

## DRAFT STATUTORY INSTRUMENTS

**2021 No. 0000**

## AQUACULTURE, ENGLAND

## FISHERIES, ENGLAND

The Fisheries Act 2020 (Scheme for Financial Assistance)  
(England) Regulations 2021

Made - - - - - \*\*\*

*Coming into force* - - \*\*\*

The Secretary of State, in exercise of the powers conferred by section 33(1) and (2) of the Fisheries Act 2020(a), makes the following Regulations.

In accordance with sections 33(8) and 51(4)(a) of that Act, a draft of the instrument was laid before Parliament and approved by a resolution of each House of Parliament.

## PART 1

## General

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Fisheries Act 2020 (Scheme for Financial Assistance) (England) Regulations 2021 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales.

## PART 2

### Establishment of scheme

### Establishment of scheme

**2.—**(1) These Regulations establish a scheme for the giving of financial assistance under section 33(1) of the Fisheries Act 2020.

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

## **PART 3**

### **Payments of grants by the Marine Management Organisation**

#### **Interpretation**

**3.** In this Part—

“excluded activity or cost” means an activity or a cost specified in regulation 5; and

“notify” means notify in writing, and any reference to a “notice” or “notification” is to a notice or notification given in writing.

#### **Payments by the Marine Management Organisation**

**4.—**(1) The Marine Management Organisation<sup>(a)</sup> may, in accordance with this scheme, pay grants for any of the purposes specified in section 33(1) of the Fisheries Act 2020.

(2) The Marine Management Organisation may only pay a grant under paragraph (1)—

- (a) in relation to England;
- (b) in relation to an area that is, or areas that are—
  - (i) within the UK marine area; but
  - (ii) not within the Scottish zone, the Welsh zone or the Northern Ireland zone; or
- (c) in relation to an English fishing boat or English fishing boats.

(3) The Marine Management Organisation must not pay a grant under paragraph (1) for an excluded activity or cost.

#### **Excluded activities and costs**

**5.—**(1) The following activities and costs are excluded from this scheme—

- (a) increasing the fishing capacity of a fishing boat;
- (b) importing a fishing boat into the United Kingdom;
- (c) activities which the applicant, or any other person associated with the same project, has a statutory duty to undertake;
- (d) interest on a debt;
- (e) any cost that could be recovered in part or in full under an insurance policy;
- (f) any cost which has been recovered in part or in full as a result of damages having been awarded in civil proceedings, or an agreement having been reached in settlement of a legal claim.

(2) In this regulation—

“project” means a project to which an application for a grant under this scheme relates; and

“fishing capacity” has the same meaning as in Article 4 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy<sup>(b)</sup>.

#### **Advertisement of grants and guidance**

**6.** The Marine Management Organisation must—

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<sup>(a)</sup> The Marine Management Organisation was established by section 1 of the Marine and Coastal Access Act 2009 (c.23).

<sup>(b)</sup> EUR 2013/1380, Article 4 was amended by S.I. 2019/739.

- (a) advertise the grants available under this scheme; and
- (b) provide guidance notes for completing applications.

### **Application for a grant**

- 7.—(1) An application for a grant under this scheme must be made in a form approved, and submitted in a manner specified, by the Marine Management Organisation.
- (2) An application must supply all the information specified.
  - (3) The application must be made within any specified time limit.
  - (4) In this regulation, “specified” means specified in the form or on any documentation provided by the Marine Management Organisation with or in connection with the form.

### **Decision and notification**

- 8.—(1) The Marine Management Organisation must—
- (a) decide whether to approve an application unconditionally, to refuse or reject it or to approve it subject to such conditions it may determine; and
  - (b) notify the applicant of the decision made under sub-paragraph (a).

### **Evidence of expenditure etc.**

- 9.—(1) The Marine Management Organisation must not make a payment to a person under this scheme unless it is satisfied that the person has properly incurred, or will properly incur, expenditure of a kind in respect of which the grant is payable and has complied, or will comply, 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. The Marine Management Organisation may decide to pay a grant under this scheme in a single instalment or in a number of instalments.

