

Draft Regulations laid before Senedd Cymru under section 51(4)(c) of the Fisheries Act 2020, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2022 No. (W.)

AQUACULTURE, WALES

FISHERIES, WALES

**MARINE ENVIRONMENT,
WALES**

The Marine, Fisheries and
Aquaculture (Financial Assistance)
Scheme (Wales) Regulations 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish a scheme for the giving of grants and making of loans by the Welsh Ministers under paragraph 2 of Schedule 6 to the Fisheries Act 2020 (c. 22).

Paragraph 2(1) of Schedule 6 to the Fisheries Act 2020 specifies the purposes for which financial assistance can be given.

Part 1 of these Regulations contains general introductory provisions. Part 2 provides for the establishment of the scheme. Part 3 constitutes the scheme and makes provision for the payment of grants and the making of loans by the Welsh Ministers. The Welsh Ministers may pay grants or make loans in respect of the activities listed in the Schedule to these Regulations.

These Regulations set out the basis on which the Welsh Ministers may pay grants and make loans and lays down a procedure for applications. Payment of a grant or loan is dependent on the Welsh Ministers being satisfied as to the expenditure incurred, or to be incurred, and as to compliance with any conditions of approval.

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

Representations may be made in respect of decisions relating to applications for grants and loans and notices of variation, suspension and revocations. The Welsh Ministers must notify the applicant of their decision following such representations.

These Regulations confer an enforcement function on marine enforcement officers appointed by the Welsh Ministers 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 or loan 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.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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The Marine, Fisheries and
Aquaculture (Financial Assistance)
Scheme (Wales) Regulations 2022

Made

Coming into force

21 October 2022

The Welsh Ministers make the following Regulations in exercise of the powers conferred by paragraph 2 of Schedule 6 to the Fisheries Act 2020⁽¹⁾.

In accordance with section 51(4)(c) of, and paragraph 2(8) of Schedule 6 to, that Act, a draft of this instrument has been laid before and approved by resolution of Senedd Cymru.

PART 1

General

Title, commencement, extent and application

1.—(1) The title of these Regulations is the Marine, Fisheries and Aquaculture (Financial Assistance) Scheme (Wales) Regulations 2022.

(1) 2020 c. 22.

(2) These Regulations come into force on 21 October 2022.

(3) These Regulations—

- (a) extend to England and Wales;
- (b) apply in relation to—
 - (i) Wales;
 - (ii) the Welsh zone;
 - (iii) Welsh fishing boats.

Interpretation

2. In these Regulations—

“notified” (*“hysbysedig”*) means notified in writing;

“specified” (*“a bennir”*) means specified in writing by the Welsh Ministers, including in any documentation published or otherwise provided by the Welsh Ministers;

“Welsh fishing boat” (*“cwch pysgota Cymreig”*) means a fishing boat—

- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and
- (b) whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging;

“writing” (*“ysgrifenedig”*) includes electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000(2), which has been recorded and is consequently capable of being reproduced.

PART 2

Establishment of scheme

Establishment of scheme

3.—(1) These Regulations establish a scheme for the giving of financial assistance by the Welsh Ministers under paragraph 2(1) of Schedule 6 to the Fisheries Act 2020.

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

PART 3

Payment of grants and making of loans by the Welsh Ministers

Payments of grants and making of loans

4.—(1) The Welsh Ministers may, in accordance with this scheme, pay grants or make loans, in respect of the activities listed in the Schedule to these Regulations.

(2) The Welsh Ministers may pay a grant or make a loan under paragraph (1) to any person—

- (a) who has applied for a grant or a loan, and
- (b) whose application the Welsh Ministers have approved.

Advertisement and guidance

5. The Welsh Ministers must—

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

Application for a grant or loan

6.—(1) An application for a grant or loan under this scheme must be made in such form, submitted in such manner and include such information as may be specified.

(2) An application must be made within any specified time limit.

