EXPLANATORY MEMORANDUM TO

The Sea Fishing (Financial Assistance to Fishing Boats) Scheme Regulations (Northern Ireland) 2014

2014 No. 96

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under powers conferred on the Department by sections 1(2), 3 and 4 of the Financial Assistance Act (Northern Ireland) 2009 and is subject to the negative resolution procedure.

2. Purpose

2.1. The First Minister and deputy First Minister acting jointly have made a determination under the Financial Assistance Act (NI) 2009 that exceptional circumstances exist, namely operational difficulties experienced by the Northern Ireland fishing fleet and the consequent hardship experienced by owners of fishing vessels, their crews and families.

2.2. These Regulations are made to mitigate the effect of these exceptional circumstances. They provide for financial assistance to be payable to the owners or charterers of eligible Northern Ireland fishing boats and for such persons in turn to make payments to those persons who have been engaged in work on or in connection with the fishing activities of those fishing vessels.

3. Background

3.1. The fishing industry experienced difficulties with weather conditions in the early part of 2014 preventing some vessels from getting to sea. The consequence was that their crews, whose pay is based on a share of vessel's profits, did not receive a wage. The industry and their public representatives made the case to the Minister of Agriculture and Rural Development that extreme poor weather and rough seas were causing exceptional hardship

3.2. The proposals for finacial assistance received Executive support on the 27th February and on 14th March the First Minister and deputy First Minister made a joint determination and designation under section 1(1) of teh Financial Assistance Act that exceptional circumstances in relation to the fishing industry existed and that DARD should be designated to make a scheme of financial assistance.

3.3. The determination and designation was as follows:

3.4. "We, the First Minister and deputy First Minister, acting jointly, in exercise of the powers conferred on us by Section 1(1) of the Financial Assistance Act (Northern Ireland) 2009 ("the Act"), hereby determine –

(a) that exceptional circumstances exist, namely the operational difficulties experienced by the Northern Ireland Fishing Fleet as a consequence of severe and prolonged adverse weather conditions and the consequent hardship experienced by the owners of fishing vessels, their crews and families;
(b) that it is desirable to provide financial assistance to prevent, control or mitigate the effect of these circumstances; and
(c) that such assistance ought to be provided in accordance with a scheme under the Act.
2. These exceptional circumstances include –

- a prolonged period during which, because of severe adverse weather, significant numbers of fishing vessels were unable to put to sea for fishing purposes and the operators of other vessels were unable to cover their operating costs through a combination of poor catches and low prices;
- a resulting loss of income for both fishing vessel operators and those crew members whose pay is based on a share of the vessel's profits;
- consequent hardship for such persons and their families resulting in them having to rely to an exceptional extent on charitable emergency aid to meet utility bills, mortgage payments and rents and other household requirements.

3. Accordingly, acting jointly, in exercise of the powers conferred on us by section 1(3) of the Act, we hereby designate the Department of Agriculture and Rural Development to be the relevant department and, by regulations, to make a scheme to provide financial assistance for the purposes recorded in paragraph 1(b)."

4. Consultation

4.1. Given the urgent nature of delivering a scheme of financial assistance consultation has been limited to representatives of the fishing industry and the Executive. The Agriculture and Rural Development Committee was advised of the Ministers intentions and Executive agreement on 27th February 2014. The Executive supports the Regulations and the FM and dFM have approved them.

5. Equality Impact

5.1. In accordance with DARD's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. An Equality screening document was prepared which showed that the Scheme is neutral in its effect on Section 75 Groups.

6. Regulatory Impact

6.1. The Regulations provide a scheme of financial assistance to fishing boats and therefore do not pose any additional costs to businesses.

6.2. We are content that the proposed legislation meets DARD's commitment to Better Regulation and "gold plating" is not applicable.

7. Financial Implications

7.1. The total amount of financial assistance available shall not exceed £500,000 and will be provided from DARDs resources.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Regulations deal with the provision of financial assistance to fishing boats and do not have any human rights implications, nor are they incompatible with EU law.

8.2. The Regulations are open to all NI fishing boats that experienced hardship as a result of the exceptional circumstances specified in the determination of the First Minister and deputy First Minister. Eligible boats are those that are NI registered, under 27 metres and have spent at least 50 days fishing from 1st February 2013 to 31st January 2014. It excludes large pelagic vessels exploiting fishing opportunities unaffected by the adverse conditions, and "inactive" vessels, respectively. The Regulations are therefore not discriminatory in terms of human rights, religious belief, or political opinion.

8.3. The Regulations comply with Community law and in particular fisheries sector de-minimis state aid provisions.

8.4. The Regulations are therefore compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. The scheme being provided under the Regulations is designed to ensure that any aid awarded can be classed as de-minimis state aid under Commission Regulation 875/2007. As such the aid does not have to be notified to the European Commission provided that no grants are paid unless the requiremenst of the Commission Regulation are met. In particular no fishing business (undertaking) may be paid more than 30,000 Euro over three years. Any other de-minimis payments paid within a three year period would count towards this ceiling. There has been one previous scheme under de-mininimis rules within the last 3 years, and any fishing business that exceeds the ceiling under this scheme and the previous scheme combined will have its payment capped. The Scheme and any conditions applying to the Scheme will include reference to the EC "de-minimis" Regulation. The Department will record the amount of aid paid now and in future to ensure that de-minimis ceilings are not exceeded.

10. Parity or Replicatory Measure

10.1. There are no similar schemes in operation in GB or the ROI.

11. Additional Information

11.1. The Department intends to bring the Regulations into operation in contravention of the "21 day day rule". The Department apologises for doing this but feels that this is justified given the urgent need to provide financial assistance as per the wishes of the Minister of Agriculture and Rural Development and the determination of the First Minister and deputy First Minister, as well as the the commitments made to industry by Ministers to deliver assistance as soon as possible.