



AGRICULTURE APPEALS OFFICE

ANNUAL REPORT 2011

To the Minister for Agriculture, Food and the Marine, Mr. Simon Coveney T.D.

Cuirim tuairisc maidir le gníomhartha na hOifige Achomhairc Talmhaíochta i 2011 faoi do bhreith de réir fhorálacha Ailt 14(1) den Acht Achomhairc Talmhaíochta, 2001.

In accordance with the provisions of Section 14(1) of the Agriculture Appeals Act 2001, I submit the report of the Agriculture Appeals Office for 2011.

Marian O'Brien
Acting Director of Agriculture Appeals Office

Tá an Tuarascáil seo ar fáil freisin i nGaeilge, ach é a iarraidh.
This report is also available in Irish, on request.

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1. Introduction by the Director of Agriculture Appeals Office

“The mission of the office is to provide an independent, accessible, fair and timely appeals service for Department of Agriculture, Food and the Marine scheme applicants, and to deliver that service in a courteous and efficient manner.”

The function of the Agriculture Appeals Office is to provide an appeals service to farmers who are dissatisfied with decisions of the Department of Agriculture, Food and the Marine regarding their entitlements under certain schemes as set out in the Schedule to the Agriculture Appeals Act 2001. Seven hundred and thirty six appeals were received in 2011 across the various different schemes. This represents a decrease of 11.5% on 2010 figures and is as a result of a reduction in appeals received under the Single Farm Payment and Rural Environment Protection Schemes.

This report sets out the major developments during the year and a statistical breakdown of the office's work. The statistical tables are based on end date of 31st December 2011 and are not directly comparable with previous years. In line with recent reports, it contains a cross-section of cases determined by Appeals Officers so as to illustrate the type of issues that gave rise to an appeal and the consideration given to them by Appeals Officers.

In addition, this report also gives a breakdown of the work carried out by the Single Payment Appeals Committee which continues to examine appeals arising from the Single Payment Scheme. The Single Payment Appeals Committee comprises Appeals Officers from this office and has an independent Chairman, Mr John Duggan.

The report also includes recommendations to the Department of Agriculture, Food and the Marine regarding certain schemes, in addition to highlighting recurring and non-compliance issues by scheme applicants that lead to penalties.

I hope that as well as fulfilling its primary function as a report to the Minister for Agriculture, Food and the Marine, the report will be of use to farmers, the Department of Agriculture, Food and the Marine and other interested parties.

This report is available on the Agriculture Appeals Office website: www.agriappeals.gov.ie

Marian O'Brien
Acting Director of Agriculture Appeals Office

June 2012

2. Agriculture Appeals Office

The Agriculture Appeals Office was established in 2002 to provide an appeals service to farmers who may be dissatisfied with decisions of the Department of Agriculture, Food and the Marine concerning their entitlements under designated schemes operated by the Department. The Agriculture Appeals Act 2001, along with the Agriculture Appeals Regulations 2002, sets down the functions of the Director and the Appeals Officers, the decisions that may be appealed and the procedures to be followed in respect of agriculture appeals. The establishment of the Agriculture Appeals Office put the appeals process for Department of Agriculture, Food and the Marine schemes on a statutory basis. Appeals Officers are independent under the Act. In line with the office's mission statement, the office aims to be client friendly and to deliver its service in a courteous and efficient manner. One of the main features of the office is the right of an appellant to an oral hearing where an Appeals Officer brings together the appellant and the Department officials to hear both sides of a case and ask questions. Following consideration of all of the facts of a case, comprehensive decision letters are issued to both the appellant and the Department.

Procedures Manual

Under the Freedom of Information Act 1997, this office was legally obliged to prepare a Procedures Manual, outlining information about the Agriculture Appeals Office and details of internal rules, procedures and interpretations used by Appeals Officers. The Procedures Manual can be accessed on our website, www.agriappeals.gov.ie and contains the following:

- Structure, organisation and names & designations of members of staff
- Functions, powers and duties
- Services for the public (and how these may be availed of)
- Rules and guidelines
- Office procedures
- Classes of records held and the arrangements for access
- Rights of review and appeal including rights of review under the Freedom of Information Act.

Business Plan

In accordance with the Strategic Management Initiative, a 2011 Business Plan was formulated to co-ordinate with the Department of Agriculture, Food and the Marine's Statement of Strategy. The Business Plan forms the basis for the office's work and is subject to regular review.

Database

A database to process and record cases received by the office is maintained to ensure up to date information regarding the status of cases and the overall performance of the office.

Website (www.agriappeals.gov.ie)

Conscious of the commitment to e-Government, the office launched its website, www.agriappeals.gov.ie in 2003. As well as being a source of information, appellants can download the 'Information Note and Notice of Appeal' form and lodge appeals online at the following e-mail address, appeals.office@agriculture.gov.ie.

Co-operation with the Department of Agriculture, Food and the Marine

Ongoing contact with various divisions of the Department of Agriculture, Food and the Marine to discuss various issues that arise from appeal cases continued in 2011.

Meetings of Appeals Officers

Ten meetings of Appeals Officers were held in 2011. The principal purpose of these meetings is to establish consistency of approach by the Appeals Officers and to discuss matters relevant to the work of the office. These meetings are usually held monthly.

Advice Given

The Act allows for representations made to the Minister under the National Beef Assurance Scheme and the scheme for the Approval and Registration of Dealers and Dealers' Premises to be referred to the Director for advice. No requests were received for advice in 2011.

Freedom of Information

The office received eight formal requests under the provisions of the Freedom of Information Act.

The Office of the Ombudsman

Under the Agriculture Appeals Act 2001, appellants to this office may request a review of their case by the Office of the Ombudsman. Twenty-eight appeals received during 2011 were referred to the Ombudsman in 2011, of which, there were no occurrences where the Ombudsman requested this office to amend its decision.

3. Appeals Procedure and Oral Hearings

Of the 736 appeals received in 2011, 219 involved oral hearings. In addition, 135 oral hearings were dealt with in respect of cases from years 2010 and 2009.

Appeals are dealt with in the order that they are received. On receipt of an appeal, this office

- Requests the relevant file from the Department of Agriculture, Food and the Marine
- Asks that the relevant Division of the Department provide a statement showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed.

On receipt of the file from the Department, the Director of Agriculture Appeals allocates the case to an Appeals Officer. At that stage, the Appeals Officer contacts the appellant regarding the case and to make arrangements for an oral hearing, if one is requested by the appellant or if it is deemed necessary by the Appeals Officer.

Following examination and consideration of all of the facts of the case, the Appeals Officer makes a determination and issues a letter to the appellant, outlining the outcome of the appeal and listing the reasons for the determination.

One of the features of the office is the right of an appellant to an oral hearing where the Appeals Officer brings together the appellant and the Department officials to hear both sides of a case and ask questions. Oral hearings are held in locations close to the appellants in order to ensure them better access to the appeals procedure. The key features of an oral hearing are;

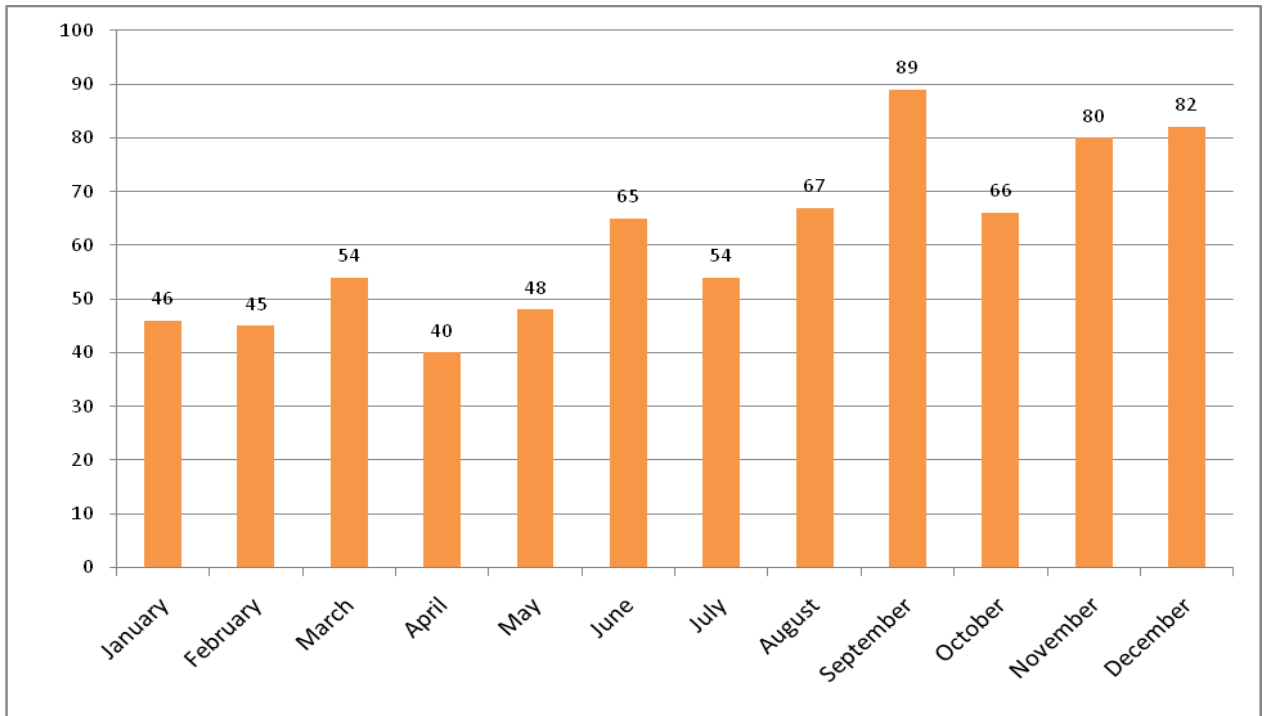
- It is held in private and is informal in format.
- The appellant has a right to representation but must attend the hearing in person.

Oral hearings were held in every county. Conscious of the need to be efficient, the Agriculture Appeals Office aims to group oral hearings so that an Appeals Officer will hold a number of hearings on the same day in a particular region. Appeals Officers are allocated regions of the country and these regions are rotated on a regular basis.

