

## **Explanatory Memorandum to the European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016**

This Explanatory Memorandum has been prepared by the Marine and Fisheries Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Cabinet Secretary's Declaration**

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016. I am satisfied that the benefits outweigh the likely costs.

**Lesley Griffiths AM**  
**Cabinet Secretary for Environment and Rural Affairs**

**24 June 2016**

## **1. Description**

The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016 ('the 2016 Regulations') put in place a mechanism to allow Welsh Ministers to co-finance assistance provided to the fisheries and aquaculture sector from the new European Maritime and Fisheries Fund (EMFF), as they apply to the operational programmes established under Council Regulation 508/2014.

The 2016 Regulations provide the Welsh Ministers with powers necessary to manage and co-finance the fund, including the power to approve applications for the receipt of financial assistance and to pay financial assistance. They also set out the circumstances in which approval of an operation may be revoked (in whole or in part) and when financial assistance paid to a beneficiary may be reduced, withheld or recovered. The 2016 Regulations contain provisions relating to powers of entry and inspection and include a requirement for beneficiaries of financial assistance to keep records relating to an approved operation for a certain period.

The 2016 Regulations revoke and replace the European Fisheries Fund (Grants) (Wales) Regulations 2009 (SI 2009/360). They contain a transitional provision so that applications received by the Welsh Ministers before 31 December 2015 will continue to be dealt with under the terms of the 2009 Regulations.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

Although the European Communities Act 1972 offers a choice between negative and affirmative procedures the negative procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of the SI because it is giving effect to EU provisions.

## **3. Legislative background**

These Regulations will be made by the Welsh Ministers using powers designated to them by virtue of the European Communities (Designation) (No. 5) Order 2010 (SI 2010/2690) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy and paragraph 1A of Schedule 2 of the European Communities Act 1972.

The negative procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of the SI because it is giving effect to EU provisions.

## **Purpose & intended effect of the legislation**

In the UK the EMFF will be used to achieve the aims of implementing the requirements of the reformed Common Fisheries Policy (CFP), fostering growth within the fisheries and aquaculture sectors and increasing the economic, environmental and social sustainability of the sectors. Specific funds will be used to meet control and data collection obligations.

Fisheries are subject to a number of market failures including common resource problems, public goods and negative externalities. Fish stocks need to be managed sustainably and the Government intervenes in a number of ways to ensure the future of fisheries, for example, introducing regulations to support changing behaviour. The EMFF is one such intervention, where the government co-finances investments that would not otherwise be undertaken, to achieve a number of policy aims, particularly around the implementation of the CFP.

In order to utilise the EMFF there is an obligation on Wales to co-finance the fund. To allow the Welsh Ministers to make such payments a statutory instrument is required.

Without the EMFF there would be no programme of grants to assist the industry. Additionally, Wales would still need to fulfil a number of legal obligations in relation to enforcement and data collection, the costs of which would have to be met by the Welsh Government if no European funding were available. Failure to utilise the EMFF would also be likely to put Welsh operators at a disadvantage to competitors.

## **5. Consultation**

Stakeholder consultation has taken a key role in the development of the implementation of the EMFF. At an early stage of the process a Strength, Weakness, Opportunities and Threats analysis (SWOT) was undertaken and a number of stakeholder events took place across the UK. A Welsh stakeholder workshop took place on Friday, 31 May 2013.

A UK consultation on the implementation of the EMFF was carried out by The Department for Environment, Food and Rural Affairs (Defra) in 2014.

<https://consult.defra.gov.uk/fisheries/european-maritime-and-fisheries-fund-in-the-uk>

The consultation was specifically about the overall strategy for the use of EMFF funding in the UK. This included the measures that the fund would support and the allocation of funding to each measure. The consultation was open for six weeks, from 31 March to 12 May 2014.

The consultation was open to any interested party and was advertised on the Defra website. Defra wrote to all parties who they thought might have a particular interest, such as organisations who may be potential beneficiaries of the fund, trade associations and non-governmental organisations with an interest in fisheries and maritime policy. During the consultation period further Stakeholder events were held throughout the UK.

The Welsh Government informed its stakeholders of the consultation in early April 2014 and organised a workshop which took place on 29 April 2014, where Welsh Stakeholders were asked to contribute views in connection with prioritising how the fund should be spent in Wales.

A Summary of Responses was published in July 2014.

<https://www.gov.uk/government/consultations/common-fisheries-policy-european-maritime-and-fisheries-fund-in-the-uk-2014-to-2020>

Responses received were beneficial when identifying the priorities for the EMFF to be outlined in the UK Operational Programme. Officials have ensured that the 2016 Regulations will allow Wales to comply with the UK Operational Programme.

## 6. Regulatory Impact Assessment (RIA)

The EMFF is a UK-wide programme and therefore an Impact Assessment was carried out by the Department for Environment, Food and Rural Affairs at a UK level during the consultation process of the Operational Programme. The IA considered the effect at a UK level that the operational programme will have on the costs of business and the voluntary sector. For this reason, a separate Welsh RIA has not been completed. The following section provides a summary of the expected impact in Wales.

