
STATUTORY INSTRUMENTS

1995 No. 1609

SEA FISHERIES

SEA FISH INDUSTRY

**The Fishing Vessels (Safety
Improvements) (Grants) Scheme 1995**

Approved by both Houses of Parliament

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| <i>Made</i> | - - - - | <i>28th June 1995</i> |
| <i>Laid before Parliament</i> | | <i>28th June 1995</i> |
| <i>Coming into force</i> | - - | <i>29th June 1995</i> |

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fish industry in Scotland, Wales and Northern Ireland, in exercise of the powers conferred on them by section 15(1) and (2) of the Fisheries Act 1981⁽¹⁾, and of all other powers enabling them in that behalf, with the approval of the Treasury in accordance with the said section 15(1), hereby make the following Scheme:

Title and commencement

1. This Scheme may be cited as the Fishing Vessels (Safety Improvements) (Grants) Scheme 1995 and shall come into force on 29th June 1995.

Interpretation

2.—(1) In this Scheme, unless the context otherwise requires—

“application” means an application as described in paragraph 3(1) and “applicant” shall be construed accordingly;

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

“the control period”, in relation to a relevant improvement, means a period of three years commencing with the last payment of grant in respect of that improvement;

“grant” means a vessel safety improvement grant under this Scheme;

“improvement”, in relation to a vessel, means the acquisition, installation, modification, renewal or replacement of any equipment required for, or installed or used on or in, the vessel,

⁽¹⁾ 1981 c. 29; section 18(1) contains a definition of “the Ministers”.

excluding engines or other machinery for propelling the vessel or any items of a structural nature;

“length”, in relation to a vessel, means the registered length;

“the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fish industry in Scotland, Wales and Northern Ireland;

“registered” means registered in the register of fishing vessels established under section 1 of the Merchant Shipping (Registration, etc.) Act 1993(2);

“relevant conditions” means any conditions relating to the approval of an application which have been notified to the applicant under paragraph 6(3)(b);

“relevant documents” has the meaning assigned to it in paragraph 14;

“relevant equipment” means any equipment in respect of which an application has been made;

“relevant improvement” means any improvement in respect of which an application has been made;

“relevant vessel” means any vessel in respect of which an application has been made;

“sea fish” and “the sea fish industry” have the same meanings as in, and for the purposes of, Part II of the Fisheries Act 1981(3) respectively.

(2) Any reference in this Scheme to a numbered paragraph shall, unless the context otherwise requires, be construed as a reference to the paragraph bearing that number in this Scheme.

(3) Any payment of grant made under this Scheme by the Ministers may be made by any of them and any reference in this Scheme to such a payment shall be construed accordingly.

Vessel safety improvement grants

3.—(1) Any person who is, or proposes, to be engaged in the sea fish industry by carrying on the business of owning and operating one or more qualifying vessels may make an application to the Ministers in accordance with paragraph 4 for approval under paragraph 6 of—

(a) an improvement to any one or more of such vessels for the purpose of obtaining for that vessel a fishing vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975(4), and

(b) expenditure incurred in connection with that improvement,

with a view to obtaining grant towards such expenditure in accordance with this Scheme.

(2) Notwithstanding sub-paragraph (1) above, no person may make an application—

(a) in respect of any vessel to which sub-paragraph (3) applies;

(b) to the extent that any expenditure in respect of which the application is made is expenditure to which sub-paragraph (4) applies.

(3) This sub-paragraph applies to any vessel in respect of which an application has been approved by the Ministers under the Fisheries and Aquaculture Structures (Grants) Regulations 1995(5).

(4) This sub-paragraph applies to—

(a) expenditure incurred in the acquisition or installation of any second-hand equipment;

(b) expenditure which can be regarded as laid out on the routine repair or maintenance of equipment required for, or installed or used on, the vessel;

(2) 1993 c. 22.

(3) See section 18 of the Fisheries Act 1981.

(4) S.I. 1975/330, amended by S.I. 1975/471, 1976/432, 1977/313, 498, 1978/1598, 1873, 1981/567, 1991/1342 and by the Fisheries Act 1981, Schedule 3, paragraph 8(3).

(5) S.I. 1995/1576.

- (c) expenditure incurred before approval of the application under paragraph 6;
 - (d) expenditure incurred in the improvement of a vessel carried out elsewhere than in a member State.
- (5) In this paragraph “qualifying vessel” means any vessel of 12 metres or more in length which—
- (a) is registered and employed, or is intended by the applicant to be employed, for the purpose of catching sea fish; or
 - (b) is intended by the applicant to be registered and employed for the purpose of catching sea fish.