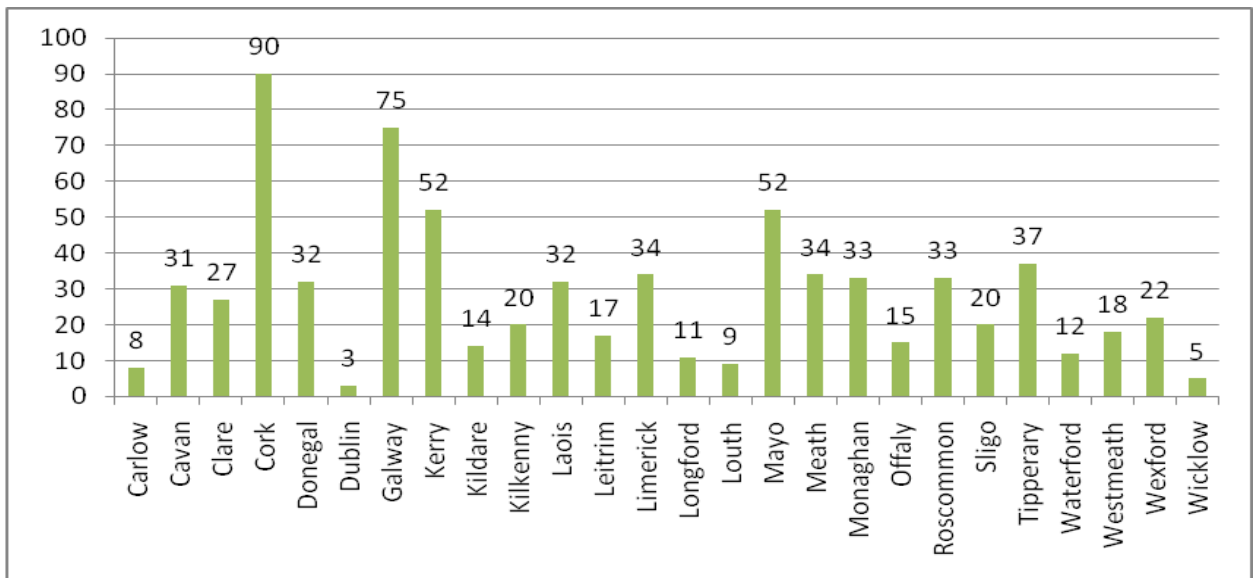
4. Statistics – 2011

736 cases were received in 2011 compared with 832 in 2010, a decrease of 11.5%.

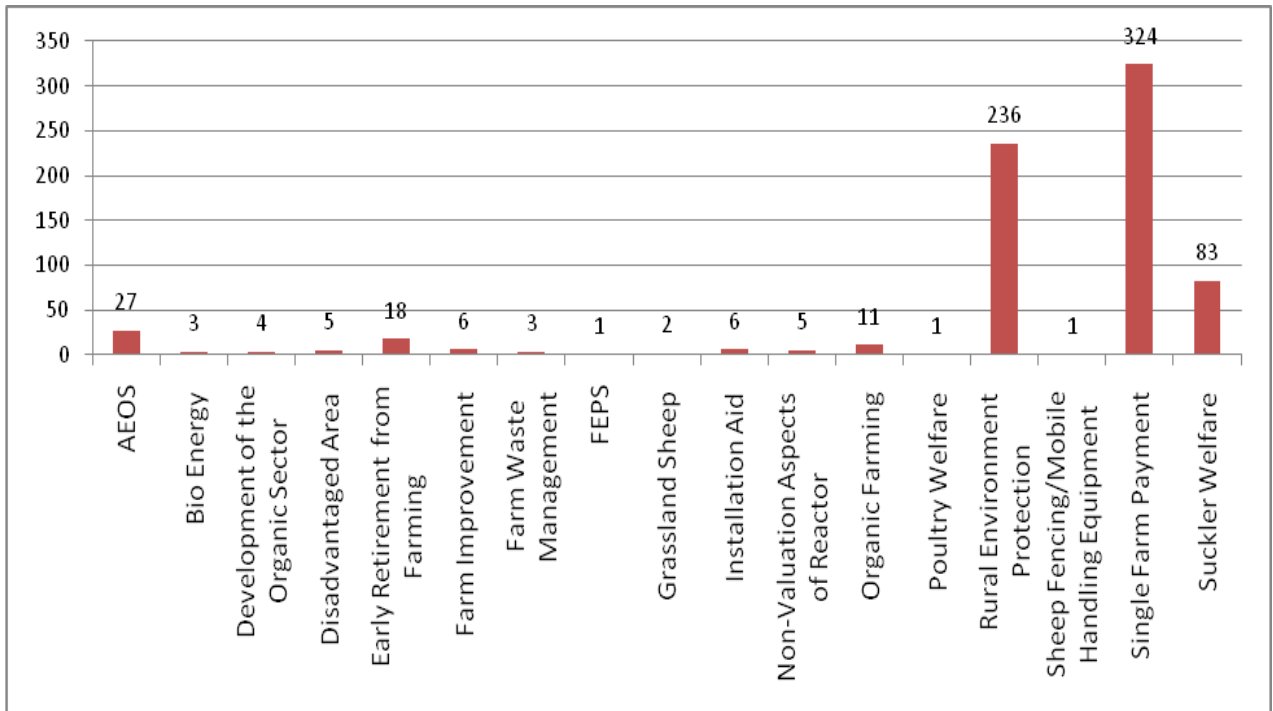
4(a) Appeals received by month.



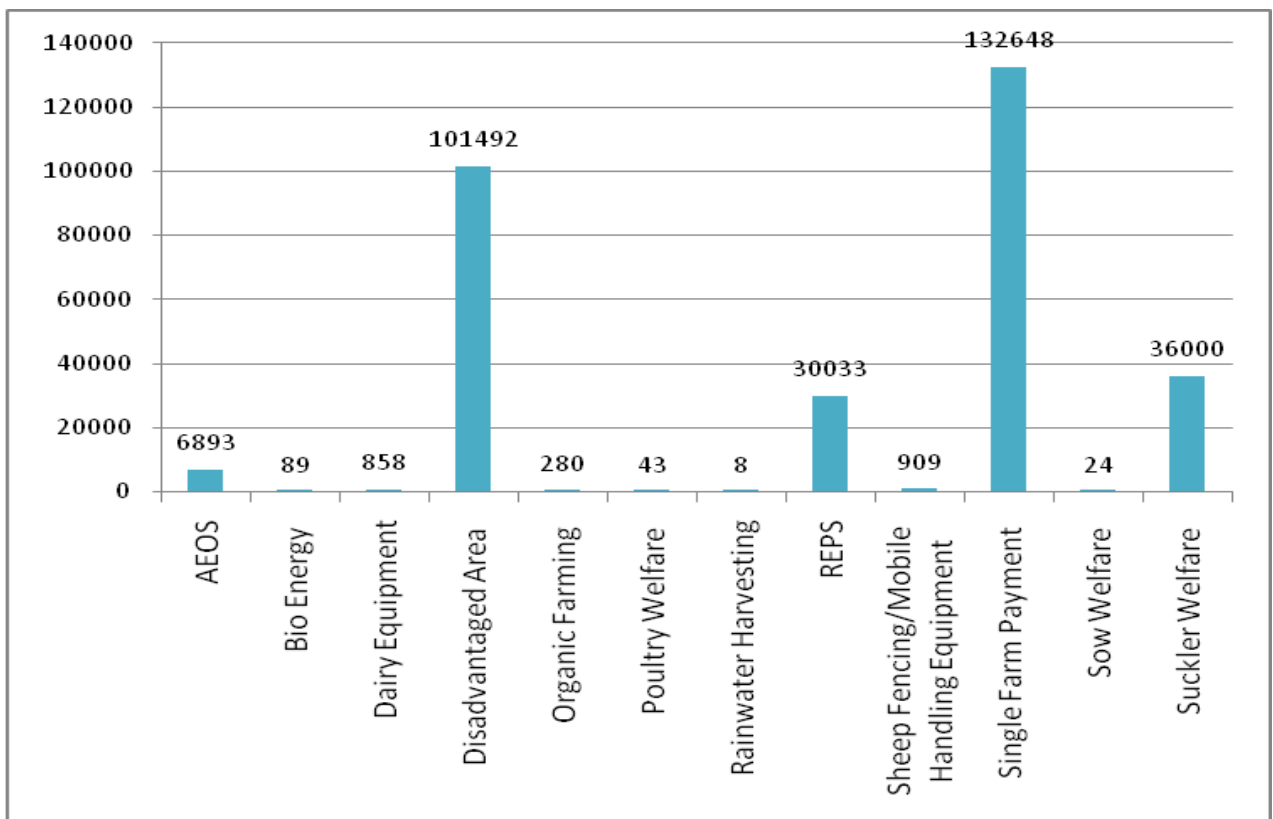
4(b) Appeals received by county.



4(c) Received by scheme 2011.



4(d) Department of Agriculture, Food and the Marine scheme applications in 2011.



Statistics supplied by the Department of Agriculture, Food and the Marine.

4(e) Outcome of appeals received and completed in 2011.

Outcome of 2011 Appeals	
Appeals Allowed and Partially Allowed	17%
Revised by the Department	32%
Appeals Withdrawn, Invalid and Out of Time	16%
Disallowed	35%

**This figure represents the position at y/e 31st December 2011.*

Terminology**Appeal Allowed**

Where the Appeals Officer accepts the case put forward by the appellant and overturns the penalty.

Partially Allowed

This category includes cases where an Appeals Officer decides that a reduced or lesser penalty should apply.

Revised by the Department

This category includes cases where the Department has revised its original decision based on new information submitted by the appellant to the Agriculture Appeals Office.

Invalid

This category includes appeals on matters not appropriate to the office, (i.e. schemes not listed in the Schedule to the Agriculture Appeals Act), pre-13 May 2002 cases, duplicate appeals and cases where no actual decision has been made by the Department of Agriculture, Food and the Marine.

Out of time

Applicants have three months from the date of decision of the Department to appeal and appeals received after that time, are not accepted. However, where extenuating circumstances exist, the Director may allow a case to be considered where it is lodged after three months.

Appeal Disallowed

Where the Appeals Officer does not accept the case put forward by the appellant and considers the penalty imposed by the Department of Agriculture, Food and the Marine to be the correct one.

4(f) Outcome by scheme received at 31st December 2011.

