

18/05/2006

Mr Patrick McCarthy  
Patrick McCarthy & Co  
23/24 Bridge Street  
Skibbereen  
Co.Cork  
Ireland

FOI/0039/2006

Dear Mr McCarthy,

I refer to the request you have made under the Freedom of Information Act for access to records held by this Department in connection with Full details and copies of correspondence between DCMNR and BIM concerning their clients application and issue of grants for the MFV LOVON.

Your request has been PART-GRANT and I attach all relevant information with this letter. Please find included a Schedule of all records associated with your request, detailing the order in which they are filed here.

I wish to advise you that, if for any reason you are not satisfied with the outcome of your request, you are entitled to seek a review of the case by appealing the decision to this Department's FOI Internal Review Board. To appeal, you need to write to \_\_\_\_\_, FOI Unit, Department of Communications, Marine and Natural Resources, Leeson Lane, Dublin 2, Co Dublin. You must make your appeal within 4 weeks of the date of this letter, but the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Please note that an application fee for an appeal is currently €75.00 and a reduced fee of €25.00 applies if you are covered by a Medical Card.


If claiming a reduced application fee, the request must also be accompanied by

- The Medical Card registration number
- The name of the issuing Health Board
- Your consent to the verification of these details with that Health Board.

Payment should be made by way of bank draft, money postal order, or personal cheque made payable to "The Department of Communications, Marine & Natural Resources".

On receipt of the fee, an acknowledgement letter will be sent to you outlining details of when you can expect a decision on your appeal, and the contact details of the person handling the appeal.

Yours sincerely,

  
\_\_\_\_\_  
John Kelly  
Seafood Policy & Development Division





Secretary General's Office  
Oifig an Ard Rúnaí

1 August 2000

Mr. Pat Keogh  
Chief Executive  
B.I.M.

Re: Applications for the purchase of second hand vessels

Dear Pat,

Mr. Anthony Sheehy and [REDACTED] and others are proposing to introduce two second hand vessels, which are being bought in Sweden, to the fleet (the M.F.V. Lovon and the [REDACTED]). During the course of a recent meeting with the Minister the proposers raised the question of whether or not they could submit applications now for grant aid which might subsequently be considered in the event that any scheme to grant aid the purchase of such second-hand vessels were introduced. The Minister indicated that such applications would only be received by BIM if a thorough and comprehensive disclaimer of any potential liability was drawn up by BIM and accepted and signed by the applicants.

Accordingly, I would request that your legal advisers draw up a comprehensive disclaimer document for acceptance and signature by the applicants before any applications of any sort are accepted. Your legal advisers should be fully satisfied that the procedure and documentation devised will ensure that no liability of any kind is created for BIM, the Department or the State in the event that there is no scheme, or that the applications are ineligible or do not get adequate priority or subsequently fail to receive the grant aid sought for any other reason. It will also be necessary to fully clarify that if the proposed expenditure has been committed prior to any applications the proposed expenditure, would be ineligible for grant-aid.

Given the precedent which receipt of any applications of any sort will create it is vital that the procedure and documentation to ensure that no liabilities for the State or BIM are created is given a high priority within BIM and is completed as soon possible.

Yours sincerely

P.P. 

Sara White  
Assistant Secretary.

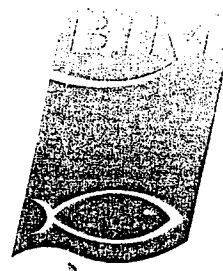
c.c. Des Mc Hugh BIM.

P.O. Box No. 12  
Crofton Road  
Dun Laoghaire  
Co. Dublin, Ireland

Tel +353 1 214 4100  
Fax +353 1 284 1123  
<http://www.bim.ie>

Irish Sea Fisheries Board

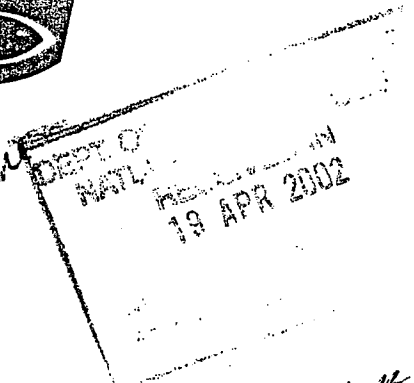
2.



