trips.

Approval of applications

- 6.—**(1) The Secretary of State shall approve any application which she has selected for approval under paragraph 5(3)(a) or (5).
- (2) Subject to the provisions of this Scheme, the Secretary of State may at any time—
 - (a) determine conditions to which an approval given under this paragraph shall be subject; and
 - (b) amend such conditions.
 - (3) Without prejudice to the generality of sub-paragraph (2), conditions may be determined which require the applicant to provide such undertakings as the Secretary of State may consider appropriate to the application or which require the applicant to procure such undertakings by third parties as the Secretary of State may consider appropriate to the application and as are capable of legal enforcement by the Secretary of State directly against the person who gave them.
 - (4) The Secretary of State shall in writing—
 - (a) notify applicants of the result of their applications; and
 - (b) notify applicants whose applications she has approved under this paragraph of any conditions which she has determined or amended under sub-paragraph (2).
 - (5) The Secretary of State shall publish in such manner as she considers appropriate a notice identifying the vessels to which applications selected for approval relate.

⁽¹⁰⁾ O.J. No. L 356, 31.12.02, p. 12.

(6) Subject to sub-paragraph (7), the Secretary of State may revoke an approval where she has 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 15(4) shall apply to revocation under sub-paragraph (6) as it applies to revocation under paragraph 15.

Eligibility and claims for payment of grant

7.—(1) Subject to sub-paragraph (2) and paragraph 15, 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 Secretary of State on or before the appropriate decommissioning date; and
- (b) the Secretary of State is 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 Secretary of State may from time to time determine.

(4) The Secretary of State shall publish a notice specifying the appropriate decommissioning date in such manner as she considers 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 addresses as the Secretary of State 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 Secretary of State may specify in the notice or from time to time require.

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

Decommissioning of the vessel

8.—(1) At least two weeks prior to the decommissioning of the vessel, the applicant shall notify the Secretary of State 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 Secretary of State.

(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 Secretary of State under sub-paragraph (2); or

(ii) in exceptional circumstances and with the consent of the Secretary of State (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 as a result—

- (a) of permanently breaking up the vessel or otherwise permanently disabling it (but not in either case, by scuttling) so that it is incapable of use for any seagoing purposes; or
- (b) of permanently transferring the vessel into the ownership of a museum to which sub-paragraph (5) below applies; or
- (c) where the Secretary of State is satisfied that the vessel is of historic or technical interest, of permanently reassigning it for preservation to historical heritage.

(5) This sub-paragraph applies to a museum which—

- (a) is registered with Resource, that is to say the Council of Museums Archives and Libraries established in April 1999 as the successor to the Libraries Commission and the Museums and Galleries Commission; or
- (b) has as its purpose or one of its purposes the preservation for the public benefit of a collection of historic, artistic or scientific interest and is wholly maintained out of moneys provided by Parliament.

Surrender of licences and removal from the register

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 Secretary of State furnish to the Secretary of State 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 Secretary of State 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.

Substantial damage or destruction of vessel

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 notify in writing and provide full details to the Secretary of State of the damage or destruction;
- (b) the applicant shall with the notice referred to in paragraph (a) furnish the Secretary of State 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 Secretary of State with such further information as she 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 Secretary of State, provide her with written authority authorising contact with the insurers of the vessel; and
 - (e) the applicant shall notify the Secretary of State 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.

Amount of grant

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 save that where a vessel to which a bid relates falls within Article 7 of Council Regulation 2792/99, as read with Council Regulation 2370/02, the amount of the grant may not exceed any maximum for the vessel provided for in those measures.

Method of payment

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

- (2) The Secretary of State 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.

Assistance to authorised officers

13. Any applicant or any employee 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 14.

Powers of authorised officers

14.—(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 any relevant conditions 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 15(2);
- (f) an offence under section 17 of the Fisheries Act 1981 has been or is being committed.

(2) Subject to sub-paragraph (3), an authorised officer may enter upon any 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 sub-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 13 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 person who is an applicant or is an employee 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 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 paragraph—

“premises” includes any vessel or other vehicle; and

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

“relevant premises” means the vessel in respect 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.

Reduction, withholding and recovery of grant

15.—(1) If at any time after the Secretary of State has approved an application in respect of any vessel it appears to her—

- (a) that any of the relevant conditions 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 (3) exist or have occurred,

she may revoke the approval of such application or withhold the grant or any part of the grant in respect of the application.

(2) Where approval is revoked under sub-paragraph (1) or under paragraph 6(6) after any payment by way of grant has been made, the Secretary of State may recover on demand an amount equal to the whole or any part of the payment.

(3) 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 application was one which the Secretary of State was obliged to reject under paragraph 5;
- (c) the applicant or an employee or agent of an applicant—
 - (i) has failed to comply with any requirement imposed by or under paragraph 8, 9, 10 or 13;
 - (ii) has intentionally obstructed any officer in the exercise of the powers of the officer under paragraph 14; 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
- (d) 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).

(4) Before revoking an approval under this paragraph or reducing or withholding any grant under sub-paragraph (1) or making a demand under sub-paragraph (2), the Secretary of State 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 Secretary of State considers reasonable; and
- (c) consider any such representations.

Interest

16.—(1) Where the Secretary of State decides to recover on demand payment of an amount in accordance with paragraph 15(2), she may also recover interest on that amount on a daily basis at a rate of 1% above LIBOR for the period beginning with the day following that on which the amount was paid and ending on the day on which the Secretary of State recovers it.

(2) In this paragraph “LIBOR”, in relation to any day, means the sterling three month London interbank offered rate in force for that day rounded if necessary to two decimal places.

(3) In any proceedings for recovery under this Scheme, a certificate issued by the Secretary of State stating the LIBOR applicable for any day is conclusive evidence of the LIBOR in question if the certificate also states that the Bank of England notified her of the LIBOR in question.

Ben Bradshaw
Parliamentary Under Secretary of State,
Department for Environment, Food and Rural
Affairs

2nd October 2003

We approve,

14th October 2003

Nick Ainger
Jim Murphy
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme provides for the making of grants by the Secretary of State for Environment, Food and Rural Affairs (“the Secretary of State”), in respect of the decommissioning of fishing vessels. The Scheme applies in relation to England only.

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 at least 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 an “English based vessel” as defined in paragraph 3(3).

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 deregister the vessel and surrender all licenses and claims to licences in respect of the vessel. Bids will be selected for approval in accordance with paragraph 5. The Secretary of State can determine conditions to which an approval is subject (paragraph 6(2) and (3)).

The Secretary of State is 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 Secretary of State must be satisfied that decommissioning (by a method having her prior approval) 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 Secretary of State with certain information (paragraph 10).

The amount of grant in respect of an approved application is the amount of the bid except that where a vessel to which a bid relates falls within Article 7 of Council Regulation (EC) No. 2792/99 (as read with Council Regulation (EC) No. 2370/02) the amount of grant may not exceed any maximum for the vessel provided for in those measures (paragraph 11). Provision is made concerning the method of payment of grant (paragraph 12). Applicants are required, on request, to give assistance to authorised officers of the Secretary of State, who are given powers of entry and inspection for specified purposes (paragraph 13 to 14), and provision is made for the reduction, withholding and recovery of grant in certain circumstances and for the payment of interest on grant recovered (paragraph 15 and 16).

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 detailed rules and arrangements regarding Community structural assistance in the fisheries sector.