SCHEME	Received	Allowed	%	Partially Allowed	%	Revised by Dept.	%	Withdrawn	%	Invalid	%	Out of Time	%	Disallowed	%	Open	%
Agri-Environment Options Scheme	27	1	3.7%	-	-	1	3.7%	1	3.7%	1	3.7%	-	-	6	22.22%	17	63%
Bio Energy Scheme	3	-	-	-	-	1	33.4%	1	33.3%	-	-	-	-	-	-	1	33.3%
Development of the Organic Sector Scheme	4	-	-	-	-	2	50%	-	-	-	-	-	-	2	50%	-	-
Disadvantaged Areas Compensatory Allowance Scheme	5	-	-	-	-	1	20%	1	20%	-	-	-	-	1	20%	2	40%
Early Retirement from Farming Scheme	18	3	16.67%	-	-	1	5.56%	-	-	-	-	-	-	3	16.67%	11	61.10%
Farm Improvement Scheme	6	-	-	-	-	-	-	-	-	-	-	1	16.67%	3	50%	2	33.33%
Farm Waste Management Scheme	3	2	66.67%	-	-	-	-	-	-	-	-	-	-	-	-	1	33.33%
Forestry Environmental Protection Scheme (FEPS)	1	-	-	-	-	-	-	-	-	1	100%	-	-	-	-	-	-
Grassland Sheep Scheme	2	-	-	-	-	1	50%	-	-	-	-	-	-	-	-	1	50%
Installation Aid Scheme	6	-	-	-	-	-	-	-	-	-	-	3	50%	1	16.67%	2	33.33%
Non-Valuation Aspects of Reactor Scheme	5	-	-	-	-	-	-	-	-	1	20%	1	20%	-	-	3	60%
Organic Farming Scheme	11	3	27.27%	1	9.09%	-	-	1	9.09%	-	-	-	-	2	18.19%	4	36.36%
Poultry Welfare Scheme	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	100%
Rural Environment Protection Scheme (REPS)	236	26	11.02%	28	11.86%	15	6.36%	5	2.12%	9	3.81%	8	3.39%	70	29.66%	75	31.78%
Single Farm Payment Scheme (SFPS) – Consolidation	6	-	-	-	-	1	16.67%	1	16.67%	-	-	-	-	4	66.66%	-	-
SFPS - Cross Compliance	84	3	3.57%	6	7.14%	3	3.57%	2	2.38%	2	2.38%	2	2.38%	26	30.95%	40	47.63%
SFPS - Late Submission of Applications	21	-	-	-	-	7	33.33%	-	-	1	4.76%	-	-	4	19.05%	9	42.86%
SFPS – Nitrates	147	1	0.68%	1	0.68%	80	54.42%	2	1.36%	5	3.4%	5	3.4%	10	6.8%	43	29.26%
SFPS - Over Declaration of Land/Setaside	37	1	2.7%	1	2.7%	7	18.92%	1	2.7%	8	21.63%	-	-	7	18.92%	12	32.43%
SFPS - Surrender of Unused Entitlements to National Reserve	16	1	6.25%	1	6.25%	4	25%	-	-	1	6.25%	-	-	6	37.5%	3	18.75%
SFPS – Transfer of Entitlements	7	-	-	-	-	-	-	-	-	2	28.57%	-	-	1	14.29%	4	57.14%
SFPS - Under Declaration of Land	6	-	-	-	-	-	-	-	-	2	33.33%	-	-	-	-	4	66.67%
Sheep Fencing/Mobile Handling Equipment Scheme	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	100%
Suckler Cow Welfare Scheme	83	-	-	1	1.2%	21	25.3%	3	3.61%	3	3.61%	1	1.2%	17	20.49%	37	44.59%

4(g) Time from Department of Agriculture, Food and the Marine.

For 2011 cases, the average time taken by the Department to return files was 34 days. A breakdown follows by scheme;

SCHEME	Average number of days to return file
Agri-Environment Options Scheme	23
Bio Energy Scheme	47
Development of the Organic Sector Scheme	12
Disadvantaged Areas Compensatory Allowance Scheme	24
Early Retirement from Farming Scheme	19
Farm Improvement Scheme	33
Farm Waste Management Scheme	40
Installation Aid Scheme	25
Non-Valuation Aspects of Reactor Scheme	35
Organic Farming Scheme	25
Rural Environment Protection Scheme	44
Single Farm Payment Scheme	30
Suckler Welfare Scheme	17

When an appeal is lodged with the Agriculture Appeals Office, this office,

- Requests the relevant file from the Department of Agriculture, Food and the Marine.
- Asks that the relevant Division of the Department provide a statement showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed.

The office asks the Department to return files within two weeks of the initial request. This is to ensure that appeals can be allocated to an Appeals Officer without delay and considered as soon as possible. Reminders are issued where the Department does not respond promptly – 229 reminders were issued in 2011, followed by repeat reminders in some cases.

4(h) Time taken to determine cases by the Agriculture Appeals Office.

For 2011 cases, the average time taken to deal with a case from the time of receipt until the issue of the decision was 92 days. The Appeals Office has set itself a target of three months from time of receipt of the appeal to the issue of decision letter. Some cases, due to circumstances outside the control of the Agriculture Appeals Office may not be completed within the set time frame.

4(i) Position at year end

Status at 31 st December 2011	2011 Cases	2010 Cases
Cases closed in 2011	463	311
Work in progress – Agriculture Appeals Office	159	2
Awaiting Department response	114	2
Total on hand	273	4
OVERALL TOTAL	736	315

In addition to the cases closed above, the Single Payment Appeals Committee closed a total of 57 cases pertaining to the Single Payment Scheme. Please see the following section for further information.

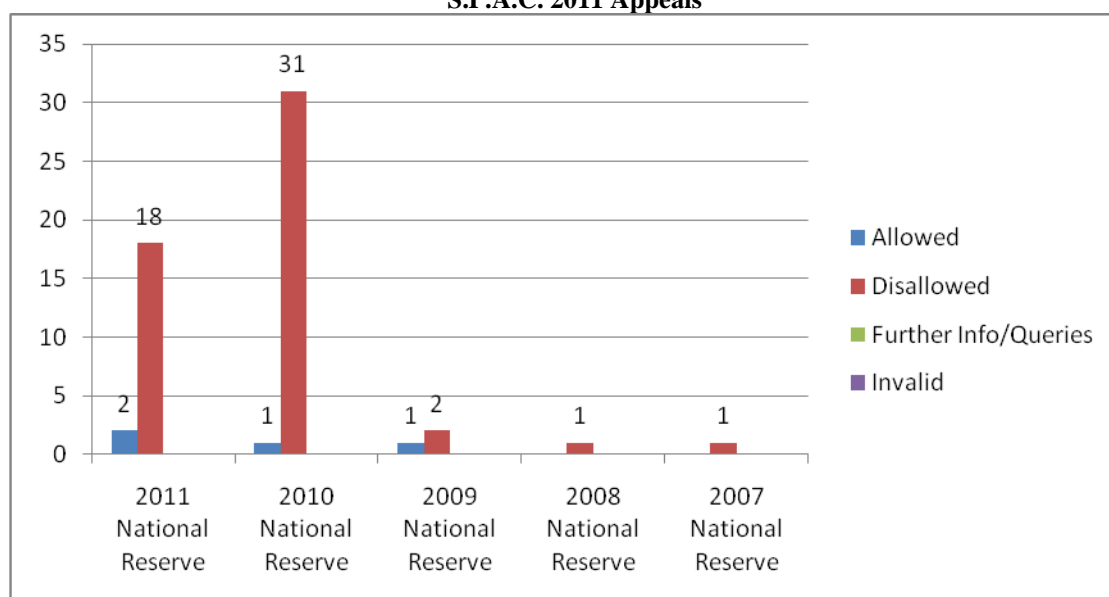
5. Single Payment Appeals Committee (S.P.A.C.)

The Single Payment Appeals Committee was established in February 2004 to deal with appeals made by farmers who are dissatisfied with the decisions of the Department of Agriculture, Food and the Marine in relation to the implementation of the various facets of the Single Payment Scheme. The Appeals Committee is chaired by Mr John Duggan and comprises Appeals Officers from the Agriculture Appeals Office. Mr Duggan, who is a farmer and a former Chairman of Avonmore and Glanbia Plc, has experience of all aspects of the agricultural sector. Mr Duggan has also served as a board member of both Bord Bia and the Irish Dairy Board. S.P.A.C. examines appeals in relation to the decisions of the Department of Agriculture, Food and the Marine under various aspects of the Single Payment Scheme. These include Force Majeure, New Entrant/Inheritance arrangements, Private Contract Clause with the majority of the work making decisions on cases relating to the allocation of entitlements from the National Reserve. There were three meetings of the committee in 2011 and it concluded the consideration of 57 cases in that time and made recommendations to the Department as set out in the table below.

5(a) S.P.A.C. cases dealt with in 2011.

SPAC	2011 National Reserve	2010 National Reserve	2009 National Reserve	2008 National Reserve	2006 National Reserve	Overall Totals
Allowed	2	1	1	-	-	4
Disallowed	18	31	2	1	1	53
Further Info/Queries	-	-	-	-	-	-
Not Valid	-	-	-	-	-	-
Total	20	32	3	1	1	57

S.P.A.C. 2011 Appeals



6. Selected Appeal Cases

Case 1 Rural Environmental Protection Scheme (REPS) 3

The REPS 3 contract commenced 1st November 2006 with a contracted area of 28.96ha and payment to year 5 was claimed with no changes to this contracted area. During November 2010, the Department notified the appellant the eligible area determined for REPS payment purposes was found to be 28.52ha and that as a consequence a recoupment of the annual REPS payments on an over-claimed area of 0.44ha was required.

In the letter of appeal, the REPS Planner stated the Department's audit determined 28.52ha as opposed to 28.96ha, but that a review of the plan had shown that 3.4ha of set-a-side should have been included from year 3 onwards and thereby giving more than enough area to cover the area difference determined by the Department.

REPS Circular No. 10/07 "Notification of Amendment to REPS 2, REPS 3 and REPS 4 Terms and Conditions – Reduction of Compulsory Set-aside to zero in 2008" of 22nd November 2007, as issued to all REPS Planners and Planning Agencies, stated *"Arising from the European Commission reduction in compulsory set-aside to 0% in 2008 participants of all REPS schemes may declare set-aside land as forage or arable area on their 2008 single payment scheme application and qualify for REPS payment subject to the following: Arable (SFP) Set-aside - The change in REPS contract area must be notified to the local office of the department on the farmers annual REPS 1C form. REPS area for payment can be increased in line with reductions in set-aside area on eligible REPS land (i.e. owned or leased areas). No amended plan is necessary. Payment is conditional on the area claimed as arable or forage on the 2008 SFP application being farmed to REPS specifications"*.

The Appeals Officer examined the REPS 1C forms for all years and the REPS file content and found no evidence that the appellant had notified any change in contract area as per the requirements of Circular 10/07. On the 2nd year REPS 1C, submitted after Circular 10/07, the appellant had entered 3.40ha of set-a-side, whereas the contract area should instead have been increased in order to receive payment on the old set-a-side area and the set-a-side area left at zero. The REPS 1C forms for year 3 to year 5 stated 0.00ha for set-a-side but again there was no increase in contract area. The Appeals Officer's decision was that regards the set-a-side land the provisions required for payment set out in Circular 10/07 were not met.