17 April 2002.

The Secretary  
Dept. of the Marine & Natural Resources  
Leeson Lane  
Dublin 2.

*fill  
a fleet  
measure*



**Attention : Dr Cecil Beamish, Assistant Secretary.**

**Re: Fishing Fleet Development Measure.**

**Second – Hand vessel and Young Fishermen grants.**

*for value  
please check if they will  
be drawn down in 2002. If no  
please proceed with  
announcement*

Dear Dr Beamish

The closing date for the receipt of second-hand and young fishermen vessel grant applications under the Fishing Fleet Development Measure was the 26 October 2001. A total of thirteen applications were received of which seven have been processed and meet the mandatory criteria of the Programme, and have been approved by BIM for grants as per attached tables 1 and 2. It was not necessary to use the selection criteria, as available grant funding was not exceeded.

*CB  
2/4*

Two applications did not meet the mandatory requirements and one application recommended at Executive level has been submitted for BIM Board approval in accordance with Procedures, and will be notified to your Department if approved.

Please note that three applications for MFV [redacted] MFV "Lovon" and MFV [redacted] have not yet been processed by BIM as the vessels were delivered prior to the launch of the Fishing Fleet Development Measure (15/6/01) and an operative date for the measure has to be decided before the applications can be assessed. We await confirmation of this date.

I would be grateful if you would advise me when the Minister will announce the successful applicants so that formal approval letters can issue. Should you require any further information please do not hesitate to contact me.

Yours sincerely

Michael Keatinge  
**Fisheries Development Manager**

National Fisheries College, Greencastle, Co. Donegal  
Regional Fisheries Centre: Castletownbere, Co. Cork  
Regional offices:  
Killybegs, Co. Donegal; Galway; Howth, Co. Dublin  
International offices:  
Paris France; Madrid Spain

An Roinn Cumarsáide,  
In. Cragus Acmhainní Nádúrtha  
Baile Átha Cliath 2.



Department of Communications,  
Marine and Natural Resources  
Dublin 2.

3.

*Kin*

*Will you open file*

*Fleet Development Measure  
+ Bulk Pelagic Storage Facilities*

*+ Referral to us*

*JK*

4 September 2002

Mr Michael Keatinge  
Bord Iascaigh Mhara

Dear Michael

Representations have been received by the Minister in relation to the payment of grant aid to vessels with sea water tanks for the bulk storage of pelagic species on board under the second hand grant scheme. The policy issues in relation to these applications and other applications in respect of modernisation grants for vessels with sea water tanks for the bulk storage of pelagic species on board are being examined by the Department and we will advise you in relation to the policy issues raised shortly. Until these matters are clarified no grant aid should be paid in respect of these applications.

Yours sincerely

*Josephine Kelly*

Josephine Kelly  
Seafood Policy and Development Division

4.

## **Objectives and Reasons for Policy Directive 2/2003**

### **Legal Basis**

The Minister is empowered, under Section 3 of the Fisheries (Amendment) Act 2003, to give written policy directives to the independent Licensing Authority established under that Act.

### **Overall Objectives of New Policy**

The key objective of a new licensing policy is to create a new open and transparent policy which will facilitate the achievement of a sustainable and viable livelihood for fishermen operating in the various types of fisheries taking account of available fishing opportunities and fishing resources. The policy must also deliver the required fleet capacity targets set down in EU fleet policy. In addition, the introduction of a transparent and settled licensing policy will give stability and certainty to the industry. The policy proposals being proposed take account of the current situation and the policies and structures, *inter alia*, for fleet and fisheries management that have evolved since 1990 and seek to achieve the objectives set out above.