The IA is placed in the library of each House of Parliament and is available on the Defra website. <https://consult.defra.gov.uk/fisheries/european-maritime-and-fisheries-fund-in-the-uk>.

### Allocation of the fund

Since the publication of the Defra Impact Assessment, the UK allocation of the fund for the period 2015-2020 has been announced and a split of this allocation has been agreed between the Devolved Authorities for the Core and Control (enforcement) funds:

	UK Allocation (€)	Wales Allocation (€)
Core fund (including storage aid and Integrated Maritime Policy)	145,505,562	12,222,467
Control (Enforcement)	45,192,561	2,485,591

For Data Collection (DCMAP) a joint fund of €25,696,244 has been allocated to England and Wales and this will be split and managed by the Data Collection Framework Management Board throughout the programme period. It is anticipated that Wales will receive between €2.8 - €5.14 million, resulting in between €17.5 - €19.8 million total fund for Wales (dependent on spend of England and Wales DCMAP budget). Based on current exchange rates<sup>1</sup>, this equates to a total fund in Wales of approximately £13.45 - £15.25 million for the period 2016-2020.

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<sup>1</sup> The Bank of England spot exchange rate on 19 May 2016 of £1: €1.3017 has been used. It is important to note that the exchange rate will fluctuate during the funding period and so the Sterling amounts will change.

## Welsh Government costs

The Welsh Government will be expected to co-finance the fund. The UK has decided to take advantage of the maximum EMFF rate of 75% of eligible public expenditure for core funding, thereby contributing 25% of public expenditure in match funding:

	Wales Co-financing (€)
Core fund (including storage aid and Integrated Maritime Policy)	4,074,155

Control (Enforcement) co-financing is set at 90% EMFF contribution, with UK contributing 10%:

	Wales Co-financing (€)
Control (Enforcement)	276,176

Data collection is set at 80%, with UK contributing 20%.

	Wales Co-financing (€)
Data Collection	between 700,000 -1,285,000

Total expenditure by the Welsh Government in co-financing is therefore expected to be between €5,050,331 - €5,635,331 (dependent on spend of England and Wales DCMAP budget). This equates to between £3.88 - £4.33 million approximately, based on current exchange rates. This cost will be incurred between 2016 and 2020.

The amount of the total fund which can be used for Administration costs (Technical assistance) is set in the EU Regulation at a maximum of 6%. Wales is expecting to fully utilise this portion, resulting in an estimated £1,039,797 - £1,174,620 of the total fund being used for Technical Assistance. Expenditure will be monitored throughout the fund period and any allocation not required will be redistributed against Union Priorities.

## Business costs

Businesses in Wales wishing to access the fund will have to contribute private funding to an appropriate percentage of public expenditure. The decision whether or not to access the fund is purely voluntary and businesses are only expected to apply if they anticipate a positive return from their project. The EU Regulation states a maximum of 50% public aid, however there are derogations of up to 100%, depending on the nature of the project. As an example, if an operation is related to the data collection referred to in Article 77; where it states that the EMFF shall support the collection, management and use of data, as provided for in Article 25(1) and (2) of Regulation (EU) No 1380/2013 and further specified in Regulation (EC) No 199/2008, then an intensity rate of 100% may be applied by the Member state.

## Benefits

There will be a saving to the Welsh Government from the EU contribution to the enforcement and data collection measures. As noted above, Wales would have to meet the full cost of these activities in the absence of the EU funding.

The fishing industry in Wales will be able to apply for grant funding towards investment projects. The table below sets out a qualitative description of the economic, environmental and social benefits that are expected to occur as a result of the fund, broken down into Union priorities:

Union Priority	Economic benefits	Environmental benefits	Social benefits
Promoting sustainable and resource-efficient fisheries and aquaculture including related processing:	More efficient fleet. More efficient quota system. More efficient and selective gear. Reduced costs of fuel. Increased economic sustainability of the industry.	Reduced environmental pressure and more resilient marine ecosystem services. Better management of NATURA 2000 sites. Restoration of marine biodiversity. More sustainable use of fish stocks. Reduced GHG emissions.	Reduced health and safety incidents and costs.
Fostering innovative, competitive and knowledge-based fisheries and aquaculture including related processing.	More economically sustainable industry which is less reliant on government support in the long run. More innovate and economically diverse fleet. Reduced fuel costs. Aquaculture: protection from serious damage, reduction in disease.	Environmental improvements to the marine environment and fish stocks. Reduced GHG emissions.	Reduced health and safety incidents and costs.
Increasing employment and territorial cohesion.	Increased profitability and sustainability leading to long term reduction of reliance on government intervention.	Environmental benefits such as enhancing local environmental assets and local management of marine ecosystems.	Social capital and community engagement in the marine environment.
Fostering the implementation of the Integrated Maritime Policy.	Efficiencies and economies of scale from joint working and knowledge exchange.	Environmental benefits from a co-ordinated approach to the marine environment.	Social capital.

All documents referred to are available by post from:

Welsh Government,  
Marine & Fisheries Division,  
Llys y Ddraig, Penllergaer Business Park,  
Swansea. SA4 9NX

or by e-mailing:  
[emff@wales.gsi.gov.uk](mailto:emff@wales.gsi.gov.uk).