



Rialtas na hÉireann
Government of Ireland

An Oifig Achomharc
Talmaíochta

Agriculture
Appeals Office



Agriculture Appeals Office

Annual Report 2024



To the Minister for Agriculture, Food and the Marine

I hereby submit the 2024 Annual Report of the Agriculture Appeals Office pursuant to the provisions of Section 14(1) of the Agriculture Appeals Act, 2001 (as amended). This is the 23rd Annual Report submitted in relation to the work of the Agriculture Appeals Office since its establishment in 2002.

Lynda O'Regan

Director of Agriculture Appeals

23 June 2025

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Tá an Tuarascáil seo art fáil freisin i nGaeilge.

This report is also available in Irish.

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Introduction

We are pleased to present the 2024 Annual Report of the Agriculture Appeals Office. In addition to fulfilling its primary function of reporting to the Minister for Agriculture, Food and the Marine on the activities of the Office, we hope this report will provide useful information to all involved in the appeals process and to the wider farming community.

The principal function of the Agriculture Appeals Office is to provide a fair and efficient appeals service to participants in Schemes administered by the Department of Agriculture, Food and the Marine. The Office also provides administrative and secretariat support to the Forestry Appeals Committee (FAC) and, in addition, two Agriculture Appeals Officers also serve as members of the FAC. The Office also provides support for the Aquaculture Licences Appeals Board (ALAB) in its independent decision-making function through the staffing of the ALAB Secretariat.

The year 2024 witnessed a number of significant developments related to the functioning of the Agriculture Appeals Office.

After a lengthy process, the Agriculture Appeals (Amendment) Act was passed by the Oireachtas and signed into law by the President on 29 October 2024. Initially envisaged in the Programme for Government (2020), the principal function of the Act is to establish the Agriculture Appeals Review Panel for the purpose of conducting reviews of decisions made by Appeals Officers, a role currently undertaken by the Director of the Office. Work is ongoing on the production of a Regulation that will set down procedures for the functioning of the Review Panel. The Minister will then commence the Act and make appointments.

Modernisation of the Office continued throughout the year. The facility to submit appeals by way of an online system, introduced in 2023, witnessed significant usage with 137

appeals submitted in that manner throughout the year. Similarly, the facility for holding online hearings saw increased usage with 26 such hearings held. Both facilities add to the efficiency of the Office and to the quality of service provided to appellants. In addition, the development of an internal IT system made significant progress and is expected to become available to internal staff in 2025.

The year witnessed a reduction in the number of appeals received by the Office from 624 in 2023 to 483 in 2024. When compared with the ten-year average of 630, this represents a decrease of 23%. While many factors may account for this decrease, acknowledgement must be given to the BISS application system which allows for early identification of errors in online applications and provides for a grace period for the correction of such errors.

The number of appeals brought to a conclusion throughout the year, at 636, remained on par with the number of appeals closed in 2023 and above the ten-year average of 628. The average time taken to close an appeal in 2024 was 73 days, an improvement on the previous year.

The processing of appeals and the other developments that have taken place throughout the year would not have been possible without the dedication of all staff of the Agriculture Appeals Office. We acknowledge their commitment to the values of independence, integrity, and professionalism. We also wish to acknowledge the contribution of those who left the Office on retirement and promotion in 2024 to whom we extend our sincere thanks. In particular, we want to highlight the contribution of Pat Coman, our Deputy Director, who retired in June 2024 after 23 years of service to the Office. His depth of knowledge and expertise played a significant role in the development of the work of the Office.

Lynda O'Regan
Director

Siobhán Casey
Deputy Director

2024 Overview



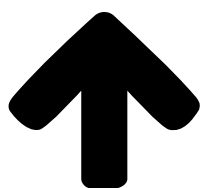
309

**IN-PERSON ORAL
HEARINGS HELD**



26

**REMOTE ORAL
HEARINGS HELD**
INCREASE OF 160% ON 2023



204%

**INCREASE OF
APPEALS
SUBMITTED USING
OUR ONLINE
FACILITY**



73 DAYS

**AVERAGE TIME
TO CLOSE
APPEALS.**
IMPROVEMENT OF 35%
ON THE PREVIOUS YEAR

43%

**OF APPEALS WERE
ALLOWED, PARTIALLY
ALLOWED OR REVISED
IN 2024**

Overview of the Agriculture Appeals Office

Appeal services provided by the Agriculture Appeals Office

The Agriculture Appeals Office was established in 2002 pursuant to the Agriculture Appeals Act 2001, as amended (the Act). The Agriculture Appeals Regulation 2002 sets down the independent functions of the Director and the Appeals Officers and the scheme decisions that may be appealed to the Director. Schedule 1 to the Act includes a list of schemes administered by the Department of Agriculture, Food and the Marine (the Department). Farmers who are dissatisfied with decisions of the Department concerning their entitlements under the schemes listed in Schedule 1 to the Act may submit an appeal to the Director. In making a decision on appeal, an Appeals Officer must comply with the Terms and Conditions of the Scheme and any relevant legislation. A person making an appeal to the Agriculture Appeals Office should ensure the matter falls within the jurisdiction of an Appeals Officer to address.

In 2017, the Act was amended to include appeals against decisions of the Department on specified forestry licences. In 2018, the Minister established the Forestry Appeals Committee (FAC) to consider and determine such appeals. The FAC is chaired by an independent Chairperson and consists of a number of external members, some of whom are appointed as Deputy Chairpersons, and during 2024 two Agriculture Appeals Officers also worked as members of the FAC. The FAC is independent in its function. The Agriculture Appeals Office provides administrative and secretariat support to the FAC and to the Aquaculture Licences Appeals Board (ALAB).

Mission Statement of the Agriculture Appeals Office

The mission of the Office is as follows:

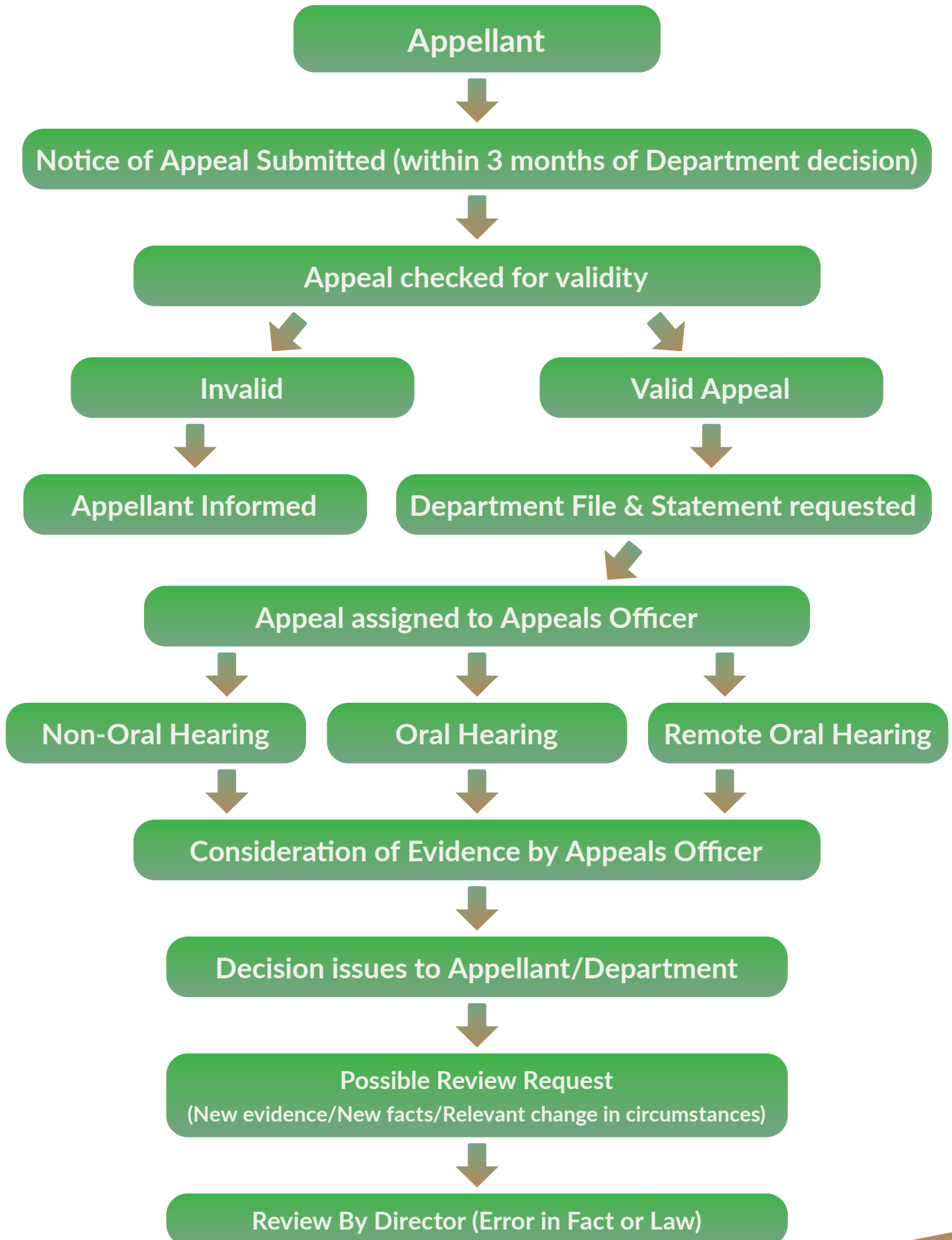
“To provide an independent, accessible, fair, efficient and timely agriculture appeals service for scheme applicants appealing against decisions issued under designated Department of Agriculture, Food and the Marine schemes, and to support the delivery, through membership and administrative support, to the Forestry Appeals Committee and the Aquaculture Licences Appeals Office, of an appeals service for decisions issued by the Department of Agriculture, Food and the Marine on forestry licences and aquaculture licences, and to deliver those services in a courteous manner.”

