

SCOTTISH STATUTORY INSTRUMENTS

2003 No. 87

SEA FISHERIES

SEA FISH INDUSTRY

**The Fishing Vessels (Decommissioning)
(Scotland) Scheme 2003**

Approved by the Scottish Parliament

Made - - - - 13th February 2003
Laid before the Scottish
Parliament - - - - 14th February 2003
Coming into force - - 17th February 2003

The Scottish Ministers in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(1) and of all other powers enabling them in that behalf, hereby make the following Scheme:

Modifications etc. (not altering text)

C1 Scheme modified (23.11.2020) by Fisheries Act 2020 (c. 22), **Sch. 6 para. 5(2)(b)(4)** (with s. 50, Sch. 4 para. 31)

Citation, commencement and extent

1.—(1) This Scheme may be cited as the Fishing Vessels (Decommissioning) (Scotland) Scheme 2003 and shall come into force on 17th February 2003.

Subject to paragraph (3), this Scheme extends to Scotland and the Scottish zone.

Insofar as it extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.

Commencement Information

II Para. 1 in force at 17.2.2003, see **s. 1(1)**

(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) and have effect in relation to Scotland as modified by section 18A inserted by that Order, Schedule 2, paragraph 68(4).

Interpretation

2.—(1) In this Scheme—

“the Act” means the Fisheries Act 1981;

“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(4);

“approval” means approval granted under paragraph 6 of this Scheme;

“authorised officer” means any officer authorised in writing by the Scottish Ministers for the purposes of this Scheme;

“the Commission” means the Commission of the [F¹European Union];

“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(2) as amended by Council Regulation (EC) No. 1447/2001 of 28th June 2001(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) as corrected by Corrigenda O.J. No. L 83, 4.4.00, p.35 and O.J. No. L 2, 5.1.01, p.41 and amended by Council Regulation (EC) No. 1451/2001 of 28th June 2001(5), Council Regulation (EC) No. 179/2002 of 28th January 2002(6) and Council Regulation (EC) No. 2369/2002 of 20th December 2002(7);

“Council Regulation 2370/02” means Council Regulation (EC) No. 2370/2002 of 20th December 2002 establishing an emergency Community measure for scrapping fishing vessels(8);

“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;

[F²“TFEU” means the Treaty on the Functioning of the European Union;]

“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 decommissioning grant under this Scheme;

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

(2) O.J. No. L 161, 26.6.99, p.1.

(3) O.J. No. L 198, 21.7.01, p.1.

(4) O.J. No. L 337, 30.12.99, p.10.

(5) O.J. No. L 198, 21.7.01, p.9.

(6) O.J. No. L 31, 1.2.02, p.5.

(7) O.J. No. L 31, 12.02, p.49.

(8) O.J. No. L 358, 31.12.02, p.57.

“member” in the expression “member State”, refers to membership of the [F¹European Union];

“the register” means the register of vessels established under section 8 of the Merchant Shipping Act 1995(9) and references to “registered” shall be construed accordingly;

“the relevant amount” means such amount as the Scottish Ministers may from time to time determine;

“relevant conditions” means any conditions relating to the approval of an application which have been notified to the applicant under paragraph 6(4)(b);

“Scotland” and “the Scottish zone” have the same meaning as in section 126(1) of the Scotland Act 1998(10).

(2) Any reference in this Scheme to a numbered paragraph shall be construed as a reference to the paragraph so numbered in this Scheme.

F1 Words in Scheme substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3-6, 8-10

F2 Words in para. 2(1) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 3** (with art. 2(2))

Commencement Information

I2 Para. 2 in force at 17.2.2003, see [s. 1\(1\)](#)

Decommissioning grants

3.—(1) Any person who owns a registered vessel—

- (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, has, on the date of application, either a valid vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975(11) or a letter confirming the completion of a satisfactory survey issued by the Secretary of State for Transport; and
- (e) which is a Scottish based vessel,

may make an application to the Scottish Ministers for a grant in respect of that vessel.

(2) The Scottish Ministers shall publish a notice specifying the relevant period and the appropriate number of days in such manner as they consider appropriate.

(3) Notwithstanding sub-paragraph (1), the Scottish Ministers may reject an application in respect of a vessel which in their opinion is not fit for undertaking fishing trips.