Applications

4.—(1) Applications shall be made in such form and manner and at such time, shall include such information and shall be delivered at such address as the Ministers may from time to time require.

(2) Applicants shall furnish all such further information relating to the application as the Ministers may require.

Consideration of applications

5. In considering whether or not, and to what extent, to approve an application which they are satisfied a person is entitled to make under paragraph 3, the Ministers—

- (a) shall have regard to the needs and interests of the sea fish industry or to the section of that industry to which the application relates;
- (b) shall not approve the application to the extent that in the opinion of the Ministers it relates to any proportion or item of expenditure which is unnecessary or unwarranted having regard to the benefit likely to be derived from the expenditure in respect of which the application is made.

Approval of applications

6.—(1) Subject to the provisions of this Scheme, the Ministers as they think fit—

- (a) may refuse to approve an application or approve it in whole or in part for the purposes of grant;
- (b) may cause any such approval to be given, and any payments by way of grant to be made, subject to conditions;
- (c) may amend such conditions with the applicant’s written consent.

(2) The Ministers shall not approve an application for approval of an improvement (as mentioned in paragraph 3(1)(a)) after 31st December 1999.

(3) The Ministers shall in writing—

- (a) notify applicants of the result of their applications;
- (b) notify applicants whose applications they have approved under this paragraph of any conditions, relating to such approvals, which they have determined or amended under sub-paragraph (1) above.

Eligibility for payment of grant

7.—(1) Subject to paragraph (2) below and paragraph 18, applicants whose applications have been approved under paragraph 6 shall be eligible for payment of grant in accordance with paragraph 11.

(2) No grant shall be paid in respect of an approved application unless the Ministers have been supplied with—

- (a) evidence that the amount of expenditure on which grant is claimed has been incurred including details of any discount received by the applicant; and
- (b) evidence that the relevant improvement to which the application relates has been properly executed.

Pre-work approval

8.—(1) Where an applicant whose application has been approved under paragraph 6 intends to enter into a contract with another person for the carrying out of the whole or any part of a relevant improvement to which the approved application relates, the Ministers shall, before the contract is made, approve—

- (a) the specification for the improvement to be undertaken;
- (b) the tender for expenditure to be incurred; and
- (c) the form of contract to be entered into between the applicant and the supplier or other contractor.

(2) Where an applicant whose application has been approved under paragraph 6 himself intends to undertake the whole or any part of a relevant improvement to which the approved application relates, the Ministers shall, before such work is begun, give their approval to the undertaking both as regards the manner in which it is to be carried out and the kind, quantity and cost of the materials to be supplied in the course of the undertaking.

Minimum standards

9. A relevant vessel to which an application approved under paragraph 6 relates shall conform to any standards laid down by or under the Merchant Shipping Acts 1894 to 1993 and shall be constructed or adapted so as to make such provision for the accommodation of officers and crew as, in the opinion of the Ministers, conforms to the best modern practice, after making due allowance for the age and kind of the vessel, for sleeping and messing accommodation, sanitary accommodation, medical or first-aid facilities, store rooms, catering facilities and other accommodation.

Substantial damage or destruction of vessels

10.—(1) Where an application has been approved under paragraph 6 and thereafter any relevant vessel or relevant equipment to which the approved application relates is substantially damaged or destroyed—

- (a) the applicant shall forthwith in writing notify and provide full details to the Ministers of the damage or destruction;
- (b) the applicant shall with the notice referred to in paragraph (a) above furnish Ministers with information concerning—
 - (i) any policy of insurance in respect of the vessel or equipment which was in force at the time of, and
 - (ii) any criminal or civil proceedings which to his knowledge are contemplated or in progress in respect of,the incident;
- (c) the applicant shall provide the Ministers with such further information as they may require concerning the incident, the insurance arrangements relating to the vessel or equipment and any such criminal or civil proceedings;

- (d) the applicant shall if requested by the Ministers provide them with written authority authorising contact with the insurers of the vessel;
- (e) the applicant shall notify the Ministers of any amount received under such policy of insurance, or by way of compensation or damages, as a result of the incident.

(2) In this paragraph “incident” means an incident in which a relevant vessel or relevant equipment to which an approved application relates is substantially damaged or destroyed.

Amount of grant

11.—(1) The amount of grant which an applicant who is eligible for payment of grant under paragraph 7 shall be paid shall be the amount determined in accordance with the rate, applicable to each relevant vessel in respect of which the application was approved, which is specified in sub-paragraph (2) below.

(2) The rate of grant mentioned in sub-paragraph (1) above shall be—

- (a) in respect of a relevant vessel exceeding 33 metres in length, 10% of such expenditure as the Ministers have approved;
- (b) in respect of a relevant vessel not exceeding 33 metres in length, 30% of such expenditure as the Ministers have approved.

