

**SCOTTISH GOVERNMENT**

**SCOTTISH SEAFOOD  
BUSINESS RESILIENCE FUND**

**APRIL 2020**

## Policy Background

The impact of Covid-19 on the food and drink sector has been severe. The seafood sector has been particularly impacted given its reliance on exports and the collapse of the domestic food service market resulting in many seafood processors encountering severe hardship. Some of the measures recently announced by the UK Government, particularly those to support employment, will help the seafood sector to some extent but are not sufficient to support the future viability of many businesses, many of which are critical to the economic sustainability of our coastal and rural communities. The Scottish Government has therefore established a Scottish Seafood Business Resilience Fund with support available up to £10 million that will include grants, in line with the new state aid flexibility, to support those businesses suffering severe hardship

## Fund Overview

- The fund is targeted initially at all seafood processors and seafood businesses including those involved in exporting live seafood and shellfish and, in doing so, undertake associated husbandry.
- The purpose of this intervention is to provide support to businesses that have/are encountering severe hardship as a consequence of the COVID-19 pandemic.
- The **intervention is to support the fixed costs of operating the business**. Please see clause 2.2 and clauses 2.6-2.7 for further details. Our support will cover costs for a 3 month period.
- Support through this fund cannot be used for certain purposes, as detailed in clause 2.3.
- This specific support will be provided through grants. The maximum level of grant may vary depending on the business and the application, with the absolute maximum available being £100k.
- The maximum level of grant available for businesses with average annual earnings over a 3-year period up to £1.5 million will not exceed 4% of those earnings. The maximum level of grant for businesses with average annual earnings over a 3-year period over £1.5 million will not exceed 3% of those earnings, up to a maximum level of grant of £100k. The quantum of grant provided will be to cover the actual fixed costs encountered

**APPLICATION FOR  
SCOTTISH SEAFOOD BUSINESS RESILIENCE FUND**

We wish to apply for funding via the Scottish Seafood Business Resilience Fund

**Company name:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_

Description of the impact on your business. Please indicate if are you currently trading or temporarily ceased trading, and a clear overview of your typical trading operation setting out % of trade across UK retail; UK food service; Exports and detail how this has been impacted in terms of lost revenue

To assess grant funding please provide evidence of the regular fixed costs of your business and also supply the last set of audited accounts for evidence.

Number of employees \_\_\_\_\_ F/T \_\_\_\_\_ P/T

Quantum of support sought through a:

- Grant \_\_\_\_\_

Average earnings over the past 3 years \_\_\_\_\_

Please return completed forms to [AQPMhardship@gov.scot](mailto:AQPMhardship@gov.scot) please indicate the nature of your business in your email subject title.

**Checklist – please ensure you have provided the following, in addition to the other information that is requested:**

- Evidence of fixed costs;
- Evidence of earnings over the past 3 years ;
- Business bank details;
- Evidence of identification
- Evidence of hardship/difficulty
- State aids information (see schedule 2).

## **APPLICATION FOR SCOTTISH SEAFOOD BUSINESS RESILIENCE FUND**

- i. The Scottish Ministers have made available a hardship fund to provide emergency support to seafood undertakings (businesses<sup>1</sup>) to address sudden shortages or unavailability of finance due to the COVID-19 pandemic. Information will be made available on the undertakings eligible to apply under this scheme. Due to the nature of this situation, the eligibility criteria could change at short notice.
- ii. The Scottish Ministers have powers under sections 4 and 6 of the Small Landholders (Scotland) Act 1911, Section 8 of the Industrial Development Act 1982 and section 37 of the Aquaculture and Fisheries (Scotland) Act 2007 to make grant payments. Grant payments are made under and are subject to the rules and conditions of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak<sup>2</sup> (“the Temporary Framework”), as amended<sup>3</sup>.
- iii. Records will be kept of all payments and relevant information on each individual aid granted under the Scottish Seafood Business Resilience Fund will be published on the Scottish Government website.
- iv. The amount granted to an undertaking will be calculated on a case by case basis, based on the undertaking’s fixed costs, subject to a cap based on a percentage of the undertaking’s average earnings. (The average earnings will be calculated by reference to average annual earnings over a 3 year period.). The maximum level of grant available for businesses with average annual earnings over a 3-year period up to £1.5 million will not exceed 4% of those earnings. The maximum level of grant for businesses with average annual earnings over a 3-year period of over £1.5 million will not exceed 3% of those earnings, up to a maximum level of grant of £100k
- v. The Grant will be paid as a lumpsum by electronic bank transfer.