Procedures Manual

Under the Freedom of Information Act 2014, the Agriculture Appeals Office is legally obliged to prepare a Procedures Manual setting out procedures to be followed by the Office.

The Procedures Manuals for Agriculture Appeals can be accessed on the website, www.agriappeals.gov.ie

The Agriculture Appeals Process



Stages of an Appeal

1. Submitting an Appeal

Before submitting an appeal, applicants must first seek an Internal Review of the Department's decision. If this is unsuccessful, applicants have **three months** from the date of the Department's Review decision to lodge an appeal to the Agriculture Appeals Office. An appeal received after three months may only be accepted by the Director if there are exceptional circumstances which led to the delay in submitting the appeal.

Scheme applicants must complete a Notice of Appeal Form which must be submitted to the Director of Agriculture Appeals together with a copy of the Department decision under appeal. The Department decision under appeal must concern a scheme listed in Schedule 1 of the Agriculture Appeals Act, 2001¹, as amended.

There are three options for submitting a Notice of Appeal Form (NOAF):

- i. **Online facility:** The NOAF can be submitted online, with a copy of the Department decision and any related document at: www.agriappeals.gov.ie
- ii. **Email:** The NOAF can be downloaded, completed, signed with a copy of the Department decision and any related documents emailed to appeals@agriappeals.gov.ie
- iii. **Post:** The NOAF can be printed, completed and signed, with a copy of the Department decision and any related documents sent to:

Agriculture Appeals Office
Kilminchy Court
Portlaoise
Co Laois
R32 DTW5

2. Processing of an Appeal

Appeals are checked on receipt to establish their validity.

On receipt of an appeal, the Agriculture Appeals Office forwards the appellant's grounds of appeal to the Department along with a request for any relevant documents and a statement responding to the appellant's grounds. On receipt of the Department file and statement, the Director assigns the case to an Appeals Officer for consideration and determination.

The Department's statement on the appellant's grounds of appeal is subsequently forwarded to the appellant.

3. Oral Hearing

Appellants may opt to have an oral hearing of their appeal, and this is notified to the Office on the Notice of Appeal Form. Where an appellant does not request an oral hearing, an Appeals Officer may decide to convene one where, in the opinion of the Appeals Officer, an oral hearing is required. The key features of an oral hearing are that:

- they are private and informal,
- the appellant is present and may bring representatives,
- the Department is represented.

4. The Decision

The Appeals Officer considers all the evidence from both the Department and the appellant, including any evidence presented at an oral hearing, where one is held. The Appeals Officer

¹ Schedule 1 is updated regularly to include new Department Schemes. Current Schedule 1: S.I. No. 369 of 2024. Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2024

makes a determination on the appeal and notifies the appellant of the decision in writing, setting out the reasons for that decision. The Department is also notified of the decision. The decision of an Appeals Officer is final and conclusive, but Section 10 of the Act provides that either the Department or the appellant may seek a Review of the Appeal Officer's decision where either party believes there is an error in fact or in law, in the decision.

An Appeals Officer may subsequently revise a decision if it appears to him or her that the decision was erroneous in the light of new evidence or of new facts brought to his or her notice since the date on which the decision was

given, or if it appears to him or her that there has been any relevant change of circumstances since the decision was given.

The Director of Agriculture Appeals may revise a decision of an Appeals Officer where it has been established that there has been a mistake in relation to the law or the facts of the case. An appeal to this Office does not preclude an appellant from raising their case with the Office of the Ombudsman.

An appellant dissatisfied with the decision of an Appeals Officer, or a revised decision of the Director may appeal that decision to the High Court on any question of law.



Possible Outcomes of Appeals

There are several possible outcomes to an appeal which are described below.

Appeal Allowed

This category includes cases where the Appeals Officer, having considered the case put forward, decides that the Department's decision should be overturned. The decision will outline what the Appeals Officer considers a person's entitlement to be in relation to a Scheme.

Appeal Disallowed

This category includes cases where an Appeals Officer, following consideration of the case and all relevant information, decides that the grounds of appeal do not warrant overturning the decision by the Department. In this case, the Appeals Officer has reached the same conclusion as the Department in relation to a person's entitlement in relation to a Scheme.

Partially Allowed

This category includes cases where an Appeals Officer decides that a lesser or revised penalty/sanction than that imposed by the Department should apply. This decision will outline what the Appeals Officer considers a person's entitlement to be in relation to a Scheme.

Revised by the Department

This category includes cases where the Department has revised its original decision in favour of the appellant prior to completion of the appeals process. Reasons for revising a decision may include additional information provided by the appellant to the Agriculture Appeals Office, information provided at oral hearings and/or as a result of specific queries raised by the Appeals Officer.

Invalid

This category includes appeals on matters not appropriate to the Agriculture Appeals Office, for example where a scheme is not listed in Schedule 1 of the Agriculture Appeals Act or cases where there was no Department decision relevant to the appeal.

Out of time

This category includes appeals that were received after the three-month deadline since the date of the Department decision, and there were no exceptional circumstances warranting the Director's acceptance of the late appeal.

Appeal Withdrawn

This category includes cases where an appellant withdraws an appeal in writing at any stage.

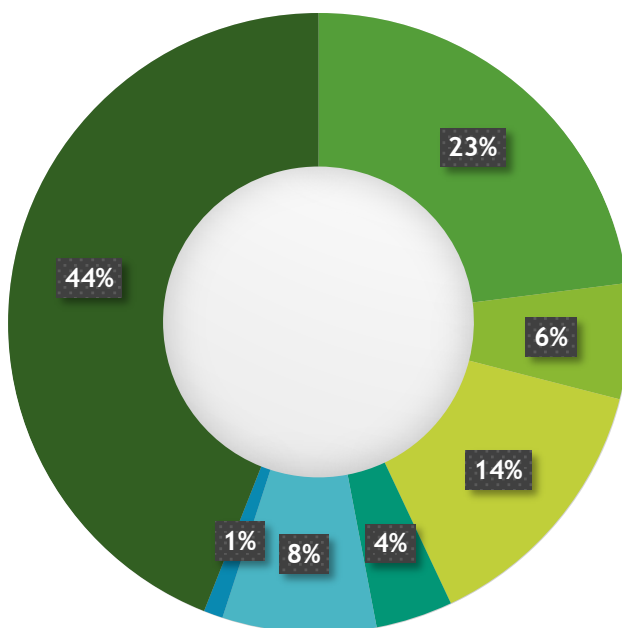
2024 Statistics

Ten-year trend

Year	Appeals Received	Appeals Closed	Appeals Allowed, Partially Allowed, Revised by DAFM	Appeals Withdrawn, Invalid, Out of Time	Appeals Disallowed
2024	483	636	43%	13%	44%
2023	624	652	48%	8%	44%
2022	638	930	44%	16%	40%
2021	809	757	37%	25%	38%
2020	760	358	39%	11%	52%
2019	570	491	44%	14%	43%
2018	556	506	40%	14%	47%
2017	638	689	38%	9%	53%
2016	598	600	42%	13%	46%
2015	619	657	42%	14%	45%
Average	630	628	42%	14%	45%

