

2015 No. 1711

SEA FISHERIES

SEA FISH INDUSTRY

**The Grants for Fishing and Aquaculture Industries Regulations
2015**

<i>Made</i> - - - -	<i>21st September 2015</i>
<i>Laid before Parliament</i>	<i>25th September 2015</i>
<i>Coming into force</i> - -	<i>31st October 2015</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) (“the 1972 Act”) in relation to the common agricultural policy of the European Union(c).

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2(d) to, the 1972 Act.

The Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act, and it appears to the Secretary of State that it is expedient for the references to the following Regulations to be construed as references to those Regulations as amended from time to time—

- (a) Regulation (EU) No.508/2014 of the European Parliament and of the Council of 15th May 2014 on the European Maritime Fisheries Fund(e);
- (b) Regulation (EU) No.1303/2013 of the European Parliament and of the Council of 17th December 2013, laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Regional Development and the European Maritime Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime Fisheries Fund(f).

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- (a) S.I. 1972/1711. The function of the former Minister of Agriculture, Fisheries and Food of making regulations under section 2(2) was transferred to the Secretary of State by article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).
 - (b) 1972 c.68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7). The power of the Secretary of State to make regulations that extend to Scotland and Northern Ireland and apply in Wales remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (c. 46), article 3(2) of the European Communities (Designation) (No. 3) Order 2000 (S.I. 2000/2812) and article 6(1) of the European Communities (Designation) (No. 5) Order 2010 (S.I. 2010/2690), respectively.
 - (c) The designation in relation to the common agricultural policy extends to the common fisheries policy under Article 38(1) of the Treaty on the Functioning of the European Union (OJ No. C 326, 26.10.2012, p.62).
 - (d) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.
 - (e) OJ No. L149, 20.5.2014, p.1.
 - (f) OJ No. L347, 20.12.2013, p.320.

PART 1

General

Title, commencement and application

1.—(1) These Regulations may be cited as the Grants for Fishing and Aquaculture Industries Regulations 2015 and come into force on 31st October 2015.

(2) Regulations 4 to 15 apply in relation to England only.

Interpretation

2. In these Regulations—

- (a) any reference to the following Regulations is a reference to that Regulation as amended from time to time—
 - (i) Regulation (EU) No.508/2014 of the European Parliament and of the Council of 15th May 2014 on the European Maritime and Fisheries Fund (“the EMFF Regulation”); and
 - (ii) Regulation (EU) No.1303/2013 of the European Parliament and of the Council of 17th December 2013, laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Regional Development and the European Maritime Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime Fisheries Fund (“the Funds Framework Regulation”); and
- (b) “notify” means notify in writing, and any reference to a “notice” or “notification” is to a notice or notification given in writing.

PART 2

Designation of Authorities

Designation of authorities

3.—(1) For the purposes of Article 123 of the Funds Framework Regulation and in respect of the EMFF Operational Programme—

- (a) the managing authority for the United Kingdom is the Secretary of State;
- (b) the certifying authority is the Secretary of State, the Scottish Ministers, the Welsh Ministers and (for Northern Ireland) the Department of Agriculture and Rural Development, acting jointly;
- (c) the intermediate bodies are—
 - (i) for Scotland, the Scottish Ministers;
 - (ii) for Wales, the Welsh Ministers; and
 - (iii) for Northern Ireland, the Department of Agriculture and Rural Development; and
- (d) the audit body for the United Kingdom is the Secretary of State.

(2) The bodies designated by paragraph (1) in the respective capacities specified in that paragraph have the functions of acting in those respective capacities.

(3) In this regulation “the EMFF Operational Programme” means the United Kingdom’s operational programme drawn up for the purposes of Article 17 of the EMFF Regulation.

PART 3

Payment of Grants by the Marine Management Organisation

Payments by the Marine Management Organisation

4.—(1) The Marine Management Organisation may pay grants for any of the purposes specified in Title V of the EMFF Regulation.