**If you wish to apply for this Grant on the whole terms and conditions as set out in this application and Schedules, you should sign and date both copies of the Application for Grant, including Schedules 2 and 4 below, and send your application via email to the Scottish Government at:**

**[AQPMhardship@gov.scot](mailto:AQPMhardship@gov.scot)**

**You should retain the second copy of the application for your own records.**

TO NOTE: This is a fast moving environment with new support being announced day by day as the COVID-19 pandemic progresses. If new streams of funding achieving the same outcomes are subsequently announced by the UK or Scottish Governments, then to allow us to redirect that money elsewhere in the current emergency, you may be asked to repay all or a portion of this Grant.

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<sup>1</sup> Full definition provided at **Schedule 1**

<sup>2</sup> [https://ec.europa.eu/competition/state\\_aid/what\\_is\\_new/sa\\_covid19\\_temporary-framework.pdf](https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_temporary-framework.pdf)

<sup>3</sup> [https://ec.europa.eu/competition/state\\_aid/what\\_is\\_new/sa\\_covid19\\_1st\\_amendment\\_temporary\\_framework\\_en.pdf](https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_1st_amendment_temporary_framework_en.pdf)

## **1. Definitions and Interpretation**

- 1.1 In these Conditions, the words and expressions set out in **Schedule 1** shall have the meanings ascribed to them in that Schedule.
- 1.2 In these Conditions unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 1.3 The headings in these Conditions are for convenience only and shall not be read as forming part of the Conditions or taken into account in their interpretation.
- 1.4 Except as otherwise provided in these Conditions, any reference to a clause, paragraph, subparagraph or schedule shall be a reference to a clause, paragraph, subparagraph or schedule of these Conditions. The schedules are intended to be contractual in nature. They form part of the Agreement and should be construed accordingly.
- 1.5 The terms of any grant paid shall not be varied except by an instrument in writing signed by both parties.

## **2. Purposes of the Grant**

- 2.1 The Grant is made under the Scottish Seafood Business Resilience Fund.
- 2.2 The Grant shall only be used for the purposes of enabling the undertaking to continue to meet its fixed costs during the COVID-19 pandemic period and for no other purpose whatsoever.
- 2.3 In particular, the Grant must not be used for any of the following purposes:
  - payment towards staff wages;
  - payment to primary producers (if the Grantee is active in processing and marketing of products)
  - payment to offset debt from a business that has permanently ceased trading;
  - the transfer of ownership of a business;
  - winding up costs for a business which decides to permanently close.
- 2.4 No part of the Grant shall be used to fund any activity or material which is party political in intention, use, or presentation or appears to be designed to affect support for a political party.
- 2.5 The main objectives/expected outcomes of the Grant are to support the Grantee's fixed costs during the COVID-19 pandemic.
- 2.6 The eligible costs for which the Grant can be claimed are the Grantee's fixed costs. Evidence of the fixed costs must be provided with the Application for Grant and detailed in Schedule 4.
- 2.7 The amount granted to the Grantee will be calculated on a case by case basis, based on the Grantee's fixed costs as evidenced, and subject to a cap based on a percentage of the Grantee's average annual earnings over the last 3 years. The Grantee's average earnings will be calculated by reference to the Grantee's gross income (without deduction of costs). Evidence of the Grantee's average earnings must be provided with the Application for Grant and detailed in Schedule 4.

### **3. Payment of Grant**

- 3.2 The Grant will be paid by the Scottish Ministers to the Grantee following receipt of a completed application form and verification by the Scottish Ministers that the Grantee meets the eligibility criteria. Hardship grants are discretionary, and there is no automatic entitlement to any grant.
- 3.3 The Grantee shall following the end of the COVID-19 pandemic period, at a time specified by the Scottish Government, submit to the Scottish Ministers a statement of compliance with the Conditions of the Grant using the form of words provided in [Schedule 5](#). The statement shall be signed by the Grantee.