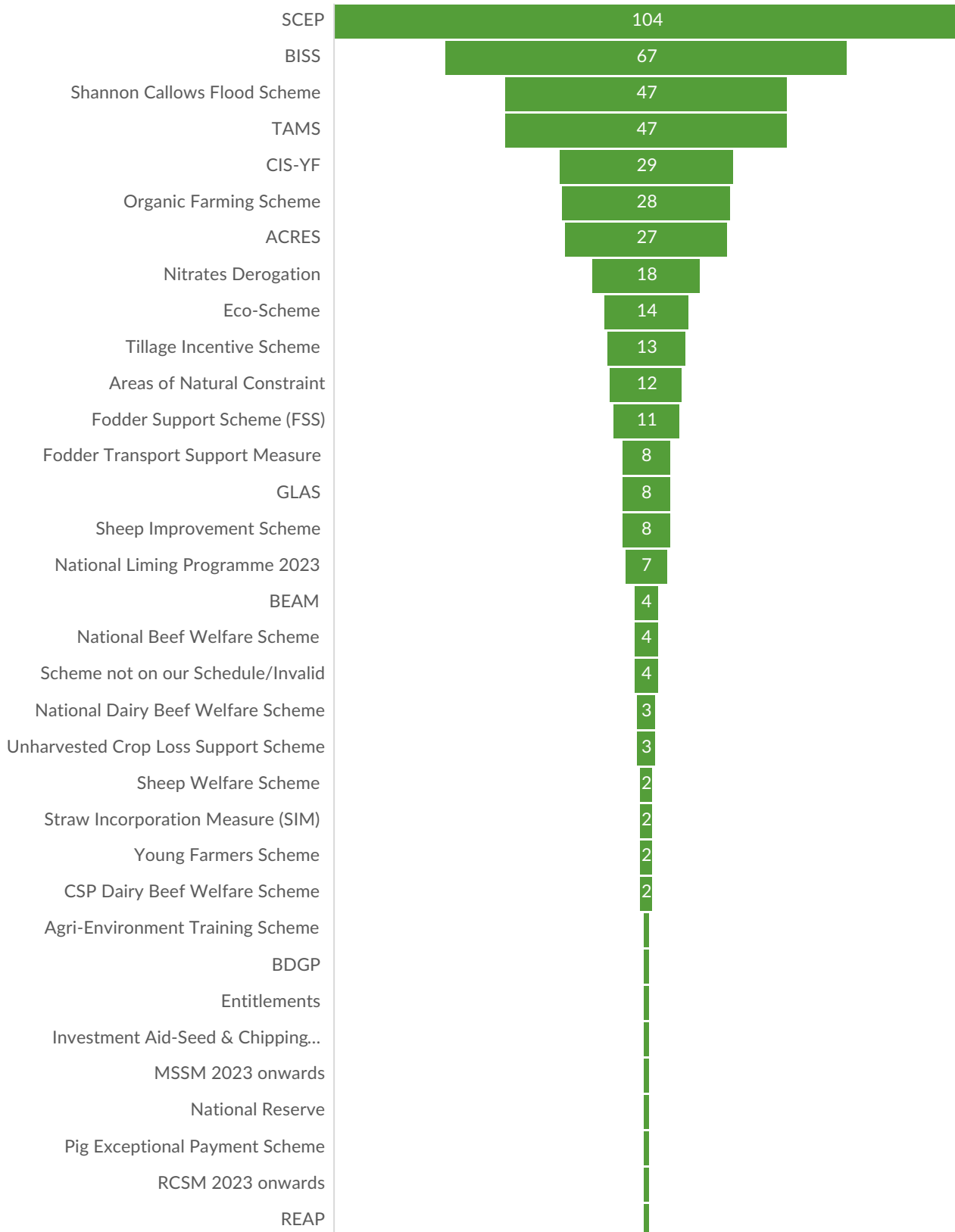
Appeals closed in 2024

Outcome of All Appeals – 636 Closed in 2024

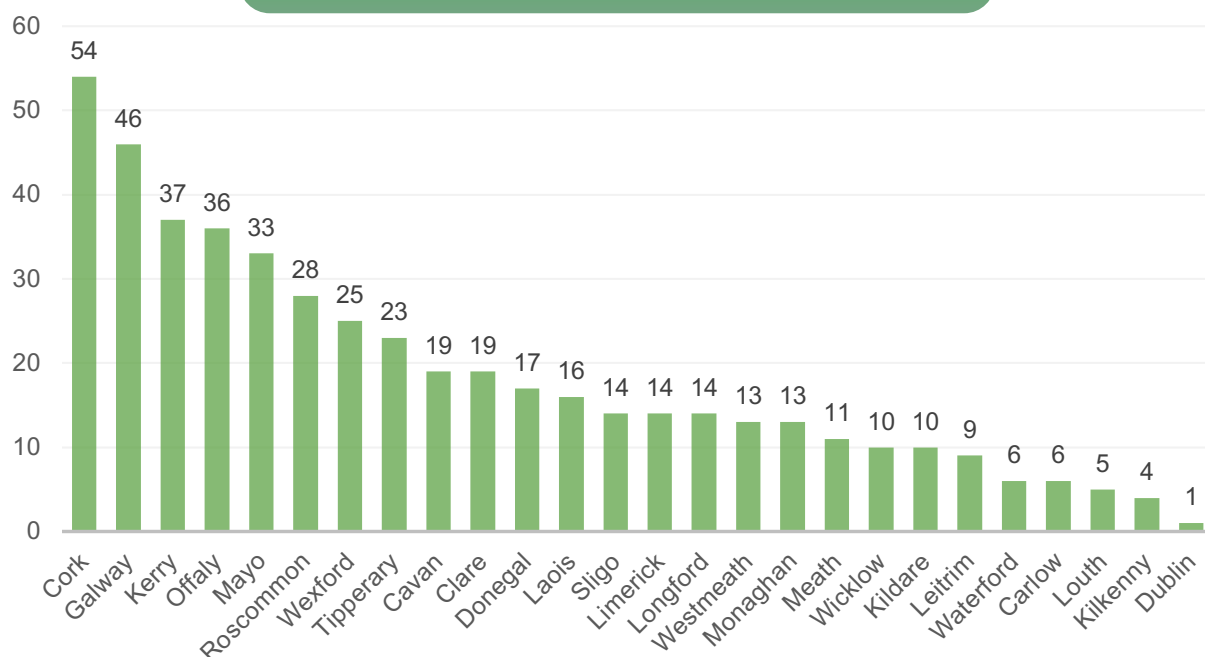


- 144 Appeals Allowed (23%)
- 37 Appeals Partially Allowed (6%)
- 92 Appeals Revised by Department (14%)
- 25 Appeals Withdrawn (4%)
- 50 Appeals Invalid (8%)
- 5 Appeals Out of Time (1%)
- 283 Appeals Disallowed (44%)