(4) For the purposes of this paragraph—

“the appropriate number of days” means such number of days as the Scottish Ministers may from time to time determine;

(9) 1995 c. 21.

(10) 1998 c. 46.

(11) 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).

“Category A licence” means a licence granted in respect of a vessel under section 4 of the Sea Fish (Conservation) Act 1967⁽¹²⁾ 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⁽¹³⁾;

“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 Category A licence, other than a Category A (Pelagic Purser), Category A (Pelagic Freezer) and Category A (Pelagic Trawler) licence;

“the relevant period” means such period as the Scottish Ministers may from time to time determine; and

“Scottish based vessel” means a vessel, the port of administration of which is, throughout the period from 1st January 2003 until the date of the application relating to the vessel, both dates inclusive, a port in Scotland.

Commencement Information

I3 Para. 3 in force at 17.2.2003, see **s. 1(1)**

Applications

4.—(1) The Scottish Ministers may from time to time invite applications and where they do so the following provisions of this paragraph shall apply.

(2) Without prejudice to the other provisions of this Scheme, an application must be lodged with the Scottish Ministers on or before the appropriate closing date in order to be considered for approval.

(3) In this Scheme “the appropriate closing date” means such date as the Scottish Ministers may from time to time determine.

(4) The Scottish Ministers shall publish in such manner as they consider appropriate a notice inviting applications and specifying the appropriate closing date and in that notice may intimate such other matters as they consider it is appropriate for them to have regard to, for the purposes of paragraphs 5(1)(e), (2) or (3).

(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 address as the Scottish Ministers 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 Scottish Ministers 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.

⁽¹²⁾ 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 has effect in relation to Scotland as modified by section 22A inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999, Schedule 2, paragraph 43(13).

⁽¹³⁾ 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.

(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 Scottish Ministers under paragraph 6, no further application may be made in respect of that vessel.

Commencement Information

14 Para. 4 in force at 17.2.2003, see **s. 1(1)**

Consideration of applications

5.—(1) As soon as reasonably practicable after the appropriate closing date the Scottish Ministers 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) reject any application contrary to Article 7 of Council Regulation 2792/99 as read with Council Regulation 2370/02;
- (c) reject any application they consider to be unreasonable, unnecessary or unwarranted;
- (d) reject any application to which sub-paragraph (6) applies; and
- (e) subject to sub-paragraph (7), place all other applications in rank.

(2) The Scottish Ministers may additionally consider any application made in respect of a vessel which is less than 10 years old at the date of application but the amount of the bid shall be no more than that provided for a 10 year old vessel under Article 7 of Council Regulation 2792/99 as read with Council Regulation 2370/02, increased by 1.5% per year under 10 years.

(3) The Scottish Ministers may—

- (a) select an application for approval according to the rank in which it has been placed under sub-paragraph (1), as read with sub-paragraph (2), 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 their powers under sub-paragraphs (1)(e), (2) or (3) the Scottish Ministers 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(14); and
- (c) such other matters as they have intimated in the notice inviting applications published pursuant to paragraph 4(4).

(5) The Scottish Ministers 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,

(14) O.J. No. L 356, 31.12.02, p.12.

together, are sufficient for the approval of that application without exceeding the relevant amount.

(6) This paragraph applies to any application which the Commission decide is incompatible with the common market having regard to [^{F3}Article 107 of the TFEU].

(7) The Scottish Ministers may reject an application where they have 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.

F3 Words in para. 5(6) substituted (1.8.2012) by virtue of [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 3** (with art. 2(2))

Commencement Information

I5 Para. 5 in force at 17.2.2003, see [s. 1\(1\)](#)

Approval of applications

6.—(1) The Scottish Ministers shall approve any application which they have selected for approval under paragraph 5(3)(a) or (5).

(2) Subject to the provisions of this Scheme, the Scottish Ministers may—

- (a) determine conditions to which an approval given under this paragraph shall be subject; and
- (b) at any time 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 Scottish Ministers may consider appropriate to the application or which require the applicant to procure such undertakings by third parties as the Scottish Ministers may consider appropriate to the application and as are capable of legal enforcement by the Scottish Ministers directly against the person who gave them.