(3) An applicant must provide any other documents or information as may be specified on or after receipt of the application.

Decision and notification

7.—(1) The Welsh Ministers must—

- (a) reject or refuse to approve an application, or
- (b) approve an application in whole or in part, unconditionally or subject to such conditions as they may determine.

(2) The Welsh Ministers must notify the applicant of the decision made under sub-paragraph (1).

Evidence of expenditure etc.

8.—(1) The Welsh Ministers must not make a payment to a person under this scheme unless they are satisfied that the person has properly incurred, or will properly incur, expenditure of a kind in respect of which the grant or loan is payable and has complied, or

will comply, with any conditions of the approval of the grant or loan.

(2) For the purposes of paragraph (1), the Welsh Ministers may require the person to provide information evidencing expenditure or any necessary actions relating to the grant or loan.

Method of payment

9. The Welsh Ministers may pay a grant or make a loan under this scheme by such instalments and at such time as they may determine.

Records, inspection and notification of changes

10. It is a condition of the payment of any grant and the making of loans that the person to whom the payment is made must—

- (a) make a record of all payments of grant or loan made and all expenditure in respect of which such payments are made;
- (b) keep any record referred to in sub-paragraph (a) for at least six years after the date on which the last payment was made;
- (c) upon reasonable notice by the Welsh Ministers, make any record referred to in sub-paragraph (a) available for inspection; and
- (d) notify the Welsh Ministers as soon as reasonably practicable of any material change in circumstances that is relevant to the payment of the grant or loan.

Variation, suspension and revocation of approval

11.—(1) The Welsh Ministers may, at any time before the grant or loan has been paid in full, suspend or revoke the approval, in whole or in part, or vary a condition of the approval (including adding or removing conditions).

(2) The Welsh Ministers must notify the applicant of a decision made under paragraph (1).

Procedure for making representations in respect of a notified decision

12.—(1) The applicant may make representations in relation to a decision notified under regulations 7(2) or 11(2).

(2) The form and manner in which representations must be made, including the documents or other information required, and the time limit for making representations may be specified.

(3) The Welsh Ministers must notify the applicant of their decision following representations made under paragraph (1).

Notice of recovery of payment

13.—(1) The Welsh Ministers may give notice to require the repayment of any part of a grant or loan paid to a person under this scheme.

(2) Before giving notice under paragraph (1), the Welsh Ministers must be satisfied that—

- (a) the approved application in respect of which the payment 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 or loan 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 or loan was paid, has not been or cannot 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 Welsh Ministers 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 (for example, an offence of fraud under the Fraud Act 2006⁽¹⁾) by any person in relation to an application for a grant or loan made under this scheme.

(2) Section 238 (enforcement of the fisheries legislation) of the Marine and Coastal Access Act 2009⁽²⁾ 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—

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

(1) 2006 c. 35.

(2) 2009 c. 23. Section 238 was amended by S.I. 2013/755 (W. 90), S.I. 2019/746 and by the Fisheries Act 2020 (c. 22), section 48 and Schedule 10, paragraphs 6 & 30.

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

Name

Minister for Rural Affairs and North Wales, and
Trefnydd, one of the Welsh Ministers

Date

SCHEDULE Regulation 4(1)

Activities for which the Welsh Ministers may pay grants and make loans under this scheme

PART 1

For the purpose of the conservation, enhancement or restoration of the marine and aquatic environment

1. Activities which promote innovation.
2. Activities relating to professional advisory services.
3. Activities which promote human capital and networking.
4. Activities which mitigate the effects of adverse extenuating circumstances.
5. Activities which establish or improve infrastructure for marine and freshwater users.
6. Activities which contribute to the sustainable development of aquaculture sites.
7. Activities which reduce the impact of seafood production on the marine environment.
8. Activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.
9. Activities which contribute to the design and implementation of conservation measures.
10. Activities which support marine spatial planning for the sustainable use of marine and coastal resources.
11. Activities which contribute towards the mitigation of climate change or its effects.
12. Activities which maintain or improve animal health and welfare.