Appeals Received by Scheme

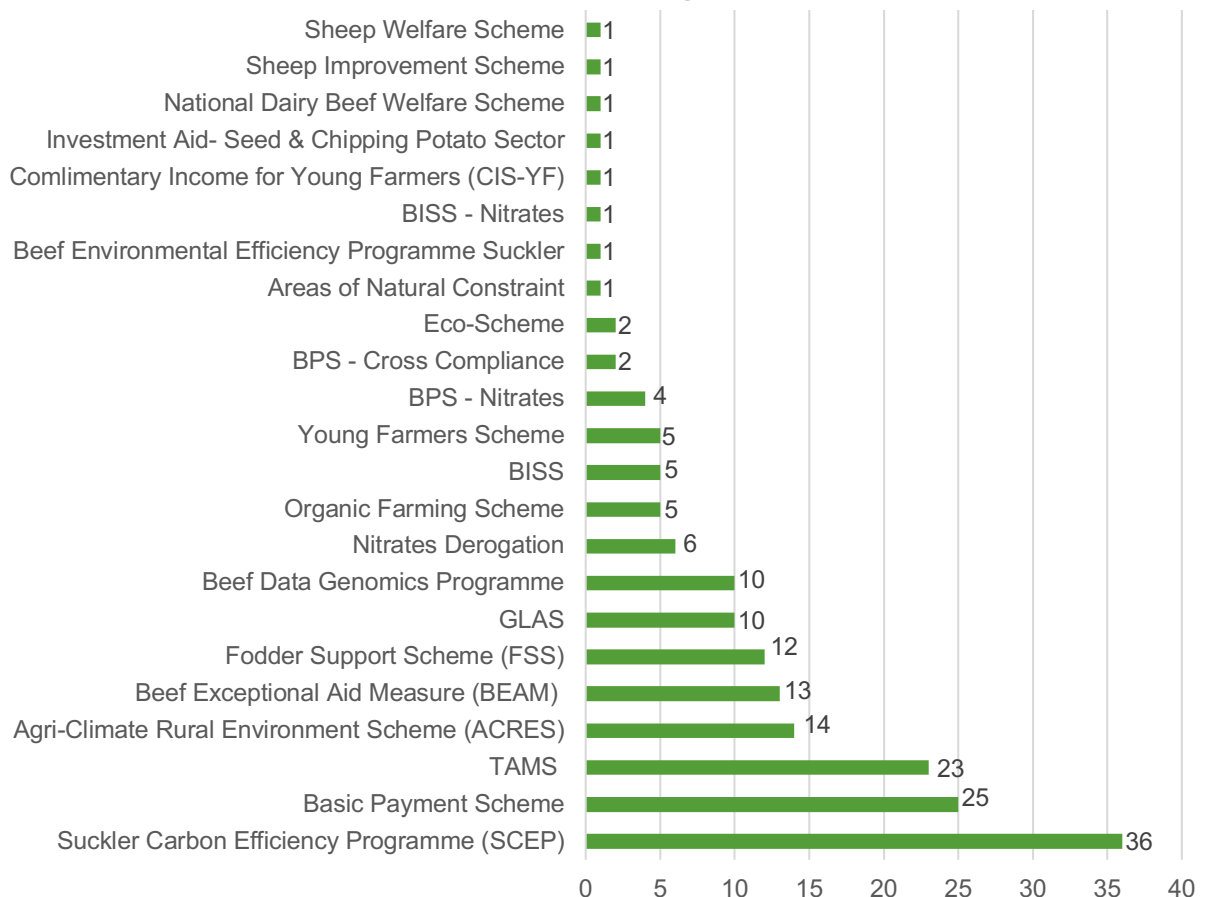


Appeals Received by County

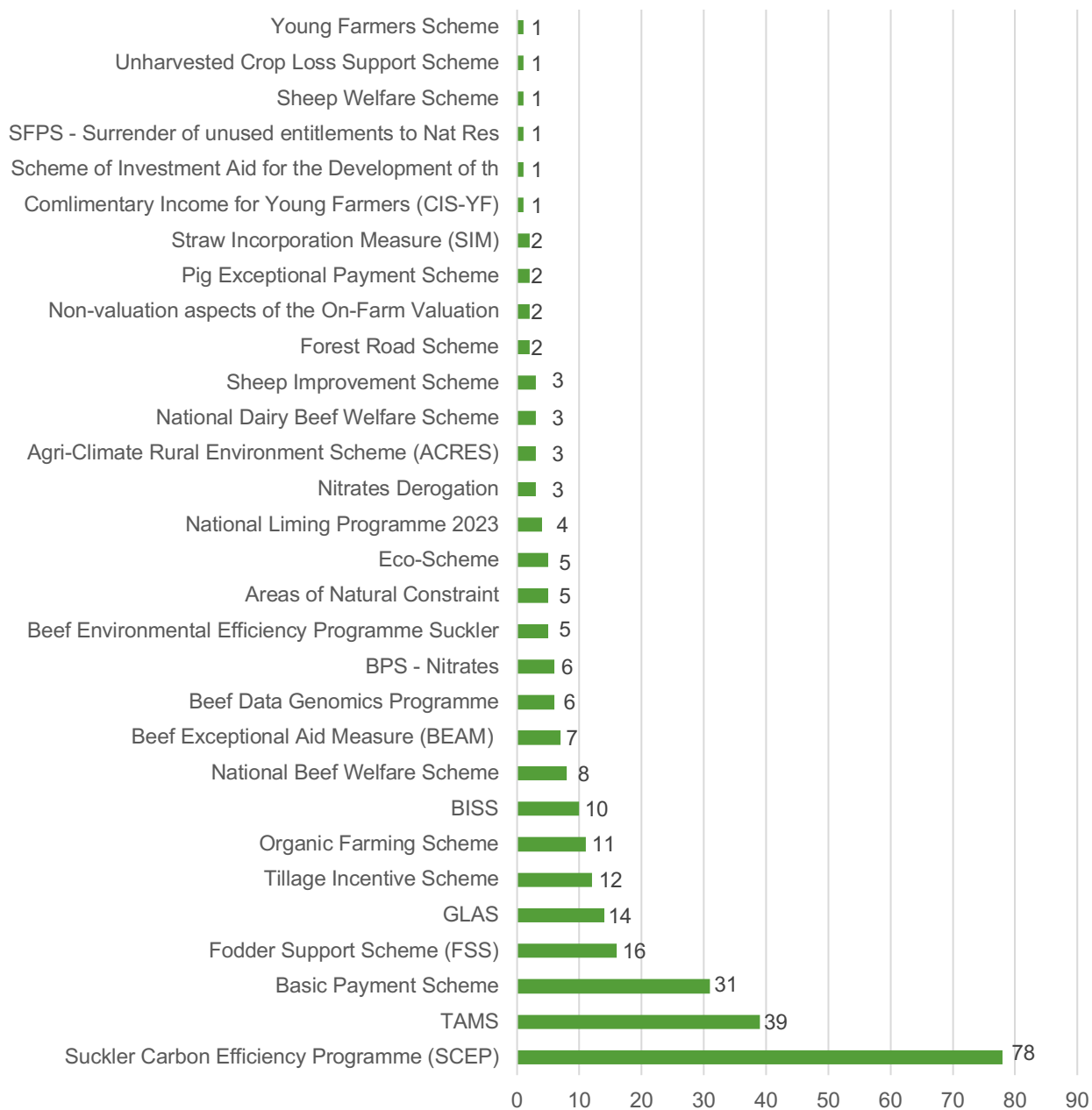


Breakdown Of All Closed Appeals in 2024

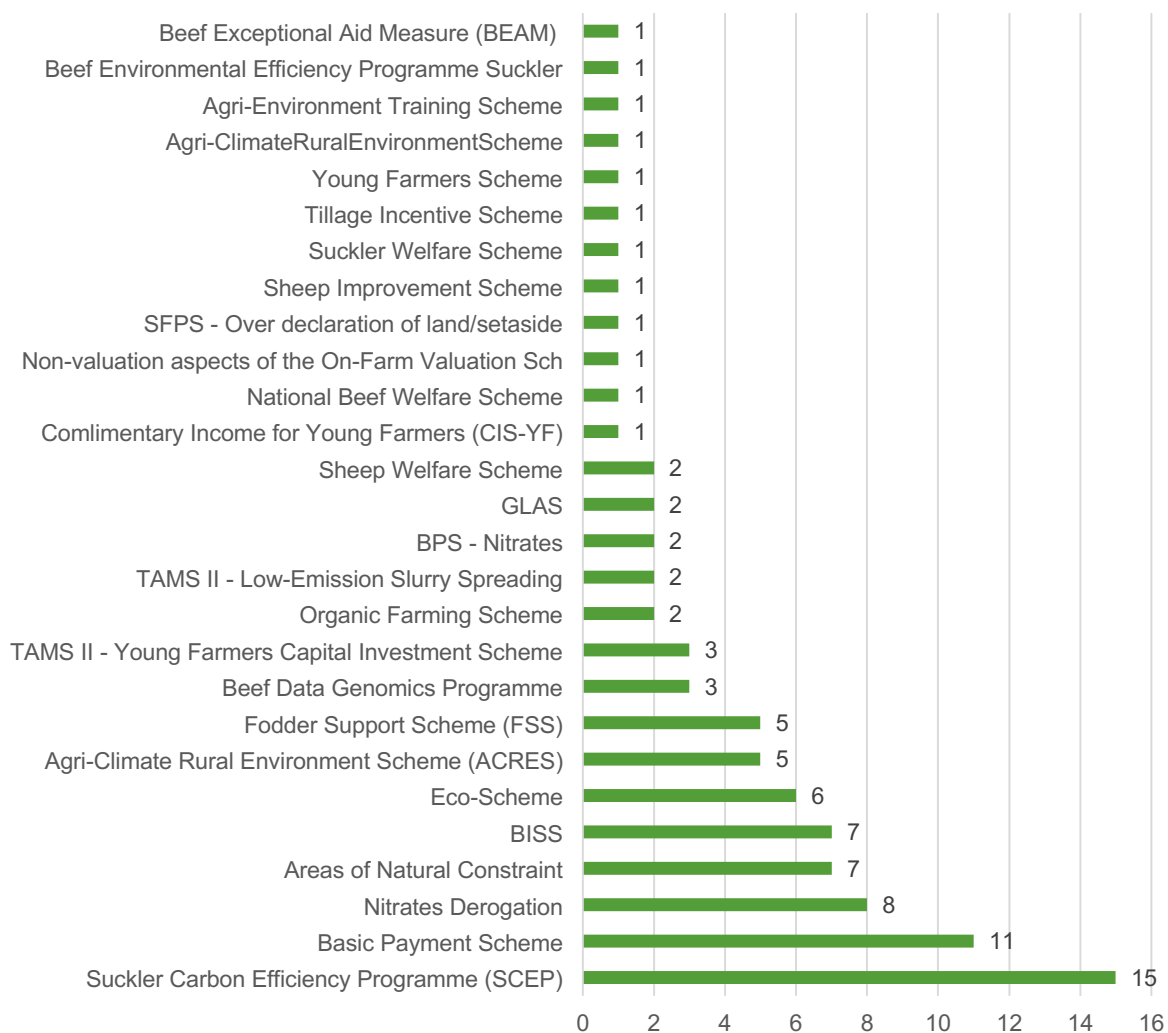
Allowed & Partially Allowed



Disallowed



Revised by the Department

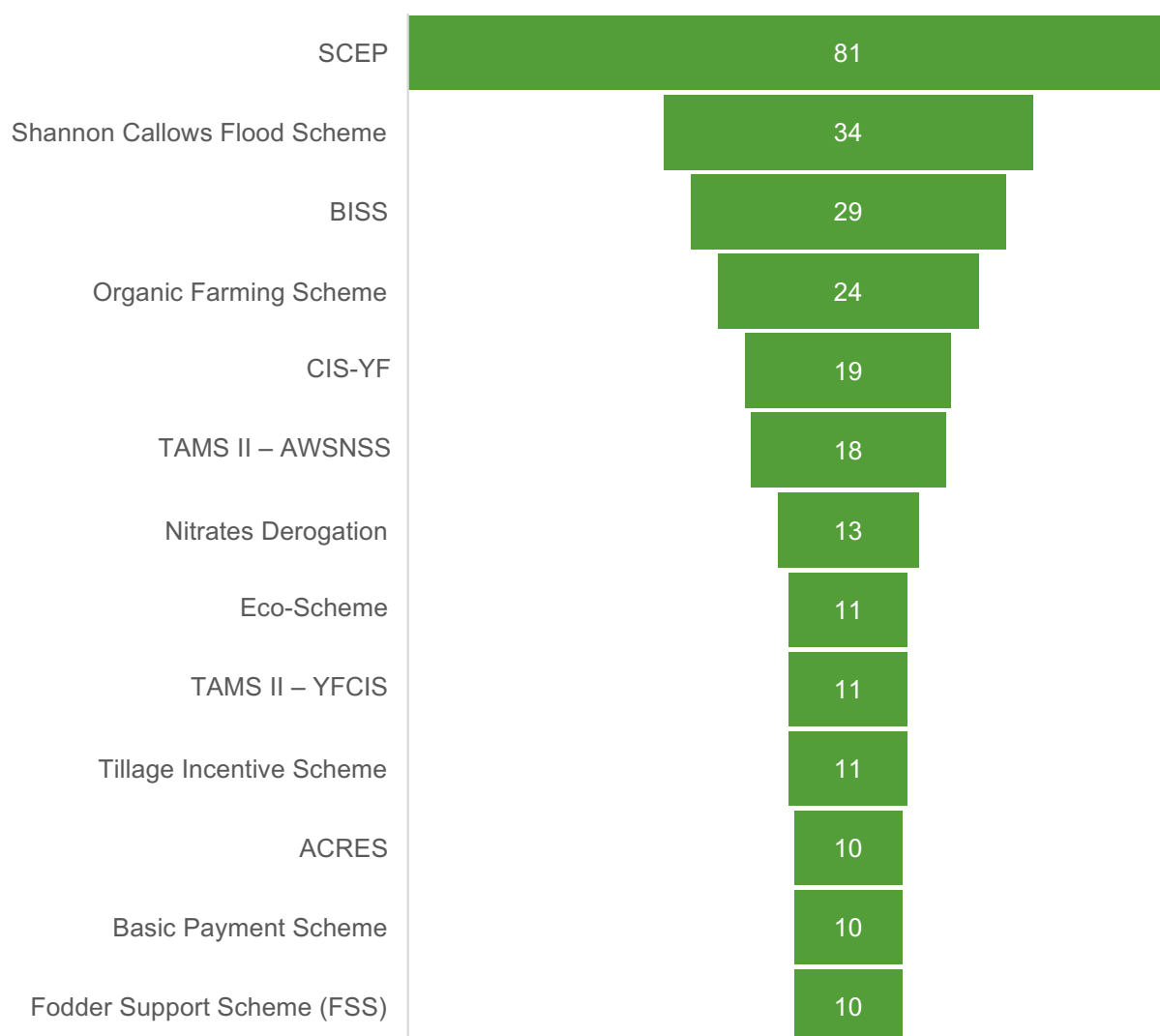


Time Period for Receipt of Department Documents

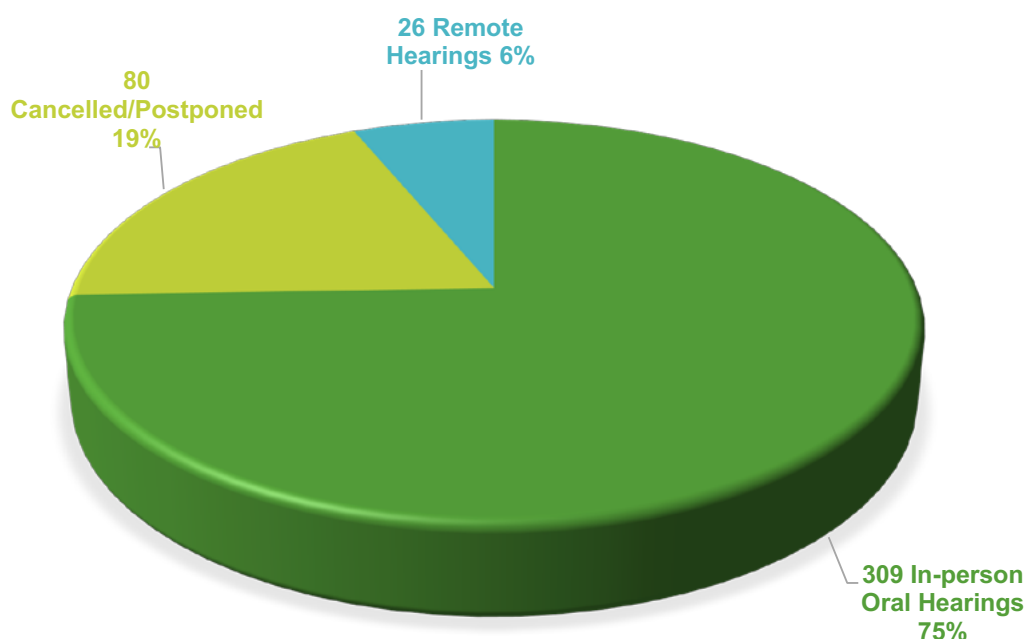
On receipt of an appeal, the Agriculture Appeals Office requests the Department to provide a statement and the relevant documentation/file to the Office within three weeks of the request. This is to ensure that appeals can be allocated to an Appeals Officer without delay. Reminders are issued where required.

The average number of days for the return of the statement and documents from the Department was 23 days for appeals received in 2024. This compares with an average of 20 days in 2023. A breakdown of the average number of days for receipt of the Department file documents from the date of request by the Agriculture Appeals Office is set out below for a selection of schemes (statistics in the examples below refer only to a selection of schemes where more than 10 appeals were received, and documents returned in 2024).

Average number of days for return of Department documents



Oral Hearings Held in 2024



Of the 483 appeals received in 2024, 339 appellants requested an oral hearing, either in person or online. 144 appellants did not request an oral hearing, in 2024.

A total of 335 oral hearings were held throughout the year, of which 309 were held in person and 26 held remotely. 80 hearings (78 in person plus 2 remote) scheduled to take place in 2024 were cancelled/postponed either due to revised decisions by the Department or by way of requests from appellants where the Appeals Officer was satisfied that there was sufficient reason to cancel.

Time taken to Determine Appeals

The Agriculture Appeals Office has set itself a target of three months for closure of an appeal from the time of receipt of the Department file

documents and assignment of the appeal to an Appeals Officer until the issue of an appeal decision letter. Due to circumstances outside of the control of the Agriculture Appeals Office, appeals might not be completed within that target time frame. The reasons for appeals being closed outside the three-month period varies and can include delays in scheduling oral hearings, complexity of cases, legal issues, time taken by appellants and/or the Department to revert with additional information requested, and resource capacity.

For appeals received and closed in 2024, the average time taken from date of assignment to closure of an appeal was 73 days, an improvement of 35% on the previous year. A total of 122 appeals were closed within the target three months' timeframe, an increase of 5% on the previous year.

Requests for Reviews of Decisions

The legislation provides that the Director may revise any decision of an Appeals Officer if it appears to her that the decision was erroneous by reason of some mistake having been made in relation to the law or the facts. A request for such a review of a decision may be submitted by an appellant and/or by the Department. The legislation further provides that an Appeals Officer may, at any time, revise a decision of an Appeals Officer, if it appears to him or her that the decision was erroneous in the light of new evidence or of new facts or where there has been any relevant change in circumstances since the decision was given.

The Agriculture Appeals Office received 31 requests for review of decisions of Appeals Officers in 2024, of which 25 were requested by appellants and 6 by the Department. 16 reviews were closed in 2024. These were related to reviews received in 2024 and previous years. Of the 16 reviews closed, 11 were requested by appellants, and 5 were requested by the Department.

Reviews Closed in 2024

Review Requested By	Changed/ Revised	Partially Changed/ Revised	Unchanged (Original Decision upheld)	Total
