

2008 No. 394

FISHERIES

**The European Fisheries Fund (Grants) Regulations (Northern
Ireland) 2008**

Made - - - - - *23rd September 2008*

Coming into operation - *20th October 2008*

CONTENTS

1. Citation and commencement
2. Interpretation
3. References to Council Regulation (EC) 1198/2006
4. Payment by the Department
5. Advertisement of grants
6. Application for a grant
7. Approval of applications
8. Notification of decisions
9. Evidence of expenditure or action
10. Method of payment
11. Information
12. Records
13. Recovery of payment
14. Powers of entry
15. Obstruction
16. Penalties

The Department of Agriculture and Rural Development, is a Department 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.

These regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for the references to Council Regulation (EC) 1198/2006 on the European Fisheries Fund(c) to be construed as references to that Regulation as amended from time to time.

(a) S. I. 2000/2812.

(b) 1972 c. 68.

(c) O. J. No, L223, 15.8.2006, p1.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred upon it by section 2(2) of the European Communities Act 1972, and paragraph 1A of Schedule 2 to that Act(a).

Citation and commencement

1. These Regulations may be cited as the European Fisheries Fund (Grants) Regulations (Northern Ireland) 2008 and shall come into operation on 20th October 2008.

Interpretation

2.—(1) In these regulations—

“application” means an application for payment for financial assistance under regulation 6(1);

“approval” means an approval granted under regulation 7 and includes the terms and conditions subject to which such approval has been given;

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

“Commission Regulation 498/2007” means Commission Regulation (EC) No 498/2007 of 26th March 2007(b) laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund;

“Community aid” means aid towards eligible expenditure available from the European Fisheries Fund payable in accordance with Council Regulation 1198/2006 and Commission Regulation 498/2007;

“Council Regulation 1198/2006” means Council Regulation (EC) No 1198/2006 of 27th July 2006(c) on the European Fisheries Fund;

“the Department” means the Department of Agriculture and Rural Development;

“grant” means a grant towards eligible expenditure payable under these regulations in addition to Community aid;

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

“relevant operation” means an investment, project or action which is eligible for Community aid.

(2) The Interpretation Act (Northern Ireland) 1954(d) except section 20(2) and (3), shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

References to Council Regulation (EC) 1198/2006

3. A reference in these Regulations to Council Regulation (EC) 1198/2006 is a reference to that Regulation as amended from time to time.

Payment by the Department

4.—(1) The Department may pay grants for any of the purposes specified in Title IV of Council Regulation (EC) 1198/2006.

(2) The Department shall have regard to the requirements of Council Regulation 1198/2006 and Commission Regulation 498/2007 and in particular, the limits on total State financial participation (national, regional, and other) as set out in Annex II to Council Regulation 1198/2006.

(a) Paragraph 1A was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)

(b) O.J.No. L120,10.5.2007 p1-80

(c) O.J. No.L223, 15.8.2006

(d) 1954 c.33(NI)

Advertisement of grants

5.—(1) The Department must advertise the grants available, and provide application forms and guidance notes for completing applications.

(2) The Department may determine in each financial year how much grant (if any) is payable for any activity.

Application for a grant

6.—(1) An application for a grant must be made on a form provided by the Department, at the address specified on or with the form.

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

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

(4) The Department may reject incomplete or late applications.

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

Approval of applications

7.—(1) The Department may approve an application with or without conditions, or may reject it.

(2) The Department may vary conditions at any time until the last instalment of a grant has been paid.

Notification of decisions

8.—(1) The Department must notify applicants of the result of their applications, or if a condition of a grant is varied.

(2) If an application has been refused, rejected or granted subject to conditions or an existing approval is varied the Department must notify the applicant, and give the applicant a means of making representation within a given time frame.

(3) The Department must consider the representations and notify the result to the applicant.

Evidence of expenditure or action

9.—(1) The Department must not make any payments unless satisfied that an applicant has properly incurred expenditure or has carried out any necessary actions, relating to the grant.

(2) Satisfactory evidence that the amount of expenditure for which grant is claimed has been incurred must be supplied to the Department.

Method of payment

10. Payment may be made in full or by instalments.

Information

11. A recipient of a grant must supply the Department with such information concerning a grant or action required relating to the grant as the Department requires within a time specified by the Department, and failure to do so is an offence.

Records

12.—(1) Any person who receives a grant must make records of all receipts and expenditure relating to the grant, and keep the records for at least six years after the last payment made to them under the grant, and failure to do so is an offence.

(2) The Department may extend the period beyond six years, notifying the recipient in writing, before the expiry of the initial six year period.

Recovery of payment

13. The Department may recover any payment made under these Regulations if—

- (a) it was paid following a fraudulent application;
- (b) it was used for any purpose other than the purpose for which it was granted;
- (c) any condition is not complied with; or
- (d) the recipient or an employee has intentionally obstructed any officer of the Department in the exercise of his powers under regulation 14,

and may in addition claim interest at 1% above LIBOR.

Powers of entry

14.—(1) An officer of the Department may, on producing a duly authenticated authorisation if required, enter any premises (other than domestic premises not being used for the purposes of these Regulations) at any reasonable hour for the purpose of ensuring that the provisions of these Regulations are being complied with; and in this regulation “premises” includes any fishing or other vessel, place, vehicle, trailer or container.

(2) The officer may be accompanied by—

- (a) such other persons that the officer considers necessary; and
- (b) any representative of the European Commission acting for the purpose of the enforcement of these Regulations.

(3) On entering the premises the officer may—

- (a) inspect the premises, and any plant, machinery or equipment;
- (b) inspect, copy and if necessary remove records;
- (c) search the premises;
- (d) seize any computers and associated equipment for the purpose of copying documents provided they are returned as soon as practicable; and
- (e) carry out any inquiries, examinations and tests.

Obstruction

15. Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information that that person may reasonably require under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) fails to produce a record when required to do so to any person acting in the execution of these Regulations,

is guilty of an offence.

Penalties

16.—(1) A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale, and
- (b) on indictment, to a fine.

(2) Where a body corporate is guilty of an offence under these Regulations, 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—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

(3) 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.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 23rd September 2008



Liam McKibben
A senior officer of the
Department of Agriculture and Rural Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that the Department may make payments for the purposes of Title IV of Council Regulation (EC) 1198/2006 on the European Fisheries Fund.

The Council regulation provides for assistance (Community Aid) to be paid from the European Fisheries Fund established by the European Community in respect of certain categories of investments, projects or actions (“relevant operations”) in the fisheries and aquaculture sector.

© Crown Copyright 2008

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly.

2008 No. 394

FISHERIES

The European Fisheries Fund (Grants) Regulations (Northern
Ireland) 2008