The Appeals Officer noted that during year 5 the appellant deleted 0.47ha of short term rented land from the pre-printed 2010 Single Payment Scheme application and noted that the Department had deducted this 0.47 ha from the remaining area in calculating the payable area, this was aside from deductions for the old set-a-side plots, house and curtilage. The Appeals Officer found that the Department had incorrectly deducted for the short term rented land in the 2010 area check as it was not part of the contract paid area. The eligible area calculated from the total 2010 SPS area, less the required REPS deductions and less the unclaimed old set-a-side parcels, was found to be marginally in excess of the REPS 3 contract area of 28.96 ha and no over-claim existed. The appeal was allowed.

Case 2 Single Payment Scheme (SPS)

An application under the 2010 SPS was received and was examined by the Department of Agriculture, Food and the Marine. The appellant was notified that a dual claim had been made by another farmer in respect of certain land parcels. Both parties claimed entitlement to the land and the appellant informed the Department he had rented the land 'without maps' and understood this was allowed, while still allowing him to claim his full SPS entitlements. However, the Department found as he did not have the land on a date, which included the 31st May 2010, as required by the scheme's Terms and Conditions, he did not comply and an overdeclaration penalty was applied. As the overdeclaration exceeded 50% of the land area deemed eligible, the penalty of a nil payment in 2010 was applied together with an administrative fine to be recouped over the following three years.

At an oral hearing, the appellant explained that although he had been the scheme applicant for some time he had only recently taken over completing forms under this scheme. He said he understood that he could rent land short term and still claim his SPS entitlements using that same land. He said the land was rented without maps and this is clearly stated on the invoice for the transaction. He was unsure how the person who rented the land obtained the maps. The appellant confirmed that the other farmer had cattle on the land on the 31st May 2010 and that the other farmer looked after the cattle.

In considering this case, the Appeals Officer had regard to the EU Regulations, the Terms and Conditions and the principles of natural justice. In particular, the requirement relating to the 31st May rule for land availability, as specified in the Terms and Conditions, which states *"All of the hectares of land declared by you to support your claim must be subject to an agricultural activity by you for a period that includes 31 May 2010."*

The appellant confirmed that he was not the person carrying out the agricultural activity on the land on the 31st May 2010 and the land was not available to him on that date. Therefore, it was found he was not in compliance with the Terms and Conditions of the scheme. Any advice to the contrary is incorrect. If in keeping with standard farming practice, a farmer enters into a rental or grazing agreement for any of the lands declared on the SPS application after 31st May he/she is obliged to enter into a signed written rental or grazing agreement which includes information on the start and end date, lands taken, herdnumbers of both parties etc.

Where it is found that the application of a penalty is correct, the penalties are set out in the Terms and Conditions of the scheme. The Agriculture Appeals Office cannot set aside or change the penalties in such circumstances. The appeal was disallowed.

Case 3 Single Payment Scheme Cross Compliance

The appellant applied for SPS in 2010. The Department carried out an SPS Ground Inspection and concluded that there was an area over-declaration. In particular, a portion of one parcel of land was rejected on the basis that it was overgrown with scrub, no agricultural activity was taking place on the land and it was not being maintained in Good Agricultural and Environmental Conditions (GAEC).

The appellant appealed the Department's decision and questioned the Department's interpretation of "agricultural activity". He stated that the lands in question were maintained in GAEC. The appellant stated that as this portion of land was wet, it was fenced off and was for grazing only in dry summers, unfortunately it had not been grazed in 2010 due to poor weather conditions. The appellant referred to Annex III of Regulation (EC) No 73/2009 which states a minimum level of maintenance is required and in his view he did apply a minimum level of maintenance. The Department presented photographs which the inspecting officer had taken during his inspection. The photos showed an area overgrown in scrub, heathers, small bushes, rushes and marshy ground.

In considering the case, the Appeals Officer had to have regard to the Terms and Conditions of the scheme and to the relevant EU legislation. In particular Section 4 of the 2010 SPS Terms and Conditions details 'Land that is eligible for SPS Payments', it states *"an 'eligible hectare' is land that is used for an agricultural activity..."*, Section 5 defines 'Agricultural activity' as *"the production, rearing or growing of agricultural products including..., or maintaining the land in good agricultural and environmental condition as established under Article 6 of Regulation (EC) No 73/2009"*. The Single Farm Payments Scheme "Guide to Cross Compliance" was issued to all herd owners in March 2005 and GAEC is detailed in Section A of this booklet. It states that *"GAEC is applicable to all farmers in respect of all lands farmed"*. Of particular significance is Section 4 (page 6 and 7) which details *"minimum level of maintenance"*, it requires for *"appropriate grazing and/or cutting managements practices"*.

As the appellant did not carry out any agriculture activity or a minimum level of maintenance to keep the land in GAEC, the Appeals Officer found that the Department were correct in their decision that land could not be regarded as eligible area as defined under the scheme. The appeal was disallowed.

Case 4 Single Payment Scheme (SPS) and Disadvantaged Areas Compensatory Allowance Scheme (DAS) Cross Compliance

The appellant had declared 54ha. The Department undertook an eligibility inspection and rejected 11ha on the basis that the claimed parcel was not fenced/stock-proof and there was no evidence of farming activity. The appellant stated the land was leased rough grazing and farmed since 1997 which he used to move stock to as the home farm is subject to flooding. Lowland ewes and cattle were farmed and the rough grazing was used for wintering ewe lambs, for dry ewes after weaning, to graze a mare over the winter or whenever grass was scarce. The appellant stated the lands were fenced by means of an electric fence. The appellant advised that he was badly injured in a fall in July 2010 and was unable to farm until late September 2010 and therefore, he had not put sheep on the rough grazing during summer 2010.

The appellant's advisor stated the land was approximately 2 miles from the farm base, and that the land's Special Area of Conservation (SAC) status placed additional rules and restrictions on the land and the National Parks and Wildlife Service (NPWS) do not wish to see additional or new fencing on the land. The land was included in the appellant's Rural Environmental Protection Scheme (REPS) agri-environmental plan since 1997 which stated "*light graze with cattle or sheep / maintain in its present undamaged condition/ continue present management..*" The advisor noted a change had appeared in the SPS rules in 2008, when it was stated external boundaries must be stock-proof and appropriate to the farming enterprise whereas prior to 2008 forage had to be accessible and available for grazing with no stated compulsion on fencing. The advisor stated 25% to 30% of the land was covered in scrub but with some grazing beneath canopy and the remainder consisting of bracken and heather. The advisor stated hill or mountain land that was traditionally unfenced did not require sheep fencing and therefore no issue as regards fencing was foreseen with this land. The appellant's representative stated the land is normally farmed from the first week in July and a fence is erected when in use but the injury prevented the land from being farmed. He requested the case be considered as one of force majeure.

The 2010 SPS Terms and Conditions state "*for land to be eligible ...*

3. There must be appropriate fencing for the farming enterprise. Appropriate fencing means stock-proof fencing that will control the applicant's animals and also the neighbouring farmer's animals. In mountain/hill areas this generally means sheep fencing;

4. There must be defined external boundaries except in the case of commonage..."

Land maintenance

The land must be maintained in Good Agricultural and Environmental Condition (GAEC). As regards maintenance of mountain and hill land, generally the only way of keeping it in GAEC is by grazing it with livestock. The applicant must be in control of all land parcels declared, and the applicant must maintain stock-proof fencing."

The Appeals Officer noted that the SPS Terms and Conditions only specified commonage as exempt from the requirement for stock-proof fencing on eligible land. In this case, the lands were private rented lands and there is no stated exclusion in the Terms and Conditions from the fencing requirement even where those lands may have been traditionally unfenced.

On the August inspection date, there was no evidence of agricultural activity found and the land parcel was not stock-proof. The Inspecting Officer found one boundary fenced but the other boundaries were open, evidence of heavy scrub in areas and bushes dispersed around the parcel and no evidence of any farming activity on the land.

The medical evidence confirmed the accident took place in July 2010, a date after the 2010 SPS application. The Appeals Officer accepted that the injury had curtailed the appellant's ability to farm. Unfortunately, at that stage the parcel had been applied on as being eligible and meeting the SPS requirements and the 31st May 2010 for availability had elapsed. The land had also been on previous SPS applications and there was sufficient time available to have met the stock-proofing requirement. The current REPS plan made no mention of boundaries being exempted from fencing.

The Appeals Officer did not accept that the occurrence of the injury mitigated the requirements to have the land stock-proofed as set out in the 2010 SPS Terms and Conditions. The appeal was disallowed.

Case 5 Single Payments Scheme (SPS) Nitrates

The Department undertook an inspection of the appellant's farm in March 2010 on behalf of the local authority in relation to the Good Agricultural Practice for the Protection of Waters Regulations (Nitrates Regulations). The findings of the inspection were:

- clean water was not being diverted to a clean water outfall to minimise soiled water generation;
- evidence of inadequate collection of livestock manure, organic fertiliser and soiled water;
- earth lined lagoons on the holding for the storage of milking parlour washings, organic fertiliser and soiled water did not comply with the Department's storage specifications.

The overall cross-compliance result was a 20% sanction.

The appellant sought a review by the Department and provided evidence by way of water samples taken from test holes on the farm adjacent to one of the lagoons which indicated no pollution. The Department in its reply stated that the intent sanction had been applied as effluents from yards and associated building were stored in earth lined structures which were deemed as unsuitable. The breach was considered to have occurred knowingly to the appellant and this justified the intent sanction. The Department considered the submitted documentation and the other pollution control facilities on the farm and reduced the penalty from 20% to 15%.

At the oral hearing, the appellant did not dispute that clean water was not diverted to a clean water outfall to minimise soiled water generation, and this had subsequently been corrected. He stated the lagoon had been renovated and enlarged and water samples taken indicated no instance of pollution. Issue was taken by the appellant with the intent sanction applied.

In considering the case, the Appeals Officer had regard for the EU Regulations governing the SPS as set out in the Terms and Conditions. The Appeals Officer noted that in the course of the Department's inspection it was found there was a risk of run off from the yard that could directly/ indirectly enter the watercourse. The fact that such a risk existed warranted the imposition of a sanction. It was found that the Department was correct in imposing a sanction as the structures found were a potential risk. It was noted that subsequent to carrying out improvement works the structures were deemed acceptable by the local authority.

The Appeals Officer found there was a risk of pollution but this could be construed more as negligence rather than as intent. It was noted from the provided documentation that water samples were not adversely affected. It was accepted that works had been carried out on the structures which served to minimise any future risks. Accordingly, it was the Appeals Officer's decision that the application of a penalty in this instance was justified but that it should be reduced to 5%. The appeal was partially allowed.

