
STATUTORY INSTRUMENTS

2010 No. 1600

SEA FISHERIES, ENGLAND

SEA FISH INDUSTRY

**The Fishing Boats (Electronic Transmission of
Fishing Activities Data) (England) Scheme 2010**

Approved by both Houses of Parliament

<i>Made</i>	- - - -	<i>14th June 2010</i>
<i>Laid before Parliament</i>		<i>16th June 2010</i>
<i>Coming into force</i>	- -	<i>7th July 2010</i>

The Secretary of State, in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981⁽¹⁾ and now vested in her⁽²⁾, makes the following Scheme with the approval of the Treasury.

PART 1

Preliminary

Citation, commencement and application

1. This Scheme—
 - (a) may be cited as the Fishing Boats (Electronic Transmission of Fishing Activities Data) (England) Scheme 2010;
 - (b) comes into force on 7th July 2010; and
 - (c) applies in England.

Interpretation

2. In this Scheme—

“application” means an application for a grant and “applicant” is to be construed accordingly;

“approved software” means software specified in a list published by the Secretary of State under paragraph 3(1);

(1) 1981 c. 29. See section 18(1) for the definition of “the Ministers”. Sections 15(2) and 18(1) were amended by S.I. 1999/1820, Schedule 2, paragraph 68(1), (2) and (3).
(2) S.I. 2002/794, article 2.

“eligible English fishing boat” means an English fishing boat within the meaning of section 30(3)(3) of the Fisheries Act 1981 that—

- (a) has its port of administration in England at the date of application; and
- (b) exceeds 15 metres length overall within the meaning of the EU Regulation;

“the EU Regulation” means—

- (a) until 31st December 2010, the provisions relating to recording and transmission of fishing activities data set out in—
 - (i) Articles 1 to 3 of Council Regulation (EC) No. 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing⁽⁴⁾; and
 - (ii) Chapter 2 of Commission Regulation (EC) No. 1077/2008 laying down detailed rules for the implementation of Council Regulation (EC) No. 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing and repealing Regulation (EC) No. 1566/2007⁽⁵⁾;
- (b) on and after 1st January 2011, the provisions relating to recording and transmission of fishing activities data set out in Section 1 of Chapter 1 of Title 4 of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy⁽⁶⁾;

“fishing activities data” means the logbook data, transshipment declaration data and landing declaration data required under the EU Regulation to be recorded and transmitted by electronic means;

“grant” means a grant under this Scheme;

“port of administration” means the port from which the licence granted in respect of a fishing boat under section 4 of the Sea Fish (Conservation) Act 1967⁽⁷⁾ is issued; and

“supplier” means a supplier specified in a list published by the Secretary of State under paragraph 3(1) in respect of approved software.

PART 2

Grant for approved software

Approved software

3.—(1) The Secretary of State must publish a list specifying—

- (a) software that is capable of—
 - (i) electronically recording fishing activities data; and
 - (ii) electronically transmitting fishing activities data in the required format; and
- (b) the suppliers of the software.

(2) The list must be published in a manner that will ensure it is reasonably likely to be seen by those eligible for a grant.

(3) In this paragraph, “required format” means a format determined and published by the Secretary of State for the purpose of the EU Regulation.

⁽³⁾ Section 30(3) of the 1981 Act was amended by the Marine and Coastal Access Act 2009 c. 23, section 293(5).

⁽⁴⁾ OJ No L409, 30.12.2006, p 1.

⁽⁵⁾ OJ No L295, 4.11.2008, p 3.

⁽⁶⁾ OJ No L343, 22.12.2009, p 1.

⁽⁷⁾ 1967 c. 84.

Eligibility for grant

4.—(1) A person may apply to the Secretary of State for a grant to contribute to the cost of purchase or supply of approved software for use on an eligible English fishing boat if the person—

- (a) is the master, owner or charterer of the fishing boat; and
- (b) has purchased from a supplier, or has commissioned a supplier to supply, approved software for use on that boat.

(2) The Secretary of State may—

- (a) make a grant to the applicant or to the supplier; and
- (b) make only one grant in respect of any eligible English fishing boat.

(3) In this paragraph, “master” includes the person for the time being in charge of the fishing boat.