Method of payment

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

(2) Where the applicant has entered into a contract in accordance with paragraph 8(1), the Ministers may make payment of grant on the applicant’s behalf, and with the applicant’s written consent, to the supplier or other contractor—

- (a) in one sum, or
- (b) by such instalments and at such times as may be required in conformity with the contract, on the receipt of certificates or such further or other evidence that payment is due to the supplier or other contractor as the Ministers may require.

Undertakings

13. Any person whose application has been approved under paragraph 6 may be required by the Ministers to give such undertakings as they may consider appropriate to the case and in particular (without prejudice to the generality of the foregoing) shall be required in any event to undertake in relation to any relevant vessel to which the approved application relates—

- (a) during the control period to employ, or to take all reasonable steps to ensure the employment of, the vessel, as appropriate to the case, in the prosecution of the catching of sea fish to the satisfaction of the Ministers; and
- (b) during the carrying out of the improvement, on completion of the improvement and thereafter for the duration of the control period to insure the vessel and keep it insured against all marine risks and war risks in a sum approved by the Ministers, which shall be at least sufficient to ensure that in the event of total loss of the vessel there will be made available sufficient monies to meet the repayment of the whole or any part of the grant which might be repayable at the date of the loss.

Records

14. Any person whose application has been approved under paragraph 6 shall keep a record of expenditure incurred in connection with any relevant improvement to which the approved application relates and during the carrying out of the improvement, on completion of the improvement and thereafter for the duration of the control period shall retain such record and any invoice, account or other document which relates to the improvement (in this Scheme together referred to as “relevant documents”) except to the extent that an authorised officer has required the production of, or has removed, any such record or document under paragraph 16(5).

Assistance to authorised officers

15. Any applicant or any employee, servant or agent of any applicant shall give to an authorised officer such assistance as he may reasonably request to exercise any power conferred upon him by paragraph 16.

Powers of authorised officers

16.—(1) An authorised officer may at all reasonable hours and on producing, if required to do so, some duly authenticated document showing his authority, exercise the powers specified in this paragraph for the purpose of ascertaining whether and to what extent in respect of any application—

- (a) a person is entitled under paragraph 3 to make the application;
- (b) the application should be selected for approval under paragraph 5;
- (c) any expenditure in respect of which grant is claimed should be approved;
- (d) paragraphs 8 to 10 and 14, any relevant conditions and any undertakings given by the applicant have been complied with;
- (e) any amount of grant is recoverable in accordance with paragraph 18;
- (f) an offence under section 17 of the Fisheries Act 1981 has been or is being committed.

(2) An authorised officer may enter upon any premises, other than premises used only as a dwelling, which are, or which such officer has reasonable cause to believe are, relevant premises.

(3) Any authorised officer who has entered any premises in accordance with sub-paragraph (2) above may inspect those premises, any equipment which is, or which such officer has reasonable cause to believe is, relevant equipment and any documents on those premises which are, or which such officer has reasonable cause to believe are, relevant documents.

(4) An authorised officer entering any premises by virtue of this paragraph may take with him such other person as he considers necessary.

(5) An authorised officer may—

- (a) require an applicant or an employee, servant or agent of an applicant to produce any relevant documents and to supply such additional information in that person’s possession or under his control relating to the relevant improvement as the officer may reasonably request;
- (b) inspect any such documents and, where any such documents are 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 those documents;
- (c) require that copies of, or extracts from, any relevant documents be produced;
- (d) remove and retain for a reasonable period any such relevant document which he has reason to believe may be required as evidence in proceedings arising out of this Scheme or under section 17 of the Act and, where any such document is kept by means of a computer,

require it to be produced in a form in which it may be taken away and in which it is visible and legible.

(6) In this paragraph—

“premises” includes any vessel or other vehicle;

“relevant premises” means any premises to which a relevant improvement relates or in which relevant documents or relevant equipment are retained.

Protection of officers

17. Any authorised officer shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on him by virtue of paragraph 16 if the court is satisfied that the act was done in good faith, that there were reasonable grounds for doing it and that it was done with reasonable skill and care.