Case 6 Rural Environmental Protection Scheme (REPS) 3

The appellant commenced in REPS 3 on 1st November 2006. The Department carried out an inspection on the appellant's holding in May 2010 and found that hedgerows had been removed between plots in two locations. A penalty of 100% was applied.

The appellant appealed the decision on grounds that the area marked as hedgerow on his plan in one of the plots was not a hedgerow but was bramble and briars which had grown on dumped soil. He argued that his planner had marked this in his plan as a hedgerow in error. In relation to the other plot, the appellant appealed on grounds that the hedgerow had been removed by a contractor in error and without his knowledge. The appellant had been requested to tidy up the hedgerow between two plots as it had encroached onto a right of way. The appellant submitted that he was not present on the farm at the time the work was being carried out and upon his return to the farm the contractor had removed the full hedgerow on one side of the plot and was about to remove the hedgerow on the other side. The hedgerow consisted of a bank with mature trees growing on top and the appellant argued that it was of poor quality and of little value to animals and birds. The appellant stated there was no benefit to be derived from removing the hedgerow and he was prepared to replace the hedgerow that was removed. The appellant also cited medical circumstances as grounds of appealing the penalty.

The Appeals Officer examined the Terms and Conditions of REPS 3 and the Farmers Handbook which issued to all farmers on joining the scheme. In particular, the Appeals Officer noted the following in respect of the payment of grant aid:

"Payment shall be made in respect ... and are farming in accordance with an agri-environmental plan... in compliance with

- *All relevant EU requirements and national legislation*
- *The Department's Specification for Repts planners and*
- *The terms and conditions of the scheme."*

The Appeals Officer considered the Farmers Handbook for REPS and in particular the following:

"Under Measure 5

- *You must retain all field boundary features on all of the land farmed.*
- *You must retain hedgerows/stonewalls on all of the land farmed."*

There was no dispute concerning the Department's finding that the hedgerows had been removed. The Appeals Officer noted that the hedgerows that had been removed were marked yellow on the appellant's REPS plan and were therefore subject to the Measure 5 requirements.

In considering the grounds of appeal that the hedgerow was included in the plan in error, the Appeals Officer held that the onus is on the farmer in conjunction with the planner to ensure the accuracy of plans. The Appeals Officer noted that the Department had not been notified the map was incorrect since the appellant's commencement date in 2006. The Appeals Officer stated that any errors in the plan are a matter between the appellant and the planner.

In relation to the removal of the second hedgerow which the appellant claimed was removed in error by a contractor, the Appeals Officer considered the grounds of appeal and the medical evidence submitted with the appeal. The Appeals Officer noted that the hedgerow had been removed in 2010 by a contractor and it consisted of mature trees which was obvious from photographic evidence submitted. The Appeals Officer did not accept that the contractor could confuse tidying up of the hedgerow with complete removal. While it was accepted the appellant was not present when the work was carried out, nevertheless, the Appeals Officer held that the participant is responsible for ensuring the requirements of the scheme are met. The Appeals Officer also considered the medical evidence submitted by the appellant. On noting that the appellant had continued to work off-farm and engage contractors to carry out work on the farm, the Appeals Officer did not consider that the medical circumstances were a contributing factor to the non-compliances identified. The appeal was disallowed.

Case 7 Single Payment Scheme (SPS) Nitrates

In June 2011, the appellant was informed by the Department that a 20% sanction was being imposed on their Single Payment Scheme (SPS) and Disadvantaged Areas Compensatory Allowance Scheme (DAS) 2008 applications, as the organic nitrogen produced on their lands was 363kg per hectare. This decision was appealed on the grounds that the appellant had intended to export 400 tonnes of farmyard manure (FYM) but was unable to do so due to the inclement weather in the autumn of 2008, and also due to a herd restriction under the Tuberculosis (TB) Eradication Scheme in December 2008. It was pointed out that the appellant was under the 250kg/ha (derogation) limit in 2006, 2007, 2009 and 2010.

At the oral hearing, the Department stated that an interim statement issued on 31st August 2008 advising that the appellant had reached 244 kg per ha. It was also stated that Organic N produced over the period of TB restriction was removed from the calculation, however, the Organic N level per ha for the calendar year 2008 amounted to 363 kg.

The appellant's adviser acknowledged the limit was exceeded but there was no intention or intent in exceeding the limit in 2008. It was stated there were external factors as it was planned to export around 400 tonnes but because of wet weather and consequential mucky road conditions this was not possible as the lands were on a main road. The appellant was also a licensed dealer and it proved difficult to sell cattle that year due to low cattle prices.

The Appeals Officer referred to Statutory Instrument No. 378 of 2006 European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2006 and to Statutory Instrument 101 of 2009. The Appeals Officer accepted that the Department had allowed for the period the herd was restricted under the TB Scheme, and also noted the appellant was issued with an interim Nitrates Statement on 31st August 2008. The Appeals Officer noted the appellant had increased stock numbers between September and December 2008 and this was after being made aware of the Nitrates level for the farm up to 31st of August 2008.

The Appeals Officer pointed out there was an extension given in 2008 to spread FYM until the 30th of November, and that another part of the farm where the FYM was also intended to be spread was accessible by a local road. The Appeals Officer found there were insufficient mitigating grounds to overturn the 20% penalty and the Department's decision was upheld. The appeal was disallowed.

Case 8 Organic Farming Scheme (OFS) 2010

The appellant commenced in the OFS on the 1st November 2009. The contract stated that “*Payment amounts will be calculated on the total eligible area for payment declared annually. This annual declaration must be made by you on Form OFS2 at the end of each calendar year and returned to us (The Department) as soon as possible the following year*”. Under the scheme, where livestock farming is undertaken, the area paid upon is calculated with regards to the number of livestock units (LU) held, with each 0.5 LU qualifying a hectare for payment.

The Department received an OFS2 Form from the appellant in February 2011 which was signed as being correct. The form was found to be incorrect as the appellant had over declared the livestock units on the farm for the year 2010, therefore qualifying a higher area. The Department wrote to the appellant and informed him that based on Stocking Density found an eligible area over claim would be dealt with in accordance with IACS rules, therefore an overclaim penalty was applied which amounted to no aid being payable for the year 2010.

The appellant stated that he felt that he was entitled to a pro rata payment for 2010. He admitted that the OFS2 Form was incorrect.

In considering the case, the Appeals Officer had regard to the Terms and Conditions of the scheme, the relevant EU legislation and the rules of natural justice. The relevant Terms and Conditions applicable to the appellant’s Contract were dated 11th August 2007. The penalty imposed in this instance was detailed in Article 16 of Commission Regulation No 1975/2006 and required that where “*the area declared for payment... exceeds the area determined... - if the difference is more than 20% of the area determined, no aid shall be granted for the area – related measure concerned*”. However the penalty schedule of the relevant Terms and Conditions did not include reference to Article 16 of Commission Regulation 1975/2006. The penalty schedule in the 2007 Terms and Conditions allows for a recoupment of the overpayment due to an incorrect declaration however as the appellant had not been paid the 2010 OFS payment overpayment was not an issue.

The Appeals Officer found that it was more proportionate that the appellant was paid on a pro-rata basis for the correct area as determined by the Department based on the Animal Identification & Movement System (AIM) for 2010. The appeal was partially allowed.

Case 9 Single Payment Scheme (SPS)

An application under the 2010 SPS was received in respect of 18.09 ha of land. Additional land of 14.17ha was added by way of amendment form at a later date giving a total of 32.26ha of land. The appellant was informed that as he had not activated all his entitlements and had not used 6.18 Standard (NR) entitlements over the period 2009 and 2010, they would revert to the National Reserve.

At the oral hearing, the appellant explained that he holds entitlements with different values. He has been renting additional land over the past years and does not always have enough land to claim all his entitlements. He stated that he was unaware that he could change the order of payment of entitlements to ensure that all were activated over the two year period.

In considering the case, the Appeals Officer had regard to the EU Regulations, the Terms and Conditions and the principles of natural justice. In particular to this case are the requirements set out under the 2010 Terms and Conditions which state under Paragraph 22 ‘Payment on National Reserve entitlements in 2010 (Standard (NR) entitlements)’ that *“A two year usage rule now applies to Standard (NR) entitlements. The usage of Standard (NR) entitlements will be rotated in the same way as Standard entitlements (see 24 below)”*.

Paragraph 24 ‘Maximise your entitlements payment in 2010’ states *“Entitlements of all types not used in 2009 must be used in 2010 otherwise they will be lost to the National Reserve”*.

Prior to 2009, National Reserve entitlements were given a higher priority than standard entitlements and thus were paid prior to standard entitlements. This changed in 2009 and priority was given to the higher value entitlements unless the farmer requested a change in the order of payment. This meant that standard entitlements would be paid prior to National Reserve entitlements. In addition, entitlements had to be used over a two year period otherwise they would be returned to the National Reserve.

On the pre-printed 2010 SPS form, the appellant was informed that the 6.18 standard (NR) entitlements would be lost if not used in 2010 and was given the option of changing the order of payment of entitlements in column 7 of the application form. The appellant did not change the order of payment when submitting the Single Payment application form at the closing date of 17th May 2010 nor did he change the order of payment at any time thereafter. It was clear that by not changing the order of payment, the appellant did receive a higher payment in 2010 based on higher value entitlements being given first priority, it also resulted in the return of unused standard (NR) entitlements of lower value to the National Reserve as he did not have sufficient land declared to activate all the entitlements.

The Appeals Officer found that the appellant did not alter the order of payment in order to protect his standard (NR) entitlements. The appeal was disallowed.

Case 10 Rural Environmental Protection Scheme (REPS) 4

Following an on-farm inspection, a penalty of 50% was imposed under Measure 3, as a watercourse was not stockproof on the day of inspection.

At the oral hearing, the Inspecting Officer stated the penalty was applied according to the REPS 4 penalty schedule and was proportionate to the length of watercourse unfenced. He stated first-time participants had one year to prevent bovines access to the watercourses and the appellant had completed over 1 year of the REPS contract by inspection date (contract commencement date was 1st June 2009). He noted a letter was issued to all REPS participants on 13th July 2010, one month prior to the inspection, instructing that fences must be permanently in place for the duration of the REPS contract regardless of the presence of livestock. On the day of inspection, he noted there was no stock present in the field, the ground was suitable for machinery to travel on and there was no evidence of further fencing taking place i.e. stakes, wire present.