### **Records, inspection and notification of changes**

11. It is a condition of the payment of any grant that the person to whom the payment is made must—
- (a) make a record of all payments of grant made and all expenditure in respect of which such payments are made;
  - (b) keep any record referred to in paragraph (a) for at least six years after the date on which the last payment was made;
  - (c) upon reasonable notice by the Marine Management Organisation, make any record referred to in paragraph (a) available for inspection; and
  - (d) notify the Marine Management Organisation as soon as reasonably practicable of any material change in circumstances that is relevant to the payment of the grant.

### **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 has decided to suspend or revoke the approval or vary a condition of the approval, it must notify the person to whom the approval relates of the decision.

### **Notice of recovery of payment**

**13.**—(1) The Marine Management Organisation may give notice to require the repayment of any part of a grant paid to a person under this scheme.

(2) Before giving notice under paragraph (1), the Marine Management Organisation must be 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, or the grant was paid, has not been or will not be complied with.

(3) 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.

(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**

**14.**—(1) A marine enforcement officer has an enforcement function in relation to any offence or suspected offence by any person in relation to an application for a grant made under this scheme.

(2) Section 238 (enforcement of the fisheries legislation) of the Marine and Coastal Access Act 2009 applies in relation to the function conferred by paragraph (1) as it applies in relation to the enforcement of the fisheries legislation.

(3) In this regulation—

“the fisheries legislation” has the same meaning as in section 238(2) of the Marine and Coastal Access Act 2009;

“marine enforcement officer” has the same meaning as in section 235(1)(a) of the Marine and Coastal Access Act 2009.

### **Data processing and publishing**

**15.**—(1) The Marine Management Organisation must publish the following information about each grant given under this scheme—

- (a) the name of the recipient of the grant;
- (b) the amount of the grant; and
- (c) the purpose for which the grant was given.

(2) The information specified in paragraph (1) must be published as soon as reasonably practicable after the payment of the grant in full.

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations establish a scheme in relation to England for the giving of grants under section 33 of the Fisheries Act 2020 (c. 22).

Part 1 of these Regulations contains general introductory provisions. Part 2 provides for the establishment of the scheme. Part 3 makes provision for the payment of grants by the Marine Management Organisation for the purposes specified in section 33(1) of the Fisheries Act 2020.

These Regulations set out the basis on which the Marine Management Organisation may pay grants and lay down a procedure for applications for a grant. Payment of a grant is dependent on the Marine Management Organisation being satisfied as to the expenditure incurred, or to be incurred, and as to compliance with any conditions of approval of the grant.

These Regulations also provide that payment of a grant is conditional on the applicant retaining relevant records and notifying the Marine Management Organisation of any material change in circumstances. The Marine Management Organisation is provided with the ability to vary, suspend and revoke the approval of an application for a grant and may, by notice, require the repayment of a grant if certain conditions are not satisfied (with any sums outstanding ultimately recoverable as a civil debt).

These Regulations confer an enforcement function on marine enforcement officers appointed by the Marine Management Organisation under the Marine and Coastal Access Act 2009 (c. 23). The function is for the enforcement of any potential offences committed in relation to an application for a grant under the scheme (for example, an offence under the Fraud Act 2006 (c. 35)). Relevant enforcement powers for marine enforcement officers under Part 8 of the Marine and Coastal Access Act 2009 are also applied for the purposes of this function.

These Regulations place an obligation on the Marine Management Organisation to publish specified information relating to any grants paid out under the scheme.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary, or public sector is foreseen.

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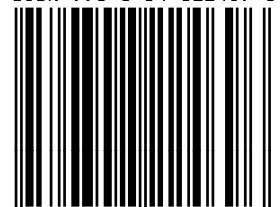




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