

Explanatory Memorandum to The European Fisheries Fund (Grants) (Wales) Regulations 2009

This Explanatory Memorandum has been prepared by Fisheries Policy Branch of the Department for Rural Affairs and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

i) Description - This Statutory Instrument will allow the distribution of the European Fisheries Fund (EFF) monies and associated match funding.

ii) Matters of special interest to the Subordinate Legislation Committee – None.

iii) Legislative Background – The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Community by virtue of the European Communities (Designation) (No 3) Order 2005 (SI 2005/1766) and sections 59(1) and 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006. The said designation enables the Minister to make these Regulations which will provide that the Welsh Ministers can make payment for the purposes of Title IV of Council Regulation (EC) 1198/2006 on the European Fisheries Fund. These Regulations follow the Negative procedure.

iv) Purpose and intended effect of the legislation -

In the UK, a number of problems facing the fishing industry, such as those arising from the nature of fishing resources, capital constraints and information and co-operation problems, threaten the competitiveness and viability of the sector.

The European Fisheries Fund (EFF) aims to strengthen competitiveness and viability of the sector in order to secure a sustainable fishing and aquaculture industry, promote environmentally friendly fishing and production methods, and foster sustainable development of fisheries areas. It also supports the major objectives of the Common Fisheries Policy (CFP), in particular the sustainable exploitation of fisheries resources and achieving a stable balance between these resources and the capacity of the Community fishing fleet. In many cases, these objectives cannot be sufficiently achieved by Member States, given structural problems encountered in the development of the fisheries sector and limits on financial resources of Member States in an enlarged Union. Intervention is required to improve the structure, efficiency and additional value of the UK fishing industry.

v) Implementation – This instrument will come into force on Wednesday, 18 March 2009. Should this Instrument be annulled the EFF grant payments will not be able to proceed in Wales.

vi) Consultation – Details of the consultation undertaken are included in the Regulatory Impact Assessment below.

vii) Regulatory Impact Assessment

Options: –

Do nothing - This decision would attract much criticism from the industry and stakeholders as well as the European Commission. Given the potential to use the EFF to address some of the market failures facing the Welsh fishing Industry, and the market disadvantage that Wales would face if other Member states and or devolved administrations applied funding whilst they did not, this was not considered a feasible option.

Proposed Option - Pay EFF grants

Wales will receive approximately €17 million of EU funding over a 6 year period. In addition approximately €4 million of Welsh Assembly Government match funding will be provided to support EFF projects.

NB. The EFF runs for 7 years (2007-2013) but as the scheme was not implemented in the UK until September 2008, it will be over 6 years with funds carried forward.

a) Benefits - This instrument will address some of the demanding market and environmental issues facing the Welsh fishing industry and provide transitional support as the fishing and aquaculture industry adjusts to become environmentally sustainable and economically competitive while maintaining it's cultural heritage. It is intended to promote a fisheries sector that is:

- sustainable
- Profitable
- Supports strong local communities.

Managed effectively as an integral part of coherent policies for the marine and freshwater environments.

EFF replaces the Financial Instrument for Fisheries Guidance (FIFG) grants and will build on some of the work carried out under that scheme to strengthen the Infrastructure, Marketing, and overall viability of the Welsh fishing industry in a sustainable way.

The EFF targets five priority areas (axes):

1. Adaptation of the Community fishing fleet;
2. Aquaculture, inland fishing, processing and marketing of fisheries and aquaculture products;
3. Measures of collective benefit;
4. Sustainable development of fisheries areas; and
5. Technical assistance to facilitate the delivery of assistance.

The UK National Strategic Plan, which outlines our high level objectives for the fisheries industry, has been finalised and formally submitted to the Commission.

b) Costs - The costs to the Welsh fisheries sector should be largely negligible as the scheme will be voluntary with applicants supplementing projects with the EFF grants and Welsh match funding. Based on the Standard Cost Model (SCM) used by the DEFRA who are overseeing the scheme at the UK level, it is estimated that the cost to small and medium sized businesses to apply for the scheme (based on staff hours) should be between £1.4K and £1.8K, but it is expected that the benefits from application will outweigh the costs of application. With the key factors being time spent filling out applications, and putting together the business plan.