The REPS planner stated the task was completed by the end of year 1, i.e. 31st December 2010, as the anniversary date is 1st January and the letter received 13th July 2010, which superseded the REPS 4 specification, was only received shortly before the inspection. The letter required the fences to be permanently in place for the duration of the REPS contract whereas the specification only required a new participant to the scheme to prohibit access by bovines before the end of the first year. The REPS planner noted previous REPS programmes permitted temporary fences but this letter emphasised permanent fences. The REPS planner stated the penalty was harsh as the part unfenced (274m) of the total length to be fenced (2732m) was small and proposed it would be fairer if the weightings applied were proportionate to the percentage unfenced rather than the length unfenced.

The appellant stated that prior to receipt of the letter the contractor had commenced fencing a difficult piece around the house. She stated that the contractor was also a silage contractor and was not there consistently, however, it was understood they had to the end of the calendar year to complete the work. She stated that the drains also required to be cleaned prior to fencing and this involved another contractor which had added to the delay.

The letter, dated 13th July 2010, issued by the Agricultural Structures Division to all REPS 4 participants, states *"as a participant in REPS 4, please be aware that fences such as those required for habitats, boundaries and watercourses must be permanently in place for the duration of your REPS, regardless of the presence of livestock. Any exception to the above must be clearly detailed in your REPS plan."*

Prior to the issue of this notice, the Department acknowledged that they accepted what was stated in the Specification for REPS Planner which refers to *"For first time REPS participants, access by bovines to within 1.5 metres of watercourses must be prohibited before the end of the first year of the plan and thereafter..."*.

In this case, the inspection took place about 4 weeks after the July 2010 letter was issued and at this stage 90% of the work was completed. The REPS specification provided a timeframe to the end of the first year and there appeared confusion when this date actually occurred i.e. the day prior to your anniversary date (31st December 2010) or 12 months after contract commenced (31st May 2010). As this is not clarified anywhere, either date could be considered and in this case, the appellant understood it to be 31st December 2010. It was the Appeals Officer's decision where there was a significant change to the requirements there should be a period of grace given to allow applicants to comply with this requirement. The appeal was allowed.

Case 11 Rural Environmental Protection Scheme (REPS) 3

Following an on-farm inspection, two penalties of 10% each were imposed under Measure 1 for the recommended quantity of lime not applied and the planned organic nitrogen (N) exceeded. The relevant plan stated the total lime required was 47.02 tonnes, whereas the receipts and record sheets submitted only reflected that 40 tonnes was applied. For organic N, it exceeded the tolerance by more than 10%, as Year 2 figures showed 13,385.51kgs applied of which 4,000kgs was imported whereas the appellant's plan stated a maximum of 9,039kgs was permitted.

The appellant accepted that only 40 tonnes of lime was received and spread but emphasised he had not done anything environmentally damaging. An amended plan was submitted to reflect changes in the farming system with the introduction of maize silage. The appellant's planner noted the severity of the penalty rate compared to the rate imposed on an applicant who did not spread any of the required lime. Regarding the organic N, the appellant stated he imported slurry from a neighbour who was intensively stocked. It was noted that the nitrates limit were not exceeded and no pollution was caused, as the actual potential of the land for organic N was 13,741.35kgs.

Paragraph 27 of the Terms and Conditions of the REPS Document, dated 5th February 2004, states that *"It shall be the responsibility of the applicant to familiarise him/herself with his/her agri-environmental plan, the REPS Farmer's Handbook and those Scheme Terms and Conditions and with the consequences for breaches of the Scheme"*. In making an application to be admitted into the REPS Scheme an appellant signs a declaration which states at paragraph (ii) *"I have read and agree to be bound by the terms and conditions of the Rural Environment Protection Scheme"* and at paragraph (iv) *"I hereby undertake to carry out my farming activities in accordance with my Agri-Environmental Plan and the Department's Agri-environmental Specifications"*. Therefore, an appellant agrees to familiarise themselves with their REPS Plan and to farm in accordance with the specifications set out in that plan.

In relation to the lime requirements, the appellant accepted that he did not spread the required amount and therefore, did not comply with the REPS plan requirements. There is no provision in REPS 3 (unlike REPS 4) to apply a graduating scale for penalties. Regarding the organic N, although the applicant was within the limits for the potential of their grassland to take animal and other wastes, the onus is on the REPS participant and his planner to submit an amended plan in a timely manner to reflect changes. An amended plan submitted to the Department almost 14 months after the event was considered unacceptable. The appeal was disallowed.

Case 12 Animal Welfare, Recording and Breeding Scheme (Suckler Welfare Scheme)

The appellant was a participant in the Suckler Welfare Scheme in 2009 where 13 animals were registered. In June 2010, the Department informed the applicant that 13 calves were ineligible for payment, as the calves had all been weaned on the same date in contravention of the scheme's Terms and Conditions. A review of the decision was sought, but the Department upheld its decision. The matter was then appealed to the Agriculture Appeals Office. In the letter of appeal, the appellant accepted that the calves were all weaned on the same date.

Paragraph 8.5.2 of the Terms and Conditions of the Suckler Welfare Scheme is titled Graduated Weaning and states,

- *"Abrupt weaning of all animals at the one time is not permitted.*
- *For herds with more than 10 suckler cows, a gradual weaning procedure must be followed when weaning, with the following being the procedures permitted;*
- *At pasture: The herd of cows and calves are retained in a properly fenced field with a good grass supply (or with supplementary forage provided) and with a concentrate creep for the calves. Calves must be weaned in at least two separate groups with each group being removed at a minimum interval of five days. The first group of cows must be removed allowing their calves to stay with the remaining herd. Another method is to separate cows and calves by means of a well-powered electric fence (up to three strands may be needed). After a few days the cows can be taken away to another area. Again the cows must be weaned in at least two separate groups.*
- *Indoors: Calves are housed in a pen adjacent to the cows with access to these cows. Calves must be weaned in at least two separate groups with each group being removed at a minimum interval of five days. The first group of cows must be removed allowing their calves to stay with the remaining herd. Cows for culling and those in poor body condition (e.g. young cows or very old cows) should be weaned first and late calving cows in good body condition weaned towards the end.*
- *Date of weaning must be recorded in the Animal Events System."*

The Appeals Officer noted the appellant had attended a training course on the Suckler Welfare Scheme in 2009 which took place shortly before meal feeding the calves had commenced. The Appeals Officer concluded that by weaning all 13 calves on the same date the appellant had breached paragraph 8.5.2 of the scheme's Terms and Conditions. The appeal was disallowed.

Case 13 Early Retirement Scheme (ERS 2) 2000

The applicant was accepted into the Early Retirement Scheme (ERS) 2000 with a commencement date of 21st December 2006. In 2011, the Department informed the applicant that as a result of insufficient documentary evidence of his farming experience for the 10 year period 1996 to 2006, the Department deemed him ineligible for payments under the scheme and that all payments made to date were to be recouped. This decision was subsequently appealed to the Agriculture Appeals Office.

At the oral hearing, the Department stated that arising from an EU Commission audit, the Department had been obligated to satisfy the auditors that all participants had the requisite length of farming experience in accordance with paragraph 5.7 of the scheme's Terms and Conditions. In the appellant's case, the Department were not satisfied that there was documentary evidence that the appellant had farmed for 2 of the 10 years.

In response, the appellant stated that the production of documentary evidence was not a requirement under the scheme's Terms and Conditions. The appellant also referred to the large amount of documentation supplied by him in support of his appeal, which showed that he was farming in the 2 years in question.

In considering the case, the Appeals Officer had regard to the EU Regulations governing the scheme as set out in the Terms and Conditions and to the principles of natural justice. Section 5 of the Terms and Conditions is titled 'Person Eligible to Apply for a Pension' and states, *"To become eligible for a pension, the applicant shall on the date the completed application is received in the Department: (Paragraph 5.7); have farmed either solely or with a family member for the 10 years prior to the signing of the transfer/conveyance or operative date of lease..."*

Appendix IV of Terms and Conditions is titled 'Supporting Documents to be furnished with Application for Early Retirement (ERS 2) 2000'. Document 5 required by the Applicant/Transferor is 'Confirmation of Farming for previous 10 years by Agricultural Advisor/Agricultural Consultant (Form ER2)'.

The Appeals Officer concluded that at the time of his application to the ERS2, the appellant had fulfilled all the application criteria as outlined in the scheme's Terms and Conditions. The Appeals Officer on consideration of the documentation supplied concluded there was sufficient evidence to indicate the appellant was farming for the 2 years in question. The appeal was allowed.

Case 14 Rural Environmental Protection Scheme (REPS) 4

The appellant's REPS 4 contract commenced in June 2008. In July 2010, an on-farm inspection was carried out and a penalty of 15% was imposed for non-compliance with the Terms and Conditions of REPS 4 as the appellant exceeded their planned organic nitrogen (N) limit by 20%.

The decision was appealed on the grounds that the appellant did not exceed or increase their organic N limits as they had remained fairly constant annually at about 6572kg. There was a REPS application submitted with an incorrect organic figure of 5470kg which was about 20% less than the appellant's actual organic N figure. The appellant was not overstocked and had not indicated a reduction in stock numbers in their plan.

At the oral hearing the Department Inspector outlined an audit-inspection had been undertaken and it was found that the organic N figure exceeded the planned figure by more than 20% and a 15% penalty under the Terms and Conditions of REPS 4 was imposed.

The appellant reiterated the points made in their letter of appeal, and stated that he had extra land rented for which he was not being given any credit. The appellant stated that the penalty went against common sense and now regretted joining REPS 4. The REPS planner stated the appellant was new to REPS and was not a participant in any of the previous schemes. The planner also stated that REPS 4 was a new scheme and planners were under pressure and mistakes were made. The planner accepted that the planned figure for organic N was breached but the figure for the farm was not breached as the appellant had rented extra land.

The Appeals Officer pointed out that the planned limits were set by the appellant and their REPS planner. The Appeals Officer quoted from Section 11.2 of the REPS 4 Terms and Conditions, and also quoted from page 1 of the appellant's amended REPS 4 plan which gave a total figure of projected production of Nitrogen of 5470kgs. As the planned Organic Nitrogen limit was exceeded by more than 20%, the decision to impose a 15% penalty under REPS 4 Terms and Conditions was upheld, and the appeal was disallowed.

7. Recommendations to the Department of Agriculture, Food and the Marine.

These recommendations have been identified through appeals cases and are not ranked in order of importance.

General

- Where Terms and Conditions are replaced on the Department's website, the old version should be watermarked with "valid until date". At present they are currently archived and accessed under a general search with no indication that the old version has been replaced.
- Farmers in all schemes should be given a list of possible penalties including the minimum and maximum levels.