Appellant	1	2	8	11
Department	2	0	3	5
Total	3	2	11	16

Litigation

The Agriculture Appeals Act provides that appellants may appeal their case to the High Court on a point of law. Appellants may also apply to the High Court to take Judicial Review proceedings. No Judicial Review legal proceedings were initiated in 2024 and as of the end of the year there were no outstanding Judicial Reviews.

Open Appeals at 2024 Year End

The number of appeals remaining open as of 31 December 2024 was 301.

Open Appeals as of 31 December 2024

Carried over from previous years	441
Received 2024	483
Closed in 2024	636
Appeals on Hand 31 December 2024	301

* All statistics are correct as of April 2025.

Information Requests

Parliamentary Questions

The Agriculture Appeals Office received 5 Parliamentary Questions for written response in 2024.

Freedom of Information

The Agriculture Appeals Office received 4 requests under the provisions of the Freedom of Information Act in 2024.

Access to Information on the Environment

The Agriculture Appeals Office received no requests for Access to Information on the Environment (AIE) in 2024.

The Office of the Ombudsman

The Ombudsman Act 1980 (as amended) provides that appellants may make a complaint to the Office of the Ombudsman if they are not satisfied with actions taken by this Office or with how they have been treated with regard to their appeal. The Office of the Ombudsman cannot revise a decision of the Agriculture Appeals Office but may help to resolve any concerns appellants may have with the Agriculture Appeals Office administrative practices or the service they have received. The Office of the Ombudsman may be contacted at 6 Earlsfort Terrace, Saint Kevin's, Dublin 2. D02 W773 or www.ombudsman.ie.

The appeal file and documents in respect of 4 appeal cases were requested by the Office of the Ombudsman in 2024. Of the 4 appeal files requested by the Ombudsman in 2024, we have been informed to date that 3 of these cases have been closed by the Ombudsman, with no further action required of the Agriculture Appeals Office.

Other Appeal Related Activities

Schedule of Schemes

The Schedule of Schemes appended to the Agriculture Appeals Act, 2001, was amended in 2024 to include additional schemes to allow appeals for those schemes to be submitted to the Agriculture Appeals Office (S.I. No. 369/2024 – Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2024).

The Agriculture Appeals (Amendment) Act 2024

A Report on the Review of the Agriculture Appeals Act, 2001 and Operations of the Agriculture Appeals Office, was published in February 2018. This report confirmed the independence of the Agriculture Appeals Office and made a series of recommendations, the most significant of which was to establish an Independent Agriculture Review Panel. During 2023 the draft heads of the Agriculture Appeals (Amendment) Bill 2024 were formed, and the legislation was passed with the enactment of the Agriculture Appeals (Amendment) Act 2024 on the 29th October 2024. This act provides for, amongst other things, the establishment of an independent panel to conduct reviews, and introduces a six-month time limit for seeking a review. The main function of the Review Panel will be to conduct reviews of decisions of Appeals Officers based on errors of fact and/or law. This is a function currently carried out by the Director of Agriculture Appeals.

The Agriculture Appeals (Amendment) Act 2024 provides that the Review Panel will be composed of a Chairperson and five ordinary members, to include the Director/Deputy Director of the Agriculture Appeals Office, and at least two members with practical knowledge and experience of farming.

It is envisaged that in 2025 the relevant sections of the Agriculture Appeals (Amendment) Act 2024 will be commenced as necessary, including the appointment of the Chairperson and ordinary members of the Review Panel, and the making of the associated Regulations.

