

Draft Regulations laid before the Scottish Parliament under section 51(4)(b) and paragraph 1(8) of schedule 6 of the Fisheries Act 2020 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

**AQUACULTURE
FISHERIES**

**The Aquaculture and Fisheries etc. (Scheme for
Financial Assistance) (Scotland) Regulations 2022**

Made - - - - 2022
Coming into force - - 1st April 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1) and (2) of schedule 6 of the Fisheries Act 2020⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 51(4)(b) and paragraph 1(8) of schedule 6 of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Aquaculture and Fisheries etc. (Scheme for Financial Assistance) (Scotland) Regulations 2022.

(2) These Regulations come into force on 1 April 2022.

(3) These Regulations extend to Scotland only.

PART 2

Establishment of scheme

Establishment of scheme

2.—(1) These Regulations establish a scheme for the giving of financial assistance by the Scottish Ministers under paragraph 1(1) of schedule 6 of the Fisheries Act 2020.

(2) Part 3 of these Regulations constitutes the scheme.

PART 3

Payments of grants and making of loans

Interpretation

3. In this Part—

“notified” means notified in writing, and “notify” shall be construed accordingly,

“specified” means specified in writing by the Scottish Ministers, including in any documentation published or otherwise provided by the Scottish Ministers, and “specify” shall be construed accordingly,

“writing” includes electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000(2), which has been recorded and is consequently capable of being reproduced.

Payments of grants and making of loans

4.—(1) The Scottish Ministers may, in accordance with this scheme, pay grants and make loans for any of the purposes listed in paragraph 1(1) of schedule 6 of the Fisheries Act 2020 to any person—

- (a) who has applied for a grant or a loan, and
- (b) whose application the Scottish Ministers have approved.

(2) The Scottish Ministers may only pay a grant or make a loan under paragraph (1)—

- (a) in relation to Scotland or the Scottish zone, or
- (b) in relation to Scottish fishing boats.

Application for a grant or loan

5.—(1) An application for a grant or a loan under this scheme must be made in such form, submitted in such manner and include such documents or other information as may be specified.

(2) An application must be made within any specified time limit.

(3) An applicant must provide any other documents or information as may be specified on or after receipt of the application.

Decision and notification

6.—(1) The Scottish Ministers may—

(2) 2000 c. 7. Section 15 was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 21).

- (a) reject or refuse to approve an application, or
 - (b) approve an application in whole or in part, unconditionally or subject to such conditions as they may determine.
- (2) The Scottish Ministers must notify the applicant of a decision made under paragraph (1).

Variation, suspension and revocation of approval of a grant

7.—(1) The Scottish Ministers may, at any time before a grant has been paid in full, suspend or revoke the approval, in whole or in part, or vary any conditions of the approval (including adding or removing conditions).

- (2) The Scottish Ministers must notify the applicant of a decision made under paragraph (1).

Procedure for making representations in respect of a notified decision

8.—(1) The applicant may make representations in relation to a decision notified under regulations 6(2) or 7(2).

(2) The form and manner in which representations must be made, including the documents or other information required, and the time limit for making representations may be specified.

(3) The Scottish Ministers must notify the applicant of their decision following representations made under paragraph (1).

Method of payment of grant

9. The Scottish Ministers may pay a grant under this scheme by such instalments and at such time as they may determine.

Repayment of a grant or loan

10. The Scottish Ministers may specify the circumstances and manner in which they may require—

- (a) a grant (or any part of a grant) paid under this scheme, or
- (b) a loan made under this scheme,

to be repaid and any interest which may be due thereon to be paid.

Enforcement

11.—(1) A British sea-fishery officer has an enforcement function in relation to any offence or suspected offence by any person in relation to an application for a grant or a loan made under this scheme.

(2) Section 35 (powers of British sea-fishery officers to enforce sea fisheries legislation) of the Aquaculture and Fisheries (Scotland) Act 2013⁽³⁾ applies in relation to the function conferred by paragraph (1) as it applies in relation to the enforcement of the sea fisheries legislation.

(3) In this regulation—

“British sea-fishery officer” means a person who is appointed or employed in Scotland as a British sea-fishery officer by virtue of section 7(1)(a), (d) or (g) of the Sea Fisheries Act 1968⁽⁴⁾, and

⁽³⁾ 2013 asp 7.

⁽⁴⁾ 1968 c. 7. Section 7(1)(d) was amended by S.I. 1999/1820 and by section 239(2)(b) of the Marine and Coastal Access Act 2009 (c. 23).

“sea fisheries legislation” has the same meaning as in section 53(1) of the Aquaculture and Fisheries (Scotland) Act 2013⁽⁵⁾.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(5) Section 53(1) was amended by [S.S.I. 2019/24](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish a scheme for the payment of grants and the making of loans by the Scottish Ministers under paragraph 1 of schedule 6 of the Fisheries Act 2020.

Part 1 of these Regulations contains general introductory provisions. Part 2 provides for the establishment of the scheme. Part 3 constitutes the scheme and makes provision for the payment of grants and the making of loans by the Scottish Ministers.

Regulations 5 and 6 provide that the Scottish Ministers may specify the procedure for making an application for a grant or loan under the scheme and may make decisions concerning the approval, rejection or refusal of an application and any conditions which may apply to an approval.

Regulation 7 provides that the Scottish Ministers may, at any time before a grant has been paid in full, suspend or revoke the approval in whole or in part, or vary the conditions of the approval.

Regulations 6(2) and 7(2) provide that the Scottish Ministers must notify the applicant of decisions under regulations 6(1) and 7(1), respectively. Regulation 8 provides that the applicant may make representations in relation to those decisions, in accordance with any requirements specified by the Scottish Ministers. The Scottish Ministers must notify the applicant of their decision following such representations.

Regulation 9 provides that a grant can be paid in instalments.

Regulation 10 provides that the Scottish Ministers may specify when they may require a grant (or any part of a grant) or a loan to be repaid, and any interest which may be due thereon to be paid.

Regulation 11 confers an enforcement function on specific categories of British sea-fishery officers appointed or employed in Scotland. This allows for the enforcement of any offence or suspected offence committed in relation to an application for a grant or a loan made under the scheme (for example, an offence of fraud).

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.