PART 2

For the purpose of the promotion or development of commercial fish or aquaculture activities

1. Activities which promote innovation.

2. Activities relating to professional advisory services.

3. Activities which promote human capital and networking.

4. Activities which improve hygiene, health, safety, wellbeing.

5. Activities which support diversification of businesses.

6. Activities which mitigate the effects of adverse extenuating circumstances.

7. Activities which establish or improve infrastructure for marine and freshwater users.

8. Activities which promote job creation and encourages new entrants to the marine, fishing and aquaculture industries.

9. Activities which support fishers or aquaculture farmers to establish new fishing or aquaculture businesses.

10. Activities which contribute to the sustainable development of aquaculture sites.

11. Activities which support the marketing of marine, fisheries and aquaculture products or recreational fishing.

12. Activities which lead to new or improved products, processes or management and organisation systems.

13. Activities which reduce the impact of seafood production on the marine environment.

14. Activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.

15. Activities which contribute to the design and implementation of conservation measures.

16. Activities which support marine spatial planning for the sustainable use of marine and coastal resources.

17. Activities which contribute towards the mitigation of climate change or its effects.

18. Activities which maintain or improve animal health and welfare.

PART 3

For the purpose of the reorganisation of businesses involved in commercial fish or aquaculture activities

1. Activities which promote innovation.
2. Activities relating to professional advisory services.
3. Activities that promote human capital and networking.
4. Activities which improve hygiene, health, safety, wellbeing.
5. Activities which support diversification of businesses.
6. Activities which establish or improve infrastructure for marine and freshwater users.
7. Activities which promote job creation and encourages new entrants to the marine, fishing and aquaculture industries.
8. Activities which contribute to the sustainable development of aquaculture sites.
9. Activities which support the marketing of marine, fisheries and aquaculture products or recreational fishing.
10. Activities which lead to new or improved products, processes or management and organisation systems.
11. Activities which reduce the impact of seafood production on the marine environment.
12. Activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.
13. Activities which support marine spatial planning for the sustainable use of marine and coastal resources.
14. Activities which contribute towards the mitigation of climate change or its effects.
15. Activities which maintain or improve animal health and welfare.

PART 4

For the purpose of contributing to the expenses of persons involved in commercial fish or aquaculture activities

1. Activities which promote innovation.
2. Activities relating to professional advisory services.
3. Activities which promote human capital and networking.
4. Activities which improve hygiene, health, safety, wellbeing.
5. Activities which support diversification of businesses.
6. Activities which mitigate the effects of adverse extenuating circumstances.
7. Activities which establish or improve infrastructure for marine and freshwater users.
8. Activities which promote job creation and encourages new entrants to the marine, fishing and aquaculture industries.
9. Activities which support fishers or aquaculture farmers to establish new fishing or aquaculture businesses.
10. Activities which contribute to the sustainable development of aquaculture sites.
11. Activities which support the marketing of marine, fisheries and aquaculture products or recreational fishing.
12. Activities which lead to new or improved products, processes or management and organisation systems.
13. Activities which reduce the impact of seafood production on the marine environment.
14. Activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.
15. Activities which contribute to the design and implementation of conservation measures.
16. Activities which support marine spatial planning for the sustainable use of marine and coastal resources.
17. Activities which contribute towards the mitigation of climate change or its effects.
18. Activities which maintain or improve animal health and welfare.

PART 5

For the purpose of maintaining or improving the health and safety of individuals who are involved in commercial fish or aquaculture activities

1. Activities which promote innovation.
2. Activities relating to professional advisory services.
3. Activities that promote human capital and networking.
4. Activities which improve hygiene, health, safety, wellbeing.
5. Activities which mitigate the effects of adverse extenuating circumstances.
6. Activities which lead to new or improved products, processes or management and organisation systems.