Payment of grant

5. The Secretary of State must not make payment of a grant, or of any part of it, to an applicant or supplier unless satisfied that—

- (a) the supplier has supplied the applicant with the approved software and the software has been installed in the fishing boat;
- (b) the applicant has successfully used the approved software to electronically record and transmit fishing activities data in accordance with the EU Regulation; and
- (c) any condition for payment of the grant, or of any part of it, has been complied with.

Amount of grant

6. The amount of the grant—

- (a) must not exceed the cost of purchase or supply of the approved software; and
- (b) may be such lesser amount as is determined by the Secretary of State.

PART 3

Applications for grant

Invitation to apply for grant

7.—(1) The Secretary of State may from time to time publish an invitation for applications.

(2) An invitation must be published in a manner that will ensure it is reasonably likely to be seen by those eligible for a grant.

(3) An invitation must contain—

- (a) details of approved software and suppliers;
- (b) details of who is eligible for a grant;
- (c) requirements as to the form and manner of making an application;
- (d) any requirements for providing documents in support of the application; and
- (e) the closing date for making an application.

Acceptance of applications

8.—(1) The Secretary of State may accept an application after the closing date if satisfied that—

- (a) the particular circumstances of the applicant render it unreasonable to expect the application to be made by the closing date; and
 - (b) the date on which the application is made is as early as can reasonably be expected.
- (2) The Secretary of State, before determining any application, may require the applicant to provide additional information.

Determination of application

9.—(1) As soon as reasonably practicable after the closing date, or after the supply of any additional information, the Secretary of State must—

- (a) approve or reject an application;
- (b) if the application is approved, specify any conditions for payment of the grant or of any part of it; and
- (c) notify the applicant in writing of the decision.

(2) The Secretary of State must reject an application if of the opinion that the port of administration of the fishing boat has been changed to England for the primary purpose of ensuring that the fishing boat is an eligible English fishing boat for the purposes of this Scheme.

PART 4

Revocation or withholding of grant

Revocation of approval or withholding of payment

10.—(1) The Secretary of State may revoke the approval of an application, or withhold payment of a grant, or of any part of the grant, if it appears that—

- (a) any condition of payment of the grant, or of any part of it, has been breached or has not been complied with; or
- (b) the applicant has committed or may have committed an offence under section 17 of the Fisheries Act 1981.

(2) The Secretary of State may recover on demand from the applicant an amount equal to the whole or any part of any payment of the grant that was made before—

- (a) an approval is revoked; or
- (b) payment of any part of the grant is withheld,

irrespective of whether the payment was made to the applicant or to the supplier.

Interest

11.—(1) Where the Secretary of State decides to recover on demand an amount in accordance with paragraph 10(2), interest may also be recovered on that amount on a daily basis at the rate of 1% above the LIBOR for the period beginning with the day following that on which the amount was paid and ending on the day on which the amount is recovered.

(2) In this paragraph “LIBOR”, in relation to any day, means the sterling three-month London inter-bank offered rate in force for that day rounded if necessary to two decimal places.

(3) In any proceedings for recovery under this Scheme, a certificate issued by the Secretary of State stating the LIBOR applicable for any day is conclusive evidence of the LIBOR in question if the certificate also states that the Bank of England notified the Secretary of State of the LIBOR in question.

12th June 2010

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

14th June 2010

Michael Fabricant
Angela Watkinson
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme, made with the approval of the Treasury, provides for the payment of grants as a contribution towards the cost of purchase or supply of software necessary to record and transmit fishing activities data electronically in accordance with—

- (a) Council Regulation (EC) No. 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing;
- (b) Commission Regulation (EC) No. 1077/2008 laying down detailed rules for the implementation of Council Regulation (EC) No. 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing and repealing Regulation (EC) No. 1566/2007; and
- (c) Council Regulation (EC) No. 1224/2009 of the European Council on establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.

In Part 2, paragraph 4 specifies who is eligible for a grant, paragraph 5 deals with payment of grant and paragraph 6 provides for the amount of grant. The required format mentioned in paragraph 3 is published on the Marine Management Organisation website (<http://www.marinemanagement.org.uk/>).

Part 3 deals with applications for grant.

Part 4 provides for revocation or withholding of grant.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Enforcement Policy Team, Area 2C, Nobel House, 17 Smith Square, London SW1P 3JR and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (<http://www.opsi.gov.uk/>).