(4) The Scottish Ministers shall in writing—

- (a) notify applicants of the result of their applications; and
- (b) notify applicants whose applications they have approved under this paragraph of any conditions which they have determined or amended under sub paragraph (2).

(5) The Scottish Ministers shall publish in such manner as they consider appropriate a notice identifying the vessels to which applications selected for approval relate.

(6) The Scottish Ministers shall revoke any approval which the Commission decide is incompatible with the common market having regard to [^{F4}Article 107 of the TFEU] and, where grant has already been paid in respect of such approval, recover the grant so paid.

(7) Subject to sub-paragraph (8), the Scottish Ministers may revoke an approval where they have 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.

(8) Paragraph 15(3) shall apply to revocation under sub-paragraph (7) as it applies to revocation under paragraph 15.

F4 Words in para. 6(6) substituted (1.8.2012) by virtue of [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 3** (with art. 2(2))

Commencement Information

I6 Para. 6 in force at 17.2.2003, see [s. 1\(1\)](#)

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) Subject to paragraph (3), 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 Scottish Ministers on or before the appropriate decommissioning date; and
- (b) the Scottish Ministers are satisfied that the requirements set out in paragraphs 8 and 9 have been complied with.

(3) The Scottish Ministers may make an advance payment to an applicant of grant up to a maximum of 50% of the total grant provided that applicant has as at the date the advance payment is made—

- (a) complied with paragraphs 8(1) and (2) and 9; and
- (b) complied with any conditions imposed by virtue of paragraph 6(2).

(4) In this Scheme “the appropriate decommissioning date” means such date as the Scottish Ministers may from time to time determine.

(5) The Scottish Ministers shall publish a notice specifying the appropriate decommissioning date in such manner as they consider appropriate.

(6) A claim form submitted in pursuance of a notice published under sub-paragraph (5) shall be in writing, shall be made in such form and manner, shall include such information and declarations and shall be delivered to such address as the Scottish Ministers 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.

(7) An applicant shall furnish all such further information in support of the claim form as the Scottish Ministers may specify in the notice or from time to time require.

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

Commencement Information

I7 Para. 7 in force at 17.2.2003, see [s. 1\(1\)](#)

Decommissioning of the vessel

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

(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 Scottish Ministers under sub-paragraph (2); or
- (ii) in exceptional circumstances and with the consent of the Scottish Ministers (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 [^{F1}European Union] by any means within the provisions of Article 7 of Council Regulation 2792/99.

F1 Words in Scheme substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3-6, 8-10

Commencement Information

I8 Para. 8 in force at 17.2.2003, see [s. 1\(1\)](#)

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 Scottish Ministers furnish to the Scottish Ministers 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 Scottish Ministers 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.

Commencement Information

I9 Para. 9 in force at 17.2.2003, see [s. 1\(1\)](#)

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 Scottish Ministers of the damage or destruction;
- (b) the applicant shall, with the notice referred to in paragraph (a), furnish the Scottish Ministers 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 Scottish Ministers with such further information as they 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 Scottish Ministers, provide them with written authority authorising contact with the insurers of the vessel; and
 - (e) the applicant shall notify the Scottish Ministers 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.

Commencement Information

I10 Para. 10 in force at 17.2.2003, see [s. 1\(1\)](#)

Amount of grant

^[F5]**11.**—(1) Subject to any modification required by Council Regulation 2792/99 or any deduction required under sub-paragraph (2), 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.

(2) There shall be deducted from the grant a sum equal to any payment made in relation to the vessel under the Sea Fishing (Transitional Support) (Scotland) Scheme 2003.]

F5 Para. 11 substituted (27.2.2003) by [The Sea Fishing \(Transitional Support\) \(Scotland\) \(No. 2\) Scheme 2003 \(S.S.I. 2003/116\)](#), paras. 1(1), **13**

Method of payment

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

- (2) The Scottish Ministers 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.

Commencement Information

I11 Para. 12 in force at 17.2.2003, see [s. 1\(1\)](#)

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 in order to exercise the powers conferred on the officer by paragraph 14.

Commencement Information

I12 Para. 13 in force at 17.2.2003, see [s. 1\(1\)](#)

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 13, 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;
- (f) an offence under section 17 of the Act has been or is being committed.