IT Systems

In October 2023, the Agriculture Appeals Office launched its online facility for submitting Notices of Appeal by way of the Agriculture Appeals Office website at www.agriappeals.gov.ie. A total of 137 appeals were submitted using the online facility by the end of the year, up from 45 in 2023. This represents an increase of 204% when compared with 2023.

In addition, the Office continues to develop its own internal IT systems to enhance the recording and tracking of appeals.

Business Plan

The 2024 Business Plan formed the basis for the work of the Office and is subject to regular review. Targets included in the business plan were monitored on a regular basis.

Examples of Appeals Decided during 2024

Scheme	Fodder Support Scheme
Oral Hearing	No
Primary Issue	Late application to participate in the Scheme
Grounds of Appeal submitted by Appellant	Farmer states that he was unaware of the closing date for the Scheme and did not receive the standard SMS message. As a consequence, he was late in submitting an application to participate in the Scheme. He also believed that he could apply when the Scheme reopened in the summer of 2023.
Department Position	Applications for the Scheme had to be submitted online by way of Agfood account on or before 5 December 2022. The reopening of the Scheme from July to September 2023 was solely for the purpose of existing participants to amend their land area and not for the purpose of accepting new applications. An SMS message did not issue as the farmer had not opted-in to receive such messages. Similarly, the farmer did not receive an SMS message in 2022 but yet submitted an application within the required timeframe and received payment.
Consideration by Appeals Officer	The Scheme was widely publicised by the Department and in relevant media. Having reviewed Department records it was possible to confirm that the farmer opted-out of receiving SMS messages in 2021 and did not opt back in until 2023. Consequently, he would not have received messages relating to the Scheme in either 2022 or 2023. Responsibility lies with the applicant to submit an application within the relevant timeframe.
Decision	Appeal Disallowed

Scheme	Beef Exceptional Aid Measure (BEAM)
Oral Hearing	Yes
Primary Issue	Inclusion of dealer herdnumber for the calculation of Nitrates
Department Position	Participants were obliged to reduce the production of bovine livestock manure nitrogen by 5% for the selected one-year period. Department records show that during the period the farmer had one or more associated herdnumbers linked with the BEAM application herdnumber. When the data from both herd numbers was combined, records show that the farmer had exceeded the Nitrates allowance. As the reduction of 4% was not met, a 100% penalty was applied to the BEAM payment.
Grounds of Appeal submitted by Appellant	The farmer stated that the second herd number was a dealer herdnumber used for the business of exporting cattle and that no mixing of animals occurred between the two herds. The application for BEAM was under the standard herd number and that all correspondence from the Department in respect of nitrogen levels quoted the standard herdnumber only.
Consideration by Appeals Officer	All correspondence from the Department referenced the standard herdnumber only and all indicated that the farmer was meeting the bovine Nitrates reduction requirements. The BEAM system did not have sufficient computing capacity to identify linked herdnumbers. Records confirm that there was no intermixing of animals between the two herdnumbers. For these reasons there was a legitimate expectation by the farmer that they were managing their nitrates production and on course to meet the BEAM commitments.
Decision	Appeal Allowed

Scheme	Tillage Incentive Scheme
Oral Hearing	Yes
Primary Issue	Eligibility of Low Input Permanent Pasture
Department Position	The Scheme was established as an emergency measure in the context of the Russian invasion of Ukraine. The farmer declared a land parcel on his 2022 BPS application as Low Input Permanent Pasture and in 2023 as spring barley. Section 4.3 of the Scheme Terms and Conditions provides a list of crops considered as grassland and non-tillage for the purposes of the Scheme. Low Input Permanent Pasture is not listed as one of the crops eligible for conversion to tillage, the land parcel was found to be ineligible under the Scheme.
Grounds of Appeal submitted by Appellant	The farmer stated that the land parcel had been grassland for the previous twenty years prior to its conversion to spring barley in 2023. He referenced the Terms and Conditions which state that 'crops considered as grassland and non-tillage for the purposes of the Scheme are set out below'.
Consideration by Appeals Officer	To achieve the aims of the Scheme, the Department specified the crops which are considered as 'grassland non-tillage' and which are eligible for conversion to named tillage crops. There is no indication that all crops that could be considered as 'grassland and non-tillage' are included in the list. The Terms and Conditions are quite specific in defining the crops that are eligible for conversion and the list does not include Low Input Permanent Pasture.
Decision	Appeal Disallowed

Scheme	Unharvested Crop Support Scheme
Oral Hearing	Yes
Primary Issue	Verification that unharvested crops were present
Department Position	All applications received under the Scheme undergo an inspection to verify the presence of an unharvested crop. Two parcels were identified as non-compliant as the inspector found the parcels to have been harvested and no unharvested crop was found.
Grounds of Appeal submitted by Appellant	Due to bad weather, the crop was not planted until early May. This was followed by a drought in June/July at which stage the crop became stunted. Following a query from the Department, the crop was inspected at that time and geotagged photos submitted which confirmed the presence of an oats crop. As the crop was organic, the farmer was restricted in use of fertiliser etc. Weeds with long roots flourished and overtook the crop. With significant weeding the crop was ready for harvesting. However, three attempts were made to harvest in September but failed due to bad weather. By November the crop was only viewable in patches.
Consideration by Appeals Officer	Weather reports confirmed that adverse weather conditions were present throughout the harvesting season and these prevented machinery from accessing the land parcels. In addition, storm occurrences during that period damaged the crop. It is accepted that the crop was established and managed to best commercial practice within the constraints of organic farming requirements. There is no evidence that the crop was harvested.
Decision	Appeal Allowed

Scheme	Organic Farming Scheme
Oral Hearing	No
Primary Issue	Penalty for inadequate record keeping
Department Position	<p>A clerical error by a farmer's veterinary practice incorrectly allocated a prohibited substance to the organic farmer. The error was transcribed into the farmer's records and identified at inspection giving rise to a 100% penalty.</p> <p>The Department subsequently accepted the explanation regarding the error by the veterinary practice and withdrew the 100% penalty. However, the Department noted the requirement to maintain complete and accurate records as set down in numerous references in the various Regulations governing organic production. A 20% penalty was imposed for inadequate record keeping in accordance with Annex III of the <i>Catalogue of Infringements</i> under the category of <i>Level 3: Critical Non-Compliance</i>.</p>
Grounds of Appeal submitted by Appellant	<p>The error in question arose in the veterinary practice. Once identified, a correction was notified to the relevant governing body. The 20% penalty is extreme in the context of an error made by an external service provider.</p>
Consideration by Appeals Officer	<p>Level 3: Critical Non-Compliance is defined as <i>'the integrity of the operation, product/batch or lot has been directly compromised or lost but can be recovered'</i>.</p> <p>The Appeals Officer was satisfied that the error that arose resulted from the transcription of mistaken details provided by the veterinary practice, and did not meet that Level 3 definition. There was no evidence to suggest a general carelessness by the farmer in the keeping of records nor that the integrity of the organic product was in any way impacted. In that context, the Appeals Officer found that the categorisation of the error as 'Level 3 – Critical' was excessive and that the issue was more appropriately considered as falling within the scope of 'Level 1 – Minor non-compliance' which is defined as <i>'does not directly compromise the integrity of the product but needs correcting'</i>.</p> <p>While there was a clear requirement to maintain accurate records, the error in question was re-classified as a 'Minor non-compliance'.</p>
Decision	Appeal Partially Allowed

Scheme	Suckler Carbon Efficiency Scheme
Oral Hearing	Yes
Primary Issue	Impact of Change of Terms and Conditions on Programme Reference
Department Position	<p>The original Terms and Conditions published on 21 March 2023 allowed new entrants to declare a Programme Reference and Yearly Reference of their own choosing at application stage. The herdowner chose a Reference of 100. The Terms and Conditions were amended on 11 May 2023 and stated that the Programme Reference chosen by the new entrant should reflect the number of eligible suckler cows that they estimate will produce an eligible calf in Scheme Year 1. The Department informed the herdowner that his Reference Number was reduced to 63. The Department states that the Minister has the right to alter Terms and Conditions and that the amended T&Cs were uploaded to the Department website and that updated instructions were given on the online application.</p>
Grounds of Appeal submitted by Appellant	<p>The farmer states that he was not aware of the change in the Terms and Conditions when he was applying for the Scheme. He set his Programme Reference in accordance with the original T&Cs and as set out by the Department at information meetings. There was no indication on the T&Cs of their date of publication and the version on the website contained no indication that it was an amended version. There was no reason to suspect that an amendment had been included relating to the calculation of the Programme Reference.</p>
Consideration by Appeals Officer	<p>The information provided by the Department was not consistent between information meetings, the original T&Cs and the online application instructions. Notification to stakeholders was insufficient and the lack of dated versions of the T&Cs made it difficult to identify amendments. Both farmers and their advisors worked on the basis of the information provided at the information meetings and were not aware of the amendment.</p>
Decision	Appeal Allowed