PART 6

For the purpose of the training of individuals who are, were or intend to become involved in commercial fish or aquaculture activities, or are family members of such individuals

1. Activities which promote innovation.
2. Any professional advisory service activities.
3. Any activities that promote human capital and networking.
4. Any activities which improve hygiene, health, safety, wellbeing.
5. Any activities to support diversification of businesses.
6. Any activities which promote job creation and encourages new entrants to the marine, fishing and aquaculture industries.
7. Any activities which support fishers or aquaculture farmers to establish new fishing or aquaculture businesses.
8. Any activities which contribute to the sustainable development of aquaculture sites.
9. Any activities which lead to new or improved products, processes or management and organisation systems.

10. Any activities which reduce the impact of seafood production on the marine environment.

11. Any activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.

12. Any activities which contribute to the design and implementation of conservation measures

13. Any activities which support marine spatial planning for the sustainable use of marine and coastal resources.

14. Any activities which contribute towards the mitigation of climate change or its effects.

15. Any activities which maintain or improve animal health and welfare.

PART 7

For the purpose of the economic development or social improvement of areas in which commercial fish or aquaculture activities are carried out

1. Activities which promote innovation.

2. Activities relating to professional advisory services.

3. Activities which promote human capital and networking.

4. Activities which improve hygiene, health, safety, wellbeing.

5. Activities which support diversification of businesses.

6. Activities which mitigate the effects of adverse extenuating circumstances.

7. Activities which establish or improve infrastructure for marine and freshwater users.

8. Activities which promote job creation and encourages new entrants to the marine, fishing and aquaculture industries.

9. Activities which support fishers or aquaculture farmers to establish new fishing or aquaculture businesses.

10. Activities which contribute to the sustainable development of aquaculture sites.

11. Activities which support the marketing of marine, fisheries and aquaculture products or recreational fishing.

12. Activities which lead to new or improved products, processes or management and organisation systems.

13. Activities which reduce the impact of seafood production on the marine environment.

14. Activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.

15. Activities which contribute to the design and implementation of conservation measures.

16. Activities which support marine spatial planning for the sustainable use of marine and coastal resources.

17. Activities which contribute towards the mitigation of climate change or its effects.

18. Activities which maintain or improve animal health and welfare.

PART 8

For the purpose of improving the arrangements for the use of catch quotas or effort quotas

1. Activities which promote innovation.

2. Activities relating to professional advisory services.

3. Activities which establish or improve infrastructure for marine and freshwater users.

4. Activities which support the marketing of marine, fisheries and aquaculture products or recreational fishing.

5. Any activities which lead to new or improved products, processes or management and organisation systems.

6. Any activities which reduce the impact of seafood production on the marine environment.

7. Activities which contribute towards the mitigation of climate change or its effects.

8. Activities which maintain or improve animal health and welfare.

9. Activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.

10. Activities which contribute to the design and implementation of conservation measures.

11. Activities which support marine spatial planning for the sustainable use of marine and coastal resources.

PART 9

For the purpose of the promotion or development of recreational fishing

1. Activities which promote innovation.
2. Activities relating to professional advisory services.
3. Activities which promote human capital and networking.
4. Activities which improve hygiene, health, safety, wellbeing.
5. Activities which support diversification of businesses.
6. Activities which mitigate the effects of adverse extenuating circumstances.
7. Activities which establish or improve infrastructure for marine and freshwater users.
8. Activities which promote job creation and encourages new entrants to the marine, fishing and aquaculture industries.
9. Activities which support the marketing of marine, fisheries and aquaculture products or recreational fishing.
10. Activities which lead to new or improved products, processes or management and organisation systems.
11. Activities which contribute towards conservation, restoration or enhancement of aquatic ecosystems and biodiversity.
12. Activities which contribute towards the mitigation of climate change or its effects.
13. Activities which maintain or improve animal health and welfare.
14. Activities which support marine spatial planning for the sustainable use of marine and coastal resources.