### **Reasons for New policy**

The Government programme provides for the introduction of a new fleet licensing policy to ensure equity, transparency and an independent appeals process. On 1 July 2003, an amendment to the Fisheries Acts was enacted which transfers sea – fishing boat licensing functions from the Minister to a legally independent Licensing Authority under the direction of the Registrar General of Fishing Boats, an official of the Department. It also establishes an independent appeals system in respect of licensing decisions by the Licensing Authority.

In December 2002, the EU Council, following difficult and protracted negotiations, adopted a framework regulation (Council Regulation 2371/2002) for the Common Fisheries Council amending significantly the policy in place since 1992. The new policy set down a new approach for the management of fleet policy at EU level. In March 2003, the Commission brought forward draft implementing rules in respect of the new EU fleet policy. The rules, following amendments and clarifications that address significantly Ireland's concerns, were adopted by the Commission on 12 August 2003 (Commission Regulation 1438/2003). In tandem with the development of the new policy at EU level, the Department has undertaken a comprehensive review of the situation of the Irish fishing fleet and related capacity. A Review Group is also in place to examine current licensing policy and recommend changes. On the basis of the Departmental review of the capacity situation of the fleet, and taking account of intensive consultations with the Review Group and industry representatives and fishermen, the Minister has issued a directive for adjustment of sea-fishing boat licensing policy. The policy directive addresses some of the critical issues associated with fleet management in the Irish context, including segmentation and replacement capacity policy.

**To: Registrar General of Fishing Boats, Licensing Authority**  
**From: Minister for Communications Marine and Natural Resources**

### **Policy Directive 2/2003**

A policy directive under Section 3(2)(b) of the Fisheries (Amendment) Act 2003 in relation to sea-fishing boat licensing is issued as set out below.

- A. Segmentation in its present form will largely remain in place. The Irish fleet will comprise a polyvalent segment, a refrigerated sea water (RSW) pelagic segment, a beamer segment, a specific segment and an aquaculture segment. Other than as provided for hereunder, the transfer of capacity between segments of the fleet will be prohibited.
- B. The RSW pelagic segment will not be permitted to exceed the MGP IV 31/12/2002 capacity limits and licences will not issue permitting the introduction of additional capacity if these limits have been reached.
- C. The 1:1 replacement capacity requirement in terms of GT and kW will remain in place other than in the limited cases specified hereunder. This policy will also apply to the specific segment of the fleet.
- D. Other than as specified under, segmentation must be fully respected - the replacement capacity must be taken out of the segment of the fleet into which the vessel is being introduced.
- E. In future, capacity taken off the Fishing Boat Register must be re-introduced onto the Sea Fishing Boat Register within 2 years of its removal from the fleet register, otherwise the entitlement will be lost to its owner. The two year rule will also apply to all existing "off register" capacity from 1 /1 /04.
- F. Within the polyvalent segment of the fleet, the total capacity of vessels with pelagic wet storage capacity (tanks), as determined by the Licensing Authority, will be ring fenced at current approved levels (1,247 GT and 2,881 kW). The vessels in this sub-segment may have fully functioning RSW tanks. Licensed vessels which do not have a licence with approved pelagic wet storage capacity, and which currently have such capacity, will be allowed to continue to operate with wet storage capacity for the period of their current sea-fishing boat licence. Any future proposals for the renewal of a licence or the licensing of new, second hand or modified vessels with pelagic wet storage capacity within the polyvalent segment will only be considered by the Licensing Authority where this would lead to no increase in the overall capacity ring fenced for pelagic wet storage capacity in that segment. The only exception in this regard is where capacity increases arise from safety tonnage, approved in advance by the Licensing Authority, in accordance with the terms of Article 11.5 of Council Regulation 2371/2002 and Article 8 of Commission Regulation 1438/2003. In relation to vessels which fish for

crabs with wet storage capacity, these vessels may be licensed within the polyvalent segment of the fleet subject to the licence including a condition providing that the tanks on board must not be used for carrying pelagic species.