### **4. Change in circumstances and provision of information**

- 4.1 The grantee shall immediately inform the Scottish Ministers of any change in its constitution for example, but not limited to, a change in status from one type of body corporate to another or change of ownership or control.
- 4.2 The Grantee shall inform the Scottish Government in writing of any change in circumstance which may affect the accuracy of the information given whilst this application is being considered by the Scottish Government.
- 4.3 The Grantee shall also provide any other information that the Scottish Ministers may reasonably require to satisfy them that the Grantee meets the eligibility criteria. The Grantee shall provide the Scottish Ministers with prompt access to any information they reasonably require to ensure compliance with these Conditions.

### **5. Confidentiality and Data Protection**

- 5.1 The Grantee will respect the confidentiality of any commercially sensitive information that they have access to as a result of receipt of this Grant.
- 5.2 Notwithstanding the above, the Grantee may disclose any information as required by law or judicial order. All information submitted to the Scottish Ministers may need to be disclosed and/or published by the Scottish Ministers. Without prejudice to the foregoing generality, the Scottish Ministers may disclose information in compliance with the Freedom of Information (Scotland) Act 2002, any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure. Further, the Scottish Ministers may also disclose all information submitted to them to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland, in right of the Scottish Administration or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Scottish Ministers shall if they see fit disclose such information but are unable to impose any restriction upon the information that it provides to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement.

- 5.3 The Grantee shall ensure that all requirements of the Data Protection Laws are fulfilled in relation to the Grant.
- 5.4 To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Scottish Ministers publish an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Grantee should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of grant) in both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

## **6. Recovery etc. of Grant**

- 6.1 The Scottish Ministers may re-assess, vary, make a deduction from, withhold, or require immediate repayment of the Grant or any part of it in the event that:
- 6.1.1 The Grantee commits a Default;
  - 6.1.2 The Scottish Ministers consider that any change or departure from the purposes for which the Grant was awarded warrants an alteration in the amount of the Grant;
  - 6.1.3 The Scottish Ministers become aware that the Grant has been obtained by fraud.
- 6.2 The Scottish Ministers may re-assess, vary, make a deduction from, withhold, or require immediate repayment of the Grant or any part of it in the event that the Scottish Ministers consider that an alternative form of support for the Grantee has been made available by the UK Government or the Scottish Government during the COVID-19 pandemic period.
- 6.3 If, in the Scottish Ministers' opinion, the Grant or any part of it is state aid and they consider that they are required to recover such sum in order to ensure compliance with their legal obligations Scottish Ministers may require immediate repayment of the Grant or any part of it together with interest at such rate and on such basis as may be determined from time to time in accordance with law.
- 6.4 In the event that the Grantee becomes bound to pay any sum to the Scottish Ministers in terms of clause 6.1 or 6.2, the Grantee shall pay the Scottish Ministers the appropriate sum within 14 days of a written demand for it being given by or on behalf of the Scottish Ministers to the Grantee. In the event that the Grantee fails to pay the sum within the 14 day period, the Scottish Ministers shall be entitled to interest on the sum at the rate of 2 per cent per annum above the Bank of England base lending rate prevailing at the time of the written demand, from the date of the written demand until payment in full of both the sum and interest.
- 6.5 Notwithstanding the provisions of this clause 6, in the event that the Grantee is in breach of any of the Conditions, the Scottish Ministers may, provided that the breach is capable of a remedy, postpone the exercise of their rights to recover any sum from the Grantee in terms of clause 9 for such period as they see fit, and may give written notice to the Grantee requiring it to remedy the breach within such period as may be specified in the notice. In the event of the Grantee failing to remedy the breach within the period specified, the Grantee shall be bound to pay the sum to the Scottish Ministers in accordance with the foregoing provisions.
- 6.6 Any failure, omission or delay by the Scottish Ministers in exercising any right or remedy to which they are entitled by virtue of clauses 6.1 to 6.3 shall not be construed as a waiver of such right or remedy.



## **7. Assignment**

The Grantee shall not be entitled to assign, sub-contract or otherwise transfer its rights or obligations under the Agreement without the prior written consent of the Scottish Ministers.

## **8. Termination**

The Agreement may be terminated by the Scottish Ministers giving not less than 3 months' notice in writing from the date of the notice being sent.

## **9. Corrupt Gifts and Payments of Commission**

The Grantee shall ensure that its employees shall not breach the terms of the Bribery Act 2010 in relation to this or any other grant. The Grantee shall ensure that adequate controls are in place to prevent bribery.