(2) The Marine Management Organisation may determine in each financial year the rates of grant payable (if any) in respect of any activity.

Advertisement of grants

5. The Marine Management Organisation must advertise the grants available, and provide guidance notes for completing applications.

Application for a grant

6.—(1) An application for a grant must be made in a form approved by the Marine Management Organisation, and submitted to the Marine Management Organisation at the address specified.

(2) An application must supply all the information specified.

(3) The application must be made within any specified time limit.

(4) Any person who, in applying for a grant, gives information knowing it to be false or not believing it to be true is guilty of an offence.

(5) In this regulation, “specified” means specified in the form or on any documentation provided with or in connection with the form.

Approval of application

7. The Marine Management Organisation may approve an application subject to such conditions as it may determine, or may reject it.

Notification of decision

8.—(1) Where the Marine Management Organisation approves an application unconditionally it must notify the applicant of the decision it has made.

(2) Where the Marine Management Organisation is minded to refuse or reject an application, or to approve it subject to conditions, the Marine Management Organisation must notify the applicant of the decision it is minded to make and give the applicant a means of making representations within a time frame specified in the notification.

(3) The Marine Management Organisation must—

(a) decide whether to refuse or reject the application, or to approve it subject to conditions, after considering any representations made in response to a notification under paragraph (2); and

(b) notify the applicant of the decision made under sub-paragraph (a).

Evidence of expenditure or action

9.—(1) The Marine Management Organisation must not make a payment to a person unless it is satisfied that the person has properly incurred expenditure of a kind in respect of which the grant is payable, and has complied with any conditions of the approval of the grant.

(2) For the purposes of paragraph (1), the Marine Management Organisation may require the person to provide information evidencing expenditure or any necessary actions relating to the grant.

Method of payment

10. Payment of a grant may be made in a single instalment or a number of instalments.

Records

11.—(1) It is a condition of the payment of any grant that the person to whom the payment is made makes a record of all payments of grant made and all expenditure in respect of which such payments are made, and keeps any such record for at least six years after the date on which the last payment was made.

(2) Failure to comply with paragraph (1) is an offence.

Variation, suspension and revocation of approval

12.—(1) The Marine Management Organisation may, at any time before the grant has been paid in full, suspend or revoke the approval, or vary a condition of the approval.

(2) Where the Marine Management Organisation is minded to vary, suspend or revoke an approval, the Marine Management Organisation must, before deciding to do so, notify the person whose application has been approved, and give that person a means of making representations within a time frame specified in the notification.

(3) The Marine Management Organisation must—

- (a) decide whether to vary, suspend or revoke the approval after considering any representations made in response to a notification under paragraph (2); and
- (b) notify the person of the decision made under sub-paragraph (a).

Notice of recovery of payment

13.—(1) The Marine Management Organisation may by notice given to any person to whom a grant has been paid under these Regulations require the repayment of any part of the grant paid, if it is satisfied that—

- (a) the approved application in respect of which the payment of grant was made, or any supporting information provided by the applicant in relation to it, contained information that was inaccurate or misleading;
- (b) any sum paid by way of grant was used for any purpose other than the purpose for which it was paid; or
- (c) any condition subject to which the application was approved has not been or will not be complied with.

(2) A notice given under paragraph (1) must require the person to repay the sum specified in the notice within a period so specified, being no less than 28 days from the date on which the notice is issued.

(3) On the expiry of the period of 28 days referred to in paragraph (2), the Marine Management Organisation may, without prejudice to any other right or remedy available to it, charge interest on the amount of any outstanding sum required to be repaid by a notice under paragraph (1), at the rate of 1% a year above the base lending rate of the Bank of England, accruing daily from the expiry of the period of 28 days.

(4) Where any part of the sum specified in a notice under paragraph (1) is not repaid within the period specified in the notice, the Marine Management Organisation may recover such amount as remains outstanding summarily as a civil debt.