- G. The current policy provision whereby a minimum of 80% “active pelagic” replacement capacity is required in order for dry storage vessels over 65 feet in length to be licensed without a pelagic preclusion will continue to apply up to 31 December 2004. The requirement to provide full “active pelagic” replacement capacity for vessels licensed with 80% “active pelagic” capacity will be extended to 31 December 2004.
- H. Replacement capacity which has not been provided by vessel owners in the RSW pelagic segment of the fleet in respect of works claimed as “safety tonnage” (in respect of certain vessels licensed during the Fourth EU Multi-Annual Guidance Programme (MGP IV)) will be required to be provided by means of the removal of “on” or “off” register polyvalent or beam trawl capacity on the basis of 2.2 polyvalent or beam trawl GTs + 9 kW for 1 outstanding RSW pelagic segment GT. This capacity must be removed from the fleet on a phased basis – at least 30% by 31 January 2004, at least 70% by 30 April 2004, and 100% by 30 September 2004. Fishing licences may only be issued where these phased requirements are met. Licences will not be granted for vessels replacing vessels with outstanding “safety tonnage” capacity until such time as all of the outstanding replacement capacity has been provided in the manner set out above. Vessel owners with outstanding “safety tonnage” capacity in respect of their existing vessels and who do not propose to introduce a replacement vessel may sell or otherwise transfer the capacity of their vessel to a third party on the basis that the outstanding “safety tonnage” debt is also transferred. The new vessel owner will only be licensed subject, *inter alia*, to having provided full replacement capacity, including outstanding “safety tonnage”, in the manner set out above. The sole situation in which polyvalent or beam trawl replacement capacity may be used towards the licensing of a vessel in the RSW pelagic segment is where the vessel concerned is currently licensed and has outstanding replacement capacity, and only in respect of the amount of that outstanding replacement capacity. Any capacity awarded to the vessel owners following a successful EU Court challenge in respect of the existing outstanding “safety tonnage” will be credited to the owners in the form of RSW pelagic segment tonnage. The use of any such capacity awarded is subject to section E above.
- I. Beamers with full time beamer entitlement on the basis of historic beamer fishing activity will be transferred from the polyvalent segment of the fleet to the beamer segment of the fleet. The capacity of beamer vessels transferred into the beamer segment of the fleet as provided for may be used as polyvalent capacity for the purposes of replacement capacity until 1 January 2007. Any beamer capacity used as polyvalent capacity in this way will not be regarded for future licensing purposes as having a beamer entitlement. The fishing effort (days at sea) regime established under MGP IV in respect of the beamer segment will no longer apply to this segment.

- J. No additional capacity will be licensed with part-time beamer entitlements in the future. The licences of vessels with part-time beamer entitlements may be renewed, or the entitlement transferred with the capacity, subject to the level of beamer entitlement not being reduced below that already provided for in the current licences. Existing licensed beamer vessels which hold part-time beamer entitlements on the basis of historic beamer fishing activity may secure full time beamer entitlements by removing polyvalent capacity at a ratio of 1:2 in respect of that part of the capacity of the vessel which was not deemed to have beaming history.
- K. Full-time Aquaculture service vessels, including vessels which target mussel seed, are exempt from the 1:1 replacement capacity requirement. All applications for new vessels in this segment must comply with strict criteria, as laid down by the Licensing Authority.
- L. The capacity of inshore potting vessels licensed under the new scheme will be ring fenced within the polyvalent segment and will not be eligible as replacement capacity. This means that neither the boats, their capacity or their licence may be traded on, transferred or otherwise used.
- M. Vessels licensed under the 1991 Special Whitefish Licensing Scheme are currently subject to special licence conditions (preclusion from fishing in ICES Area VII east of 8° West, and must land not less than two thirds of catch into Irish ports). These conditions remain in place. However, the capacity of these vessels may be used as replacement capacity in respect of meeting the replacement capacity requirement set out in section H above subject to the provision of replacement capacity equal to 5% of the total capacity in the case of each of the vessels concerned. This is in addition to an existing requirement to provide replacement capacity equal to 5% of the total capacity of each of the vessels concerned in respect of the removal of a special licence condition precluding fishing for quota species in ICES Area VI. Both replacement capacity requirements must, therefore, have been met before the capacity of any of the vessels concerned may be used as replacement capacity in the context of Section H above.
- N. The replacement tonnage requirements as set out in this policy must be met by way of gross tonnes for all vessels of all sizes.
- O. Applications for capacity increases which arise from safety tonnage in accordance with the terms of Article 11.5 of Council Regulation 2371/2002 and Article 8 of Commission Regulation 1438/2003 must be made to, and approved in advance by, the Licensing Authority in respect of any modifications being made to a fishing boat.