The costs associated with the administration, facilitation and monitoring of the scheme in Wales are approximately £278,150 p.a. (a total of £1,668,900 over 6 years of the scheme) based on a study conducted by DEFRA (2008) on the previous FIFG scheme.

The tasks will be carried out by existing staff within the Fisheries policy unit and Welsh Rural Affairs organisation structure.

However the Welsh Assembly Government will be providing approximately €4 million of Match funding to support the scheme from domestic funds.

c) Competition Assessment –

An assessment of the implications on competition of the EFF will be informed by the Programme strategy and objectives, and by guidance on possible competition-distorting impacts of policies.

Under the recommended option (pay grants), it is thought that grant funding is unlikely to significantly distort competition. Subsidies of this sort can potentially distort competition between firms undertaking similar activities, particularly when subsidies are large and only available to a selection of the firms that compete with each other. However, the EFF is a voluntary scheme and meeting requirements to qualify for funding depends upon the ability to meet the objectives, which aim to address market failure and to therefore benefit the public.

Applications will be assessed by an appraisal panel composed of representatives from all areas of the industry and overseen by fisheries staff to ensure projects are chosen on the basis of merit and that competition is not distorted.

Applications must meet certain criteria in order to be approved, and larger projects may be subjected to appraisal by a government economist where this is deemed appropriate.

Under the baseline option (do nothing), there would be no funding available for the fishing and aquaculture industry. This may impact on the ability of the UK industry to compete in international markets, particularly where other Member States do provide EFF funding.

Any impacts of the recommended option (pay grants) on competition are likely to be small compared to the scale of public benefits, so that a net negative result for the consumer would not result.

For these reasons, there are no significant competition distorting effects anticipated as a result of implementing the EFF.

d) Consultation – A public consultation was carried out to engage the stakeholders of Wales in the decision making process for the Operational plan for the delivery of the European Fisheries Fund. This was carried out in 2 Phases in March and May of 2008.

The options offered were:

- 1) Do nothing – effectively not an option for reasons outlined above.
- 2) Pay EFF grants - Apply EFF funding through an operational plan developed in consultation with stakeholders with reference to the Wales fisheries Strategy.

e) Post implementation review – The effects of the EFF implementation and payment of grants, on the Welsh fisheries industry will be regularly reviewed by the Project monitoring committee.

Monitoring and evaluation lessons learned as result of the FIFG scheme will be utilised and where appropriate adapted in order to simplify processes. This will include the development of a simplified computerised system for administrative and reporting processes. In accordance with the requirements of the EFF Regulation, independent evaluation of the Operational Programme will be conducted. Interim and ex post evaluations will seek to improve and evaluate the effectiveness and efficiency of the Operational Programme. The interim evaluation will be completed in order to allow the Commission to establish a strategic debate by 31 December 2011, and ex post evaluations will be completed no later than 31 December 2015. The Marine and Fisheries

Agency (as UK managing authority) shall prepare and submit annual reports to the Commission on the implementation of the Operational Programme, including a final report by 31 March 2017.

In addition to the monitoring requirements of the EFF Regulation, a further work plan is being developed by DEFRA to strengthen the evidence base, in order that more robust evidence can be provided about the costs and benefits of the EFF Programme. This will include work to evaluate and where possible monetise non-market benefits.

f) Summary – These Regulations will benefit the Welsh fisheries industry by promoting the sector to become more:

- Sustainable
- Profitable
- Support strong local communities.

This forms part of a wider 'Welsh Fisheries Strategy' for the next 15-20years.

The costs to the industry are negligible compared to the benefits and opportunities of paying the grants. The costs to the Welsh Assembly Government are deemed necessary when viewed in the wider European context, with other member states taking advantage of the EFF grants programme.