REPS

- In line with Government policy generally, the Department should give consideration to reviewing the rate of recoupment in REPS where land is both purchased and sold for the purposes of consolidating the holding, in particular where Revenue Stamp Duty relief is given.
- Any changes to the scheme should be notified to the participants.
- The Department should advise applicants that a certificate of postage will not be accepted as evidence of postage similar to the procedure which has been adopted by SPS.
- Over-declaration of land area by SPS should be investigated before REPS penalties are applied.

Single Farm Payment Scheme

- That the Department would investigate the extension of the late application period for SPS to 50 working days subject to penalties.
- That the Department would investigate the possibility of putting in place a database acknowledgement system in respect of the receipt of SPS applications. A reminder notice would be issued within the late application period where the pre-printed form was not returned by the closing date. The Agriculture Appeals Office acknowledges that such receipts are issued to all on-line applicants.
- That the Department would make the SPS Terms and Conditions more user friendly.
- Notification form NF should only be signed by the farmer when complete and being issued to the farmer.
- All SPS amendment forms should be reflected on the database where payment eligibility is impinged upon regardless of date of receipt.
- The Department should make available their list of crops considered eligible/ineligible for payment under DAS.
- Booklets on cross compliance should be updated and re-issued to participants.
- The Department should produce a DVD in association with advisory bodies on Nitrates compliance and make the DVD available to all applicants either on disc or online.
- Only one system of notifying the temporary movement of animals should be in place, i.e. recording the movement of the animal on Animal Identification and Movement System (AIMS), to replace Form 4, Reps G, NBAS 31B etc.
- The owner/keeper of the animal must notify AIMS of the location /herdnumber of all animals at all times when moved from his land as declared on the SPS system.

Animal Welfare, Recording and Breeding Scheme for Suckler Herds.

- The Department should introduce a reminder system prior to terminating a herdowners participation in the scheme.
- Penalties should be clearly stated in the Terms and Conditions of the scheme.

8. Recurring mistakes by scheme applicants that lead to penalties.

General

- Applicants not ensuring that they have read and examined the scheme Terms and Conditions relevant to their application, i.e. must be aware of any revised and new scheme versions.
- Farmers not keeping a record of all contacts with the Department, and not requesting the name of the person they speak with. Where possible, farmers should ask for written or electronic confirmation of matter discussed. Equally any posted correspondence should be through registered post and the farmer should retain copy documents.

REPS

- REPS farmers not keeping the Department updated on changes to farming activities and lands farmed when deviating from those in their REPS plan.
- REPS farmers should ensure that any amendments to plans, particularly rates of application of chemical fertilizer, should be reflected in their farming practice.
- When considering selling or leasing land that is part of the REPS contract, farmers should consult with their REPS planner or the Department prior to any such disposal to examine the potential clawback of REPS monies, where for example the sale is to a non-REPS farmer.
- Applicants not ensuring all plots/parcels farmed are included in their SPS application and not ensuring that plots/parcels no longer farmed are deleted out by drawing a line through them. Applicants should check and recheck again their SPS application prior to submission to ensure that the most up-to-date information only is declared.
- The Agriculture Appeals Office experience is that many penalties relate to REPS undertakings not carried out within the planned timeframe, especially lime spreading, hedgerow cutting/planting, stone wall maintenance, fencing of watercourses/wells, painting of farm sheds, tidying of farm /farmyard, stock-proofing boundaries, provision of animal housing and related matters.

Single Farm Payment Scheme

- SPS applicants with more entitlements than hectares of eligible land should investigate their options for the surplus entitlements such as the payment order of entitlements, leasing, selling or consolidation where that is an option, prior to the scheme or activity closing dates that are available from the Department.
- In order to avoid cross compliance penalties SPS applicants with cattle must:
 - ensure all cattle are properly tagged
 - regularly crosscheck the animals in their herd with the animals listed on the Animal Identification and Movement System (AIMS) Herd profile for their herd issued by the Department
 - immediately rectify any inconsistencies between their AIMS herd profile and the cattle on farm; have animals removed from or added to their herd profile
 - ensure all farm to farm cattle movements are properly notified
 - ensure each animal has a passport and that you have no surplus passports.
- Applicants should notify any land changes to the Department, the amendment form is available for this purpose; penalties can result where the area farmed is reduced but not notified.
- Applicants should ensure all lands claimed are the subject of an agricultural activity by them and that “map acre” situations are avoided.
- Applicants must indicate any ineligible areas of land or other areas on their scheme applications, and make the required reductions to their claimed area.
- Applicants should note the requirements of stock proofing boundaries and independent access.

Disadvantaged Area Scheme

- Applicants should remain conscious of the continued stocking density requirement under the DAS.
- Land sought payment upon under the DAS must be farmed for the full 12 months of the calendar year of application.

Nitrates

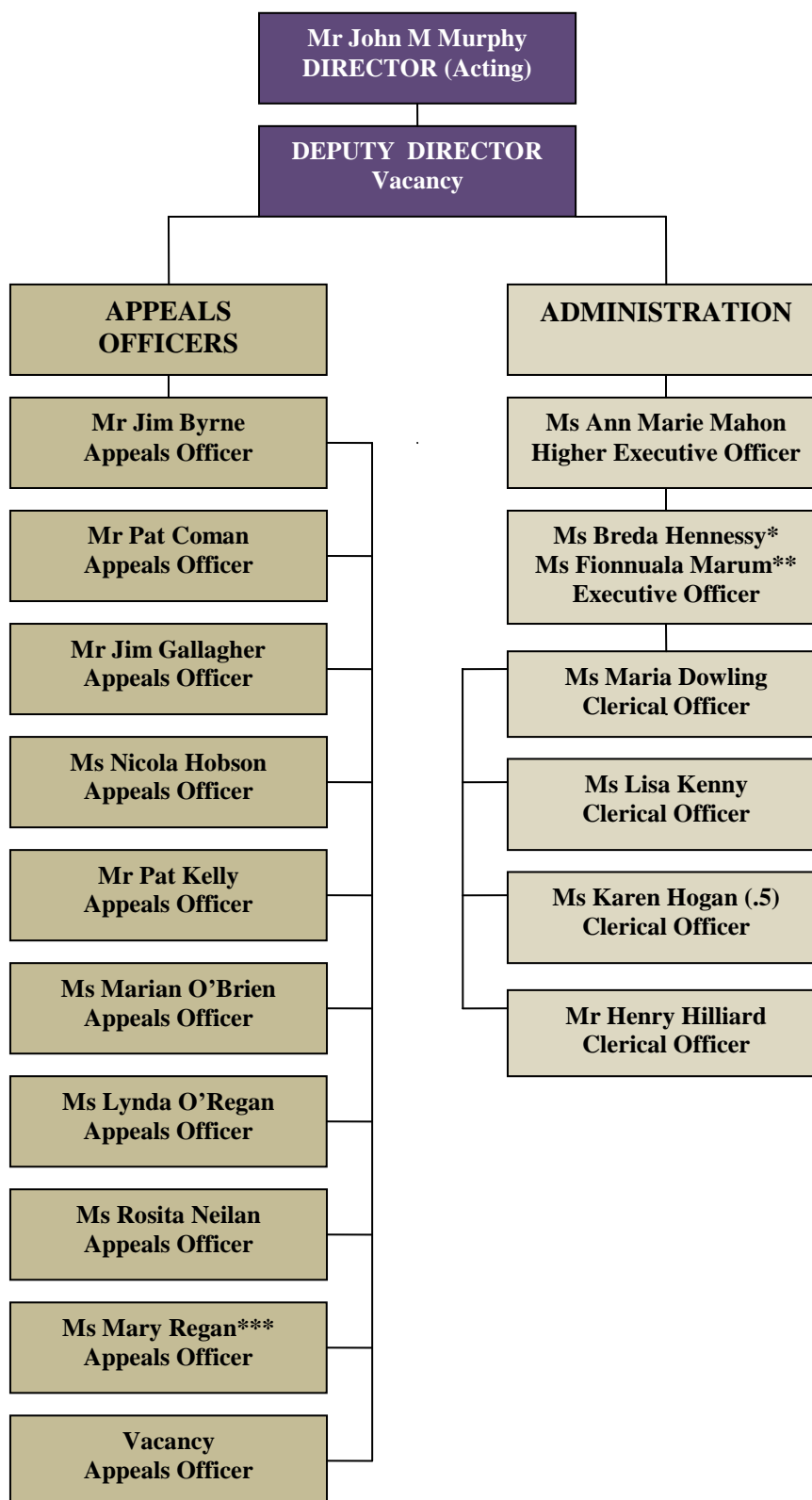
- Farmers who farm to higher stock levels not applying for Nitrates derogation.
- Farmers not keeping fertiliser records for their farms.

- Farmers not submitting prior notice of cattle movements off farm on a temporary basis to farms where there are no stock by way of the Record 4 form.
- Farmers not keeping proper records of slurry exports. Record 3 form is required to be completed and signed by exporter and importer.
- Farmers not assessing their farm yards for control of silage effluent/soiled water, the diversion of clean water, and putting remedial works in place.

Suckler Welfare Scheme

- Farmers not practicing graduated weaning of calves.
- Farmers not complying with measures by entering incorrect dates.

10. Organisation Chart 2011



*Transferred to Department of Agriculture, Food and the Marine during 2011

** Assigned to Agriculture Appeals Office during 2011

*** Career break

Administration staff are responsible for appeal receipt/file management, general administration/accommodation, Appeals Officer support, I.T. maintenance/development, statistics and general correspondence.

APPENDICES



Number 29 of 2001
AGRICULTURE APPEALS ACT, 2001
ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Appointment of appeals officers.
3. Director of Agriculture Appeals.
4. Deputy Director of Agriculture Appeals.
5. Functions of appeals officers.
6. Independence of appeals officers.
7. Right of appeal.
8. Oral hearings.
9. Decisions.
10. Revised Decisions by Director and appeals officers.
11. Appeals to High Court.
12. Representations under National Beef Assurance Scheme Act, 2000.
13. Representations by certain animal and poultry dealers.
14. Annual reports.
15. Regulations.
16. Laying of regulations before Houses of Oireachtas.
17. Expenses of Minister.
18. Amendment of First Schedule to Ombudsman Act, 1980.
19. Short title.

[No. 29.] Agriculture Appeals Act, 2001. [2001.]

SCHEDULE

Schemes

Acts Referred to

Diseases of Animals Acts, 1966 to 2001

National Beef Assurance Scheme Act, 2000 2000, No. 2

Ombudsman Act, 1980 1980, No. 26



Number 29 of 2001
AGRICULTURE APPEALS ACT, 2001

AN ACT TO PROVIDE FOR THE APPOINTMENT OF APPEALS OFFICERS TO REVIEW ON APPEAL DECISIONS OF OFFICERS OF THE MINISTER FOR AGRICULTURE, FOOD AND RURAL DEVELOPMENT IN RELATION TO CERTAIN SCHEMES AND TO PROVIDE FOR CONNECTED MATTERS. [9th July, 2001]
BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

- “appeals officer” means an appeals officer appointed under section 2;
- “Civil Service” means the Civil Service of the Government and the Civil Service of the State;
- “Director” means Director of Agriculture Appeals;
- “functions” includes powers, duties and obligations;
- “Minister” means Minister for Agriculture, Food and Rural Development;
- “prescribed” means prescribed by regulations made by the Minister.