Enforcement and penalties

14.—(1) Section 238 (enforcement of the fisheries legislation) of the Marine and Coastal Access Act 2009(a) (“the 2009 Act”) and, for that purpose, section 235 of that Act (which defines “marine enforcement officer”) apply in relation to the enforcement of these Regulations as they apply in relation to the enforcement of the fisheries legislation (within the meaning given by section 238(2) of the 2009 Act).

(2) Section 292 of the 2009 Act (offences in relation to enforcement officers), other than subsection (6), applies in relation to a marine enforcement officer (as defined by section 235 of the 2009 Act) for the purposes of the enforcement of these Regulations as it applies in relation to an enforcement officer for the purposes of Part 8 of the 2009 Act.

(3) A person guilty of an offence under regulation 6(4) or 11(2) is liable—

- (a) on summary conviction to a fine, and
- (b) on indictment, to a fine.

(4) Where a body corporate is guilty of an offence under regulation 6(4) or 11(2), and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager or secretary of that body, or any person who was purporting to act in any such capacity, that person is guilty of the offence as well as the body corporate.

(5) For the purposes of this regulation, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

PART 4

Revocation, transitional and review provisions

Revocation and transitional provision

15.—(1) Subject to paragraph (2), the Grants for Fishing and Aquaculture Industries Regulations 2007(b) (“the 2007 Regulations”) are revoked.

(2) Paragraph (1) does not affect the continuing application of the 2007 Regulations in respect of applications received by the Marine Management Organisation before 1st January 2015.

Review of these Regulations

16.—(1) The Secretary of State must, from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, as far as is reasonable, have regard to how the EMFF Regulation is enforced in other member States.

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives have been achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system which imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years which begins on the day on which these Regulations come into force.

(a) 2009 c.23.

(b) S.I. 2007/3284; amended by S.I. 2009/1309.

(5) Each subsequent report must be published before the end of the period of five years which begins on the day on which the previous report was published.

George Eustice
Minister of State

21st September 2015

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement Regulation (EU) No. 508/2014 of the European Parliament and of the Council on the European Maritime Fisheries Fund (OJ No. L 149, 20.5.2014, p.1) (“the EMFF Regulation”), and lay down rules for the implementation of Council Regulation (EU) No. 1303/2013, laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Regional Development and the European Maritime Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime Fisheries Fund (OJ No. L 347, 20.12.2013, p.320) (“the Funds Framework Regulation”).

Part 1 of these Regulations contains general introductory provisions.

Part 2 designates various bodies for the purposes of the Funds Framework Regulation.

Part 3 of these Regulations makes provision in relation to England for payments of grants by the Marine Management Organisation for the purposes of Title V of the EMFF Regulation.

Regulations 4 to 8 lay down a procedure for applications for a grant. Regulation 6 makes it an offence to supply false information when making an application.

Regulation 9 makes payment of a grant dependent on provision of satisfactory evidence of the expenditure incurred and the proper execution of any actions relevant to payment of the grant.

Regulation 10 makes provision for the method of payment of the grant.

Regulation 11 makes payment conditional on the applicant retaining the relevant records and makes failure to comply with this obligation an offence.

Regulation 12 provides for the variation, suspension and revocation of any approval of an application for a grant.

Regulation 13 provides that the Marine Management Organisation may, by notice, require the repayment of a grant if certain conditions are not satisfied and provides that sums outstanding may be recovered as a debt.

Regulation 14 sets out the penalties for offences under these Regulations. By virtue of the application of section 238 of the Marine and Coastal Access Act 2009 (c.23) by regulation 14(1), the common enforcement powers of that Act (defined by section 262 of that Act to mean any power conferred by section 246 to 261 of that Act), and the powers conferred by sections 264, 268, 269, 279 and 284 of that Act, also apply in relation to these Regulations as they apply in relation to the enforcement of the fisheries legislation (as defined by section 238(2) of that Act).

Part 4 contains revocation, transitional and review provisions.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. The Explanatory Memorandum is available at www.legislation.gov.uk.

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£6.00

UK2015092415 10/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/1711>

ISBN 978-0-11-113945-5



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