Reduction, withholding and recovery of grant

18.—(1) Subject to sub-paragraph (3), if at any time after the Ministers have approved an application in respect of a relevant improvement in respect of any relevant vessel or relevant equipment it appears to them that any of the relevant conditions have not been complied with and in particular (without prejudice to the generality of such conditions) that—

- (a) the application or any part of it was not an application which the applicant was eligible to make;
- (b) the applicant or an employee, servant or agent of an applicant—
 - (i) has failed to comply with any requirement imposed by paragraphs 8 to 10 and 14 or under paragraph 15 or 16(5);
 - (ii) has intentionally obstructed any officer in the exercise of his powers under paragraph 16; 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;
- (c) the improvement was commenced before the date on which the Ministers gave written permission to do so;
- (d) the improvement in respect of which the expenditure was incurred has not been carried out or has not been properly carried out;
- (e) the improvement has been or is being unreasonably delayed beyond the time limits set out in the notification of approval or is unlikely to be completed;
- (f) any of the events specified in sub-paragraph (2) below has occurred within the control period,

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

(2) The events mentioned in sub-paragraph (1)(f) above are—

- (a) the total loss of the vessel;
- (b) the damage or destruction of any of the relevant equipment resulting in the payment to any person of any amount under a policy of insurance or by way of compensation or damages;
- (c) a breach of any undertaking given under paragraph 13;

- (d) a mortgage of the vessel (other than a mortgage created for the raising of money applied towards the cost of the improvement, being a mortgage approved by the Ministers before it was created), a transfer of registration of the vessel or a charter for any purpose other than the employment of the vessel in the catching of sea fish based on a port in the United Kingdom;
- (e) a disposal, whether by sale or otherwise, of the whole or any part of the vessel or the equipment.

(3) If any of the events specified in sub-paragraph (2) above occurs more than two years from the commencement of the control period, there shall be repaid to the Ministers a sum equivalent to a proportion of the grant to be calculated by multiplying the total amount of the grant by the fraction which represents the relationship which the unexpired part of the control period bears to the full control period.

Amendment of the Fishing Vessels (Safety Improvements) (Grants) Scheme 1993

19. Paragraph 6 of the Fishing Vessels (Safety Improvements) (Grants) Scheme 1993(6) shall be amended as follows—

- (a) in sub-paragraph (2), after the words “has been” there shall be inserted the words “received by the Ministers before the relevant date and”;
- (b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(3) In this paragraph “the relevant date” means the date of coming into force of the Fishing Vessels (Safety Improvements) (Grants) Scheme 1995.”

20th June 1995

Michael Jack
Minister of State, Ministry of Agriculture,
Fisheries and Food

21st June 1995

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

Signed by authority of the Secretary of State for Wales

22nd June 1995

Rod Richards
Parliamentary Under Secretary of State, Welsh
Office

28th June 1995

Patrick Mayhew
Secretary of State for Northern Ireland

We approve,

27th June 1995

Derek Conway
Andrew Mackay
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme enables grants to be made by the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fish industry in Scotland, Wales and Northern Ireland (“the Ministers”) towards expenditure incurred in making improvements to United Kingdom registered vessels of 12m or more to enable the owners of such vessels to obtain a fishing vessel certificate under the provisions of the Fishing Vessels (Safety Provisions) Rules 1975 (paragraph 3(1) and (5)).

Vessels in respect of which an application has been approved under the Fisheries and Aquaculture Structures (Grants) Regulations 1995 (S.I 1995/1576) and certain categories of expenditure (including the acquisition and installation of second-hand equipment) are ineligible (paragraph 3(2) to (4)).

Paragraphs 4 to 6 of the Scheme lay down a procedure for the making and approval of applications for approval of improvements and expenditure, specifying the criteria to which the Ministers shall have regard in deciding whether and to what extent to select qualifying applications for approval and providing that the Ministers may not approve applications for improvements after 31st December 1999. However, the Ministers may continue after that date to approve claims for approval of expenditure in respect of approved improvements.

Eligibility to grant is dependent on proof of expenditure incurred and proper execution of the relevant improvement (paragraph 7). Further requirements are set out in paragraphs 8 and 9. In the event of substantial damage or destruction to the vessel or to any equipment which has been approved under the Scheme the applicant is required to provide the Ministers with certain information (paragraph 10).

The rates of grant are specified in paragraph 11 and provision is made concerning the method of payment of grant (paragraph 12). Ministers may require undertakings to be given by a person whose application is approved (paragraph 13).

For a period of three years from the last payment of grant in respect of an improvement approved under the Scheme applicants are required to retain certain records (paragraph 14). They are required, on request, to give assistance to authorised officers of the Ministers, who are given powers of entry and inspection for specified purposes (paragraphs 15 to 17) and provision is made for the reduction, withholding and recovery of grant paid in certain circumstances (paragraph 18).

Applications for grant under the Fishing Vessels (Safety Improvements) (Grants) Scheme 1993 may no longer be made but that Scheme remains in effect as regards applications received before the coming into force of this Scheme (paragraph 19).

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 by or under the Scheme.