## **10. Continuation of Conditions**

These Conditions shall continue to apply for a period of 5 years after the date of final payment.

## **11. Compliance with the Law**

The Grantee shall ensure that they and anyone acting on their behalf shall comply with the relevant law, for the time being in force in Scotland.

## **12. Governing Law**

This contract is governed by the Law of Scotland and the parties hereby prorogate to the exclusive jurisdiction of the Scottish Courts.

**If you wish to apply for this Grant on the whole terms and conditions as set out in the letter and annexed Schedules, you should sign and date both copies of the Application for Grant in Schedule 4, the statement of compliance at Schedule 5 and the declaration in Schedule 2 below and return one copy to me via email at: «enter official address». You should retain the second copy of the application for your own records.**

Yours sincerely

«Name and job title»

[Click here to enter a date.](#)

## SCHEDULE 1

### DEFINITIONS

**“Agreement”** means the agreement constituted by the Scottish Ministers’ invitation to apply for a grant, the Grantee’s Application, these Conditions and the Grantee’s acceptance of these Conditions;

**“Conditions”** means these grant conditions;

**“Data Protection Laws”** means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body including the Data Protection Act 1998, the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the GDPR;

**“Default”** means:

- a) Any breach of the obligations of either party under this Agreement (including, but not limited to, any breach of any undertaking or warranty given under or in terms of this Agreement);
- b) Any failure to perform or the negligent performance of any obligation under this Agreement;
- c) Any breach of any legislation; or
- d) Any negligence or negligent or fraudulent mis-statement or misappropriation of Grant, or any other default,

In all cases by either party, its employees, agents or representatives;

**“Financial Year”** means a period from 1 April in one year until 31 March in the next;

**“Grant”** means the grant offered by the Scottish Ministers to the Grantee following receipt of an application, as varied from time to time in accordance with these Conditions;

**“Grantee”** means the person, organisation or body to which the Grant will be payable as specified in these Conditions. Where two or more persons, organisations or bodies are the Grantee, references to the “Grantee” are to those persons, organisations or bodies collectively and their obligations under the Agreement are undertaken jointly and severally;

**“Payment”** means payment of the Grant;

**“Undertaking”** means an enterprise or business and includes, for the purposes of this Agreement, all enterprises having at least one of the following relationships with each other:

- (a) one enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- (b) one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- (c) one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- (d) one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

Enterprises having any of the relationships referred to in points (a) to (d) of the first subparagraph through one or more other enterprises shall also be considered to be a single undertaking.

## SCHEDULE 2

### TEMPLATE LETTER FOR BENEFICIARIES OF AID AWARDED BASED ON THE UK COVID-19 TEMPORARY FRAMEWORK

Dear Grantee,

#### **Confirmation of State aid received under the COVID-19 Temporary Framework for UK Authorities measure and Undertaking in Difficulty Status**

Following the outbreak of the Coronavirus pandemic, the European Commission has approved schemes to aid businesses affected by the Coronavirus outbreak on the basis of their Temporary Framework, including the Covid-19 Temporary Framework measure for the UK.

The maximum level of aid that a company may receive is €800,000 (€120,000 per undertaking active in the fishery and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products). This is across all UK measures under the terms of the European Commission's Temporary Framework.

The Euro equivalent of the Sterling aid amount is calculated using the European Commission exchange rate<sup>4</sup> applicable on the date the aid is offered.

Any aid provided under this measure will be relevant if you wish to apply, or have applied, for any other aid granted based on the European Commission's Temporary Framework. You will need to declare this amount to any other aid awarding body who requests information from you on how much aid you have received. You must retain this letter for four years after the conclusion of the UK's transition from the EU and produce it on any request from the UK public authorities or the European Commission.

Aid may be granted to undertakings that were not in difficulty (within the meaning of Article 2(18) of the General Block Exemption Regulation<sup>5</sup>) on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the Covid-19 outbreak.

This aid is in addition to any other aid that you may have received under the De Minimis regulation allowing aid of up to €200,000 to any one organisation over a three fiscal year period (i.e. your current fiscal year and previous two fiscal years), and any other approved aid you have received under other State aid rules, such as aid granted under the General Block Exemption Regulation.

Please sign the attached statement confirming your eligibility for support.

[Yours etc.]