Scheme	Suckler Carbon Efficiency Scheme
Oral Hearing	Yes
Primary Issue	Requirement to have sufficient eligible forage hectares on BISS application to match the MPA
Department Position	To avail of the full payment, a farmer must have sufficient forage hectares declared on their BISS to match their Maximum Payable Area (MPA). If less than 100% and greater than 80%, the farmer will be paid on the number of hectares held. If less than 80% of their MPA, no payment will issue for the year in question. In this case the farmer had less than 80% eligible forage. While forage rape and turnips were sown as catch crops, the main crop as declared on the BISS application was spring oats. Oats are not eligible under SCEP and therefore the farmer did not meet the required level for payment.
Grounds of Appeal submitted by Appellant	A catch crop of forage rape and turnip was sown in August 2023 under ACRES. These are counted as forage crops in the Terms and Conditions of SCEP. If these catch crops had been allowed, the eligible forage area would have increased to above 80% and some payment would have issued.
Consideration by Appeals Officer	The eligible forage area as declared on the 2023 BISS was below 80% of the MPA and consequently no payment issued. While it is acknowledged that forage rape and turnips were grown as catch crops, these are not listed on the 2023 BISS. The BISS recorded the main crop of spring oats which is not eligible under SCEP. The SCEP Terms and Conditions clearly state that the calculation of the MPA is based on the forage area as declared on BISS.
Decision	Appeal Disallowed

Scheme	Conditionality – SMR 1
Oral Hearing	Yes
Primary Issue	Well used for extraction of Water not registered with the EPA
Department Position	SMR 1 includes controls over the abstraction of fresh surface water and groundwater including on-farm abstractions and the establishment of a register for water abstractions. Following an inspection, the Department identified that the volume of water being extracted from a Well on the holding exceeded the 25 cubic metres per day threshold and that the Well had not been registered with the Environmental Protection Agency. A lack of awareness of a requirement does not excuse a person from responsibility for failure to implement that requirement.
Grounds of Appeal submitted by Appellant	The requirement to register Wells was first introduced under the 2023 BISS and was contained in the <i>Handbook for Conditionality Requirements</i> . The appellant states that he did not receive a copy of the handbook and that he was unaware of the requirement. There is a total lack of knowledge of this requirement among the farming community and this is reflected in the very small number of Well registrations. This is the only deficiency found at a full Conditionality inspection. The introduction of the BISS and other new schemes in 2023 involved significant changes and this minor requirement was overlooked.
Consideration by Appeals Officer	The BISS Terms and Conditions states that the T&Cs should be read in conjunction with the <i>Handbook for Conditionality Requirements</i> . SMR 1 includes controls over the abstraction of fresh surface water and groundwater including on-farm abstractions and the requirement to register such Wells and these requirements are clearly set out in the <i>Handbook for Conditionality Requirements</i> . On that basis there are no grounds for overturning the decision of the Department.
Decision	Appeal Disallowed

Scheme	TAMS II – Young Farmers Capital Investment Scheme
Oral Hearing	Yes
Primary Issue	Machine purchased does not meet description of machine applied for under the Scheme
Department Position	The appellant applied under the Scheme for the purchase of a Strip till drill. Following a claim for payment the Department inspected the purchased item and found that the item did not meet the description of a Strip till drill but was a Direct Drill. The purchased item did not have primary cultivation tines for the purpose of cultivating the narrow strip of soil where the seed is to be placed and therefore cannot be considered a Strip till drill.
Grounds of Appeal submitted by Appellant	The appellant contended that the purchased machine places seed in the soil in an environmentally friendly manner and meets the purpose of the TAMS scheme. There is no obvious reason why the machine does not conform to a 'Minimum disturbance tillage'.
Consideration	The DAFM updated Section 5 of the S195 Minimum Specification for Tillage Machinery document in November 2023 to clarify that “machines that are designed so that they may be set-up or adjusted or modified by the operator as either min till, direct drill or strip drill depending upon the circumstances are classified as min-till drills for grant-aid under the TAMS 3 scheme.” The fact that clarification is included in the updated S195 document indicates that there was a certain lack of clarity regarding the classification of tillage machinery which is designed to be adjustable in the January 2022 version of S195. It is evident that the purchased machine can be adjusted to perform as a strip drill and therefore meets the requirements.
Decision	Appeal Allowed

Recommendations for Consideration by the Department

Section A: Recommendations that apply to All Schemes

Recommendation 1: Terms and Conditions

- Scheme Terms and Conditions should be unambiguous and have clear definitions and eligibility requirements.
- In multiannual schemes, the Department should consider issuing bulletins to scheme participants as to what must be achieved in the scheme year ahead.

Recommendation 2: Automatic Receipt

This Office receives a significant number of appeals where the farmer believed that an on-line application had been submitted, but in fact, no application had been submitted. We recommend:

- An Automatic Receipt Confirmation sent to the email of the farmer/ agent confirming that an application has been successfully submitted.
- Where participation in a scheme is based on notification to a Herdowner, such notification should be issued by registered post – or uploaded to Agfood and accompanied by a text message alerting the farmer of a new letter.

For example, new entrants to ANC are required to meet minimum stocking levels 'within 10 days of receiving their herdnumber'. As letters are not registered, there is no means of verifying the date this letter was issued/received.

Recommendation 3: Appeal Decision Receipt

- This Office recommends that the Department inform an appellant, after the receipt of an Appeal Decision, of the next steps they can expect.

Recommendation 4: Area Monitoring System

- Inspection reports on land eligibility should include the details of the evidence found on land in respect of "no agricultural activity" findings, for example, descriptions of vegetation, access to parcels, evidence of animals present or not present, use of geo-tagged photographs and maps where applicable clearly referenced to the inspection findings.

Recommendation 5: Department Decision Letters

- Penalty notifications and decision letters applying sanctions should in all cases clearly identify the Scheme name, the Terms and Conditions, the relevant year, and/or the Specifications under which the penalty/sanction is applied and bear in mind the requirement for decision makers to give reasons for decisions.

- Control reports should specify all instances of non-compliance found and leave no possibility for misunderstanding, for example clearly indicate the location and any relevant area or lengths.

Recommendation 6: Farm Partnerships/Limited Companies

- A farm partnership is not a legal entity and is instead a partnership of individuals who are legal entities. The Department might consider inserting a clarification in relevant Scheme Terms and Conditions on this issue.
- A limited company is a legal entity. Farmers transforming from sole traders to limited companies should be made aware of the requirements to transfer entitlements and any multiannual scheme contracts to the new legal entity / legal person.

Recommendation 7: Cross Compliance Cross-Reporting from other Authorities

- The Department should consider requesting certain content for cross reports from other authorities such as descriptive narratives, geo-tagged photographic evidence, along with assessment under each of the factors of severity, extent, duration and reoccurrence. Such should also indicate if the breach is considered intentional or negligent and should set out the reasons where so considered.

Recommendation 8: Force Majeure / Exceptional Circumstances

- The Department should clearly set out the provisions for force majeure and/or exceptional circumstances in the conditions applicable to each scheme, where relevant.



Section B: Recommendations to the Department for Individual Schemes

Recommendation 9: Targeted Agricultural Modernisation Schemes (TAMS 3)

A significant number of appeals into this Office have been due to evidence that Investment work had commenced prior to approval of the application by the Department. It is recommended, when the application is initially processed:

- A letter is sent to the farmer informing him/her of the vital importance of not commencing work, especially on fixed investments, before approval has been issued.
- This instruction should be in the body of the letter and emboldened.
- Other problematic breaches e.g. cash payments, could also be included.

An asset must be paid for in full, from their own bank account, and that full ownership and possession of the asset must have passed to the applicant before the payment claim for grant aid is submitted.

- This can be addressed by asking direct questions at payment claim stage and highlighting on the letter of grant approval.
- Sanctions should be definitive when set out in the Terms and Conditions, avoiding terminology such as 'may' when specifying the rate or level of sanction.
- The Department should always specify, having regard to the Terms and Conditions breached and/or the scheme Penalty Schedule, the basis for the sanction applied. For example, where full ownership of an item has not been transferred to the applicant prior to the payment claim and there will be no grant aid paid, the sanction should be specified in the Penalty Schedule.

- A dialogue box at application stage could be considered stating that the applicant is aware of the bank account requirements and commencement requirements.

Recommendation 10: Complementary Income Scheme Young Farmers (CIS-YF)

A significant number of appeals arise when applications are rejected due to applicants failing to demonstrate financial and managerial control, in accordance with the CIS-YF Terms and Conditions.

- Farmers should be very clear that there is no transitional period, when moving from a joint bank account to a new bank account, where a Young Farmer is named.
- A dialogue box at application stage could be considered stating that Young Farmers are aware of the bank account requirements for demonstrating Financial and Managerial Control.

Recommendation 11: Suckler Carbon Efficiency Programme (SCEP)

The Agriculture Appeals Office currently receives a high volume of SCEP appeals. It would be beneficial if the review letter could include:

- Clear explanations when rejecting a farmer's request for review, outlining the specific reasons for ineligibility.
- References to relevant scheme criteria, helping farmers understand how the decision was reached.
- Outline why the information provided in the review request was insufficient allowing an

applicant to understand the shortcomings in their submission.

This approach would improve communication, reduce unnecessary appeals, and help farmers make informed decisions.

Recommendation 12: Shannon Callows Flood Scheme

Location played a key role in determining compensation for the Shannon Callows Flood scheme.

For future agricultural support schemes where parcel location is a determining factor for eligibility, it would be beneficial if the Department could provide precise geographical details of the designated eligible area. This could include:

- Clear boundary maps with coordinates.
- A publicly accessible list of eligible townlands or regions.
- A digital tool where farmers can input their parcel details to verify eligibility.

This approach would minimise confusion, prevent misinterpretation, and help farmers feel more informed and reassured. It would also streamline the application process and reduce administrative burden.

Recommendation 13: ACRES Scheme Application

A number of applicants found themselves ineligible for certain actions due to selecting the wrong 'drop-down' option during the online application process.

- An 'In-built warning system' could be implemented, which would populate a warning when an action is selected, highlighting the chosen action and asking

for confirmation that it is correct.