(2) In this Act—

- (a) a reference to a section or Schedule is a reference to a section of or Schedule to this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection or paragraph is a reference to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended,
- (c) a reference to an enactment includes a reference to that enactment as amended or extended by or under any subsequent enactment including this Act, and
- (d) a reference to a statutory instrument shall be construed as a reference to that instrument as amended, adapted or extended by any subsequent statutory instrument.

Appointment of appeals officers.

2.—The Minister may appoint such and so many of his or her officers or, following selection at competitions held by the Civil Service and Local Appointments Commissioners, other persons holding positions within the Civil Service, as he or she considers appropriate, to be appeals officers for the purposes of this Act.

Director of Agriculture Appeals

3.—The Minister shall, following selection at a competition held by the Committee on Top Level Appointments in the Civil Service or the Civil Service and Local Appointments Commissioners, appoint a person holding a position within the Civil Service as the chief appeals officer who shall be known as the Director of Agriculture Appeals, and is in this Act referred to as the “Director”.

Deputy Director of Agriculture Appeals.

4.—One of the appeals officers shall be designated by the Minister to act as the deputy for the Director when he or she is not available.

Functions of appeals officers.

5.—(1) The functions of appeals officers shall be to consider and make determinations on appeals made by affected persons against decisions taken by officers of the Minister in respect of applications for entitlement under the schemes set out in the Schedule.

(2) The Minister may, from time to time, amend by regulations the Schedule so as to add to or delete from the Schedule any scheme or part of a scheme.

Independence of appeals officers.

6.—Appeals officers shall, subject to this Act, be independent in the performance of their functions.

Right of appeal.

7.—(1) Where a person is dissatisfied with a decision given by an officer of the Minister in respect of that person’s entitlement under any of the schemes set out in the Schedule, the decision shall, on notice of appeal being given to the Director, within the prescribed time and in the prescribed form, be referred to an appeals officer.

(2) Regulations may provide for the procedure to be followed on appeals under this Act.

(3) An appeals officer, when deciding a question referred under subsection (1), shall not be confined to the grounds on which the decision of the deciding officer was based, but may decide the question as if it were being decided for the first time.

(4) An appeals officer shall determine an appeal, as soon as is practicable, having regard to any guidelines issued or regulations made in this regard by the Minister.

Oral hearings.

- 8.—(1) An appeals officer shall, if so requested by the Appellant, hold an oral hearing for the purpose of an appeal referred to him or her under this Act.
- (2) An oral hearing under this section shall be held in private.
- (3) An Appellant may represent himself or herself or be represented by another person at the oral hearing of his or her appeal.
- (4) Where an Appellant is represented by another person at the oral hearing of his or her appeal, the appeals officer hearing the appeal may examine the Appellant, if the appeals officer considers it necessary.
- (5) An appeals officer, on the hearing of any matter referred to him or her under this Act, shall have the power to take evidence on oath or affirmation and for that purpose may administer oaths or affirmations to persons attending as witnesses at such hearing.

Decisions.

- 9.—(1) The decision of an appeals officer and the reasons for making that decision shall be notified in writing to the Appellant.
- (2) A document purporting to be a decision made under this Act by an appeals officer and to be signed by him or her shall be prima facie evidence of the making of the decision without proof of the signature of such officer or his or her official capacity.
- (3) The decision of an appeals officer on any question referred to him or her under section 7(1) shall, subject to sections 10 and 11, be final and conclusive.

Revised Decisions by Director and appeals officers.

- 10.—(1) An appeals officer may, at any time revise any 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 brought to his or her notice since the date on which it was given, or if it appears to him or her that there has been any relevant change of circumstances since the decision was given.
- (2) The Director may, at any time, revise any decision of an appeals officer, if it appears to him or her that the decision was erroneous by reason of some mistake having been made in relation to the law or the facts.
- (3) A revised decision given under this section shall take effect from such date as the appeals officer concerned determines or considers appropriate having regard to the circumstances of the case.

Appeals to High Court.

- 11.—Any person dissatisfied with—
- (a) the decision of an appeals officer, or
- (b) the revised decision of the Director,
- may appeal that decision or revised decision, as the case may be, to the High Court on any question of law.

Representations under National Beef Assurance Scheme Act, 2000.

- 12.—(1) Where representations are made to the Minister under section 15(2) or 16(2) of the National Beef Assurance Scheme Act, 2000, the Minister shall upon receipt of such representations refer them, as soon as may be, to the Director for advice.
- (2) The Director shall, within 28 days of receipt of such representations, consider them and advise the Minister.
- (3) The Minister shall have regard to any advice given to him or her under this section before refusing an application for the grant of, or revoking, a certificate of approval under the aforesaid Act.

Representations by certain animal and poultry dealers.

- 13.—(1) Where representations are made to the Minister under Article 8(1) of the Diseases of Animals Acts, 1966 to 2001 (Approval and Registration of Dealers and Dealers' Premises) Order, 2001 (S.I. No. 79 of 2001), the Minister shall, upon receipt of such representations refer them, as soon as may be, to the Director for advice.
- (2) The Director shall, within 28 days of receipt of such representations, consider them and advise the Minister.
- (3) The Minister shall have regard to any advice given to him or her under this section before revoking or suspending a registration or refusing to register a person or premises under the aforesaid Article 8.

Annual reports.

- 14.—(1) As soon as may be after the end of each year, but not later than 6 months thereafter, the Director shall make a report to the Minister of his or her activities and the activities of the appeals officers under this Act during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.
- (2) A report under subsection (1) shall be in such form and shall include information in regard to such matters (if any) other than those referred to in that subsection as the Minister may direct.
- (3) The Director shall, whenever so requested by the Minister, furnish to him or her information in relation to such matters as he or she may specify concerning his or her activities or the activities of appeals officers under this Act.

Regulations.

- 15.—(1) The Minister may make regulations for the purpose of enabling this Act to have full effect.
- (2) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed.

Laying of regulations before Houses of Oireachtas.

16.—Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to anything previously done thereunder.

Expenses of Minister.

17.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Amendment of First Schedule to Ombudsman Act, 1980.

18.—Part I of the First Schedule to the Ombudsman Act, 1980, is amended by the substitution for “Department of Agriculture” of the following:

“Department of Agriculture, Food and Rural Development Appeals Officers under the Agriculture Appeals Act, 2001”.

Short title.

19.—This Act may be cited as the Agriculture Appeals Act, 2001.

**SCHEDULE
Schemes**

Beef Cow Scheme in Less Severely Handicapped Areas and Coastal Areas with Specific Handicaps
Cattle Headage Scheme in More Severely Handicapped Areas
Equine Headage Scheme in all Disadvantaged Areas
EU Area Aid Scheme (including the Arable Aid Scheme)
EU De-seasonalisation Slaughter Premium Scheme
EU Ewe Premium Scheme
EU Extensification Premium Scheme
EU Slaughter Premium Scheme
EU Special Beef Premium Scheme
EU Suckler Cow Premium Scheme
Farm Improvement Programme (FIP)
Farm Improvement Programme (FIP) Horticulture
Goat Headage Scheme in all Disadvantaged Areas
Installation Aid Scheme (IAS)
National Scheme of Installation Aid (SIA) (introduced December 1998)
National Scheme of Investment Aid for the Control of Farm Pollution (introduced June 1999)
National Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (introduced May 1999)
Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
Rural Environment Protection Scheme (REPS)
Scheme of Early Retirement from farming
Scheme of Grant-Aid for Investment in Alternative Enterprises
Scheme of Grant-Aid for Investments in Agri-Tourism
Scheme of Installation Aid (SIA)
Scheme of Investment Aid for Farm Waste Management (FWM)
Scheme of Investment Aid for the Control of Farm Pollution (CFP)
Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
Scheme of Investment Aid for upgrading of On-Farm Dairying facilities
Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)
Sheep Headage Scheme in all Disadvantaged Areas



S.I. No. 193 of 2002
AGRICULTURE APPEALS REGULATIONS 2002

I, Joe Walsh, Minister for Agriculture, Food and Rural Development, in exercise of the powers conferred on me by sections 7 and 15 of the Agriculture Appeals Act 2001, hereby make the following regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the Agriculture Appeals Regulations 2002.
- (2) These Regulations come into operation on 13 May 2002.

Definitions

2. In these Regulations-

“Act” means the Agriculture Appeals Act 2001;

“appeal” means an appeal under the Act;

“Headage and Premia Appeals Unit” means the Headage and Premia Appeals Unit of the Department of Agriculture, Food and Rural Development pursuant to the Charter of Rights for Farmers 1995;

“notice of appeal” means notice of appeal to the Director under section 7(1) of the Act;

“REPS Appeals Committee” means the Rural Environment Protection Scheme Appeals Committee of the Department of Agriculture, Food and Rural Development.

Distribution of references to appeals officers.

3. The Director shall be responsible for the distribution amongst the appeals officers of the references to them under section 7 of the Act and for the prompt consideration of such references.

Decisions which may be appealed and transitional arrangements.

4. (1) The right of appeal specified under section 7 of the Act shall apply to any decision given by an officer of the Minister in respect of a person’s entitlement under any of the schemes set out in the Schedule to the Act which is notified to that person on or after the commencement of these Regulations other than appeal decisions of the Headage and Premia Appeals Unit and the REPS Appeals Committee given in respect of decisions of officers of the Minister taken prior to such commencement.

(2) Persons who before the commencement of these Regulations had a right of formal appeal by administrative arrangement to the Headage and Premia Appeals Unit or the REPS Appeals Committee shall for the period of 3 months from such commencement continue to have that right to appeal to that Unit or that Committee, as the case may be, against decisions taken by officers of the Minister relating to the schemes concerned which were notified to those persons prior to that commencement.

Submission of appeal and information to be supplied by Appellant

5. (1) Any notice of appeal shall be in writing.

(2) Subject to paragraph (3) of this Regulation, the time within which an appeal may be made shall be any time up to the expiration of 3 months from the date of the notification of the decision of an officer of the Minister to the Appellant.

(3) An appeal, where the Director considers there are exceptional circumstances, may be made after the period referred to in paragraph (2) of this Regulation.

(4) A notice of appeal shall contain a statement of the facts