(2) Subject to sub-paragraph (3), an authorised officer may enter upon any premises which are, or which such officer has reasonable cause to believe are, 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 applicant or an employee or agent of the applicant to produce any relevant document and to supply such additional information in possession of the person or under the control of that person relating to an application as the officer may reasonably request;
- (b) inspect any such document and, where any such document is 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 that document;
- (c) require that copies of, or extracts from, any relevant document be produced; or
- (d) remove and retain for a reasonable period any such relevant document which the officer has reason to believe may be required as evidence of proceedings under this Scheme or which the Scottish 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 document” means any document relating to the vessel in respect of which an application has been made;

“relevant premises” includes the vessel in respect of which an application has been made and any premises in which a relevant document is retained or in which an authorised officer has reasonable grounds to believe such a document may be retained.

Commencement Information

I13 Para. 14 in force at 17.2.2003, see **s. 1(1)**

Reduction, withholding and recovery of grant

15.—(1) If at any time after the Scottish Ministers have approved an application in respect of any vessel it appears to them—

- (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 (2) exist or have occurred,

they may revoke the approval of such application or withhold the grant or any part of the grant in respect of the application and, where any payment by way of grant has been made, may recover on demand as a debt an amount equal to the whole or any part of the payment which has been so made.

(2) For the purposes of sub-paragraph (1)(b), the circumstances are that—

- (a) the application or any part of it was not an application which the applicant was entitled under paragraph 3 to make;
- (b) the applicant or an employee or agent of an applicant—
 - (i) has failed to comply with any requirement imposed under paragraph 8 to 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
- (c) 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).

(3) Before revoking an approval or reducing or withholding any grant or making a demand by virtue of paragraph (1), the Scottish Ministers 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 Scottish Ministers consider reasonable; and
- (c) consider any such representations.

Commencement Information

I14 Para. 15 in force at 17.2.2003, see **s. 1(1)**

Interest

16.—(1) Where the Scottish Ministers intend to recover on demand payment by way of grant in whole or in part in accordance with paragraph 6(6) or 15, they may, in addition, recover interest on that amount at a rate of 1% above LIBOR calculated on a daily basis for the period from the date of payment until the date of recovery.

(2) In any proceedings for recovery under this Scheme, a certificate issued by the Scottish Ministers showing the rate or rates of interest, the amount of such interest recoverable and the period for which interest is calculated shall, unless the contrary is shown, be conclusive of those matters.

Commencement Information

I15 Para. 16 in force at 17.2.2003, see [s. 1\(1\)](#)

St Andrew's House, Edinburgh

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme provides for the making of grants by the Scottish Ministers, in respect of the decommissioning of fishing vessels.

This Scheme is made by virtue of Article 7 of Council Regulation (EC) No. 2792/99 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products (O.J. No. L 337, 30.12.99, p.10), as corrected by Corrigenda, O.J. No. L 83, 04.04.00, p.35 and O.J. No. L 2, 05.01.01, p.41 and as read with Annex XVII of Council Regulation (EC) No 2341/2002 (O.J. No. L 356, 31.12.02, p.12). Council Regulation 2792/99 is to be read with Council Regulation 2370/02 (O.J. No. L 358, 31.12.02, p.57).

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 a “Scottish based vessel” as defined in paragraph 3(4).

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 de-register the vessel and surrender all licences and claims to licences in respect of the vessel. Bids will be selected for approval in accordance with paragraph 5. The Scottish Ministers can determine conditions to which an approval is subject (paragraph 6(2) and (3)).

The Scottish Ministers are 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 Scottish Ministers must be satisfied that decommissioning (by a method having the prior approval of the Scottish Ministers) 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 Scottish Ministers with certain information (paragraph 10).

The amount of grant in respect of an approved application is the amount of the bid subject to any modification in the amount required by Council Regulation 2792/99 (paragraph 11) and 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 Scottish Ministers, who are given powers of entry and inspection for specified purposes (paragraphs 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 (paragraphs 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.

Changes to legislation:

There are currently no known outstanding effects for the The Fishing Vessels (Decommissioning) (Scotland) Scheme 2003.