- This step will ensure more accurate Actions selected and reduce errors in the application process.
- If an Action is selected but the minimum required area threshold for that Action has not been met, the system should prevent the application from being submitted until the issue is resolved.

Farmers should be aware that the Area Monitoring System (AMS) can detect:

- No evidence of ACRES Winter Bird Food – indication that the establishment of a Winter Bird Food crop has not been detected by the AMS.

This is an action that is often appealed – farmers should continually monitor their Wild Bird Food parcels to avoid penalty.

Recommendation 14: Areas of Natural Constraints Scheme

As it is unlikely that active farmers with qualifying land would intentionally wish to exclude themselves from the Areas of Natural Constraints Scheme, it is noted that the BISS application system now:

- Gives a warning box to alert farmers previously in the scheme who declared eligible disadvantaged land, advising them that they have excluded themselves from the Areas of Natural Constraints Scheme, if this is an error and if they wish to participate in the Scheme.
- The ANC section also personally contact all farmers that were previously in the Scheme, and did not select ANC in the current scheme, to verify if an error was made.

Recommendations for Consideration by Scheme Applicants

Section A: Recommendations for Applicants: General Issues

Recommendation 1: Terms and Conditions

- It is important that applicants familiarise themselves fully with the Terms and Conditions and Guidelines of Schemes before submitting their claims.

An Appeals Officer is required to adhere to the Terms and Conditions of a scheme and any relevant legislation in making a decision on an appeal.

Where farmers are uncertain, they should consider engaging a professional advisor or other competent person to assist them in understanding the scheme rules and requirements.

Recommendation 2: Legal Status of Applicant

- Sole trader, Registered Farm Partnership, Limited Company, or other entity: Change of entity can have significant implications for multiannual contracts and for BISS entitlements and should always be clarified with the relevant sections of the Department prior to any changes being undertaken.
- Where a farmer uses an agent to lodge an application, a printed database version of the submitted application should be sought prior to the closing date to receipt the submission of the application. Agents/farmers should retain screen shots of their application submission, especially where an automatic confirmation email does not issue.

Recommendation 3: Conditionality Requirements

Conditionality sets the baseline requirements for farmers in receipt of CAP payments and replaces the 'cross compliance' requirements in the previous CAP.

- Applicants should familiarise themselves with the requirements of Conditionality, which consists of Statutory Management Requirements (SMRs) and Good Agricultural and Environmental Condition (GAEC) in respect of the water, soil and biodiversity of ecosystems.
- All farmers must be compliant with the legal requirements of the Nitrates Regulations. Farmers should always be aware of storage requirements for their herd size and ensure that they meet the requirements in full. This is especially important where herd size is increasing.
- Nitrates Derogation farmers should be always aware of the specific requirements on them in lieu of the higher organic nitrogen limit afforded them. From 2022, Nitrates Derogation farmers who do not meet all requirements in one year are also excluded from applying for the Nitrate Derogation in the following year.
- Farmers should be aware of the changes in Organic Nitrogen values applicable to livestock, including the banding of dairy cows, and ensure they are farming within the applicable limits subject to these revised rates.

Recommendation 4: Conditionality Breaches under Pillar 2 Schemes

Farmers should be aware of the full implications of conditionality breaches. Conditionality penalties are also applied to other area-based payments - BISS, CRISS, ECO, ACRES, Organic Farming Scheme, SCEP, SIS etc and certain conditionality penalties can have significant implications. For example:

- Organic Farming Scheme: any breach of the 170 Kg/ha N limit will cause a 100% penalty on payments.
- ACRES: certain conditionality breaches may result in an action being deemed ineligible for payment as set out in the ACRES Terms and Conditions.

Recommendation 5: Appeal submission deadline and on-line appeal Portal

- Appeals must be made within 3 months of the date of notification of the Department's decision being appealed against. Where this period cannot be met owing to exceptional circumstances, a case can be made to the Director for consideration.

An online portal is now available for the submission of an on-line appeal at www.agriappeals.gov.ie and requires the uploading of the decision being appealed against.



Section B: Recommendations for Applicants: Individual Schemes

Recommendation 6: Complimentary Income Scheme Young Farmers (CIS-YF)

Page 99 of the BISS Terms and Conditions outlines CIS-YF Penalties:

‘Where the applicant is deemed not to be meeting the eligibility requirements of the Scheme following an on-the-spot-check, they shall be excluded from receiving aid for the Scheme year concerned. In addition, a 100% penalty will apply which will be calculated on the basis of the payment the applicant would have received in the Scheme year concerned’.

A significant number of appeals are due to applications being rejected due to applicants failing to demonstrate financial and managerial control, in accordance with the CIS-YF Terms and Conditions.

- Farmers should be very clear that there is no transitional period, when moving from a joint bank account to a new bank account, where a Young Farmer is named.

Recommendation 7: Targeted Agricultural Modernisation Schemes (TAMS)

- An applicant should only submit a payment claim after the actual payment is made, applicants should always be aware that claim inspections/validations may in addition to invoices request bank statements, cheque/electronic payments etc to ensure that the TAMS payment claim was only submitted after the item was owned possessed and was fully paid for.
- Applicants should also be aware post-dated cheques, after the date of a payment claim, are not considered eligible payment.

Recommendation 8: Organic Farming Scheme (OFS)

- The applicant is fully responsible for maintaining their organic licence and status, the Appeals Officer has no statutory role regards the awarding or withdrawal of an organic licence.
- OFS participants must remain aware that withdrawal of the organic licence by the Department or by the Organic Certifying Body, OR allowing their organic licence to lapse, within the term of an OFS contract shall mean termination from the Scheme and recoupment of all aid paid.
- This Office has noted a perception that there is a Derogation from the organic standards during the 2-year conversion period prior to full symbol organic Status. Applicants should be aware that there is no Derogation. The Conversion period is an adjustment period for land/animals etc and the costs associated with it are recognised in the OFS.
- The Organics Terms and Conditions should make it clear that there is no derogation from Organic Standards during the Conversion period.

Recommendation 9: Areas of Natural Constraints

- Applicants should familiarise themselves with the stocking density requirements, even in the event of herd restrictions.
- All applicants should be aware of new livestock unit values in place from the start of 2023, livestock unit values have reduced for certain categories of animals.

- Sheep and goat farmers should be vigilant in returning their Sheep/Goat Census and ensure their flock registers are up to date.

ANC applicants should ensure that they:

- Make an Application (take care not to untick the 'tick box')
- Meet average annual stocking density
- Maintain 28 consecutive weeks Stock Retention period

Recommendation 10: BISS Payment Entitlements

- Farmers should take appropriate measures to ensure that any entitlements leased out by them are fully used in accordance with the scheme requirements. Farmers should always be aware of the entitlement related requirements and if unsure should seek advice and/or information.



Appendix A: Agriculture Appeals Office Organisation Chart

Director:
Lynda O'Regan

Deputy Director:
Pat Coman*
Siobhán Casey

Agriculture Appeals Officers

Claire Kennedy	Guy Mahon	Bernadette Murphy	Luke Sweetman***
Francis Dowling	Liam Kinsella	Michelle McNamara	Jim Gallagher
Dan Molloy	Vincent Upton***	Mary Lawlor	

Aquaculture Administration
Teresa Langford (AP)

Agriculture and Forestry Appeals Administration
Ruth Kinehan (AP)

Aquaculture Appeals Administration

Mary Hegarty (AP)**
Ciar O'Toole (HEO)*
Maragret Carton (HEO)
Michelle Moloney (HEO)**
Fergus Donegan (EO)
Brona Leonard (CO)
Majella Murphy (CO)

Agriculture Appeals Administration

Michael Ryan (HEO)
Marie Dobbyn (EO)
Jacyntia Carroll (CO)
Brian Kealy (CO)
Rachael Conlon (CO)
Heather Dunphy (CO)

Forestry Appeals Administration

Vanessa Healy (EO) *
Aedin Doran (EO)
Roisin Moore (CO)

* Left the Agriculture Appeals Office in 2024
** Joined the Agriculture Appeals Office in 2024
*** Also member of the Forestry Appeals Committee

Appendix B: Governing Legislation

Primary Legislation

The work of the Agriculture Appeals Office is governed primarily by:

Number 29 of 2001. Agriculture Appeals Act, 2001

Amendments to the Agriculture Appeals Act 2001

Number 33 of 2004. Public Service Management (Recruitment and Appointments) Act 2004, amending the Agriculture Appeals Act 2001

Number 15 of 2013. Animal Health and Welfare Act 2013

Number 31 of 2014. Forestry Act 2014

Number 15 of 2020. Forestry (Miscellaneous Provisions) Act 2020

Number 38 of 2024. Agriculture Appeals (Amendment) Act 2024

Relevant and most recent Statutory Instruments

S.I. No. 193/2002 - Agriculture Appeals Regulations 2002

S.I. No. 219/2017 - Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2017

S.I. No. 68/2018 - Forestry Appeals Committee Regulations 2018

S.I. No. 418/2020 - Forestry Appeals Committee Regulations 2020

S.I. No. 353/2021 - Agriculture Appeals Act 2001 (Section 14A) Regulations 2021

S.I. No. 423/2023 - Agriculture Appeals Act 2001 (Section 14A) Regulations 2023

S.I. No. 521/2023 - Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2023

S.I. No. 369/2024 - Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2024

Copies of all legislation are available on the Irish Statute Book website www.irishstatutebook.ie.



Rialtas na hÉireann
Government of Ireland

An Oifig Achomharc
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