Dermot Ahern T.D.  
Minister for Communications, Marine and Natural Resources

17 November 2003

28/04/2006

Mr Patrick McCarthy  
Patrick McCarthy & Co  
23/24 Bridge Street  
Skibbereen  
Co.Cork

FOI/0039/2006

Dear Mr McCarthy,

I refer to the Freedom of Information request received in this office on 28/04/2006 along with the associated fee.

The officer handling your request will be Mr John Kelly, Seafood Policy & Development Division, Department of Communications, Marine & Natural Resources, Leeson Lane, Dublin 2, Co Dublin. He can be contacted at 6782515.

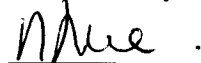
A final decision on your request will normally be sent to you within 4 weeks of receipt of your request. This means that you can expect to receive your decision by the 29/05/2006.

If you have not heard from us when the time allocated has expired, you are automatically entitled to appeal to the Department for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired.

You should also be aware that you are entitled to a review of the decision if your request is refused, or if you are for any reason dissatisfied with the outcome of your request. The review is a full and new examination of the matter carried out by a more senior member of staff of this Department. In the event that you need to make an appeal, you can do so by writing to Mr John Wynne, FOI Unit, Department of Communications, Marine & Natural Resources, Leeson Lane, Dublin 2, Co Dublin. Please note that there is a charge for all appeals of FOI requests. This charge is currently €75.00. A reduced fee of €25.00 applies if you are the holder of a Medical Card.

Please note that the Department of Communications, Marine & Natural Resources has a policy of posting a summary of your request, your name and address and the subsequent reply on the Department's website for reference purposes.

Yours sincerely,



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Nuala Free  
FOI Unit

# PATRICK MCCARTHY & CO



## SOLICITORS

23/24 Bridge St., Skibbereen. Co. Cork  
Tel: (028) 21147 & (028) 21802  
Fax: (028) 22068  
E-mail: pmccsols@indigo.ie

Patrick McCarthy, B.C.L.  
Brian McGill, B.C.J.

Naomi McCarthy, *Legal Executive*  
Anita Pratt, *Law Clerk*

Secretary,  
Department of Communications, Marine & Natural Resources,  
Sea Fisheries Division,  
Leeson Lane,  
Dublin 2

Date: 7<sup>th</sup> April 2006

Your Ref:

Our Ref: PMCC/AP

**RE: Our Client: Anthony Sheehy (Knollway Limited) Tower House, Ballylynch, Baltimore,  
Co. Cork  
MFV Lovon – Registered Number S381**

Dear Sir,

We act on behalf of the above named Anthony Sheehy of Tower House, Ballylynch, Baltimore, Co. Cork.

Mr. Sheehy has requested us to write to you to seek full details and copies of all correspondence between the Department of Communications, Marine & Natural Resources and Bord Iascaigh Mhara in respect of the application and issue of Grants by Bord Iascaigh Mhara in respect of Mr. Sheehy's fishing vessel Lovon.

We await hearing from you.

Yours faithfully,

  
\_\_\_\_\_  
PATRICK MCCARTHY & COMPANY

Requested Fee  
from A. Pratt  
27/4/06

AP