[Insert name and details]

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<sup>4</sup> [https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-andbeneficiaries/exchange-rate-infoeuro\\_en](https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-andbeneficiaries/exchange-rate-infoeuro_en)

<sup>5</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014R0651-20170710>

**Confirmation of State aid received under the Covid-19 Temporary Framework for UK Authorities and Undertaking in Difficulty status**

I confirm that I have received the following aid under measures approved within the European Commission's Temporary Framework between March 2020 and December 2020. (Please also provide details of any aid applied for but not yet received e.g. where the application is still pending determination.)

I confirm that my undertaking was not in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019).

Body providing the assistance/ aid	Value of assistance (€)	Date of assistance

**DECLARATION**

Company	
Company Representative Name	
Signature	
Date	

## SCHEDULE 3

### UNDERTAKING IN DIFFICULTY ASSESSMENT

Source: Article 2(18), General Block Exemption Regulation<sup>6</sup>

(18) 'undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:

(a) In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU (1) and 'share capital' includes, where relevant, any share premium.

(b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.

(c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

(d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee or has received restructuring aid and is still subject to a restructuring plan.

(e) In the case of an undertaking that is not an SME, where, for the past two years:

- (1) the undertaking's book debt to equity ratio has been greater than 7,5 and
- (2) the undertaking's EBITDA interest coverage ratio has been below 1,0.

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<sup>6</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0651&from=EN>

## SCHEDULE 4

### GRANT APPLICATION FORM

On behalf of «Grantee» I accept the foregoing offer of Grant by the Scottish Ministers dated [Click here to enter a date](#) on the whole terms and conditions as set out in the application and annexed Schedules. I confirm that I hold the relevant signing authority and that I have the relevant authority to nominate the bank account provided below for payment of the Grant.

The undertaking which is the subject of this application has made a separate application for the following scheme(s) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak: «**insert details of scheme(s), if applicable**».

I understand the information supplied by me will be treated in confidence (see paragraph 5 above), but may be submitted for checking against records held by other government departments, other agencies, local authorities and the police, where it is necessary for the purposes of assessing eligibility for grant.

I authorise HM Revenue & Customs to provide the Scottish Government with any information relevant to this application, and with any information needed to check the information I have provided. I understand any information provided to HM Revenue & Customs in connection with this may be used by them for the purposes of their statutory purposes.

I confirm that the undertaking which is the subject of this application is experiencing hardship as a result of the current COVID-19 outbreak.

I hereby declare that, to the best of my knowledge and belief, the information provided in this application form is true, complete and accurate.

Signed:

«Director/Company Secretary/Authorised Signatory»

Print Name:

Position in Organisation of Person Signing:

Date: [Click here to enter a date](#).

Place of Signing:

Signed:

Your details

Contact Name

Contact Email Address

Contact Number

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Business Details

Business Name

Business Identification  
No<sup>7</sup>

Business Address

Type of Business

Size of Business<sup>8</sup>

Nature of Business

Information attached to  
evidence difficulties<sup>9</sup>

Information attached to  
evidence fixed costs<sup>10</sup>

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<sup>7</sup> For example, a company number if a registered company.

<sup>8</sup> For example, SME or large business.

<sup>9</sup> As referred to in Schedule 2, you may wish to attach evidence of the difficulties you face to support your application. Please detail the evidence provided in the box.

<sup>10</sup> As referred to in clause 2.6, you must attach evidence of your fixed costs to your application. Please detail the evidence provided in the box.

Information attached to  
evidence average  
earnings<sup>11</sup>

Any other relevant  
information<sup>12</sup>

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Business Bank Details

Bank/ Building Society  
Account name

Bank/ Building Society  
Account Address

Account Number

Sort Code

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<sup>11</sup> As referred to in clause 2.7, you must attach evidence of your average earnings to your application. Please detail the evidence provided in the box.

<sup>12</sup> Please include (and attach, if necessary,) any other relevant information you consider supports your application.



## SCHEDULE 5

### STATEMENT OF COMPLIANCE WITH CONDITIONS OF GRANT

Scottish Seafood Business Resilience Fund

This is to confirm that the Grant claimed by «name of Grantee» in relation to the Scottish Seafood Business Resilience Fund during the financial year ended 31 March 2021 was properly due and was used for its intended purpose(s) in accordance with the terms and conditions of the Grant. This statement is supported by the records of «name of Grantee».

Signed:

Name in block capitals:

Position:

Date: [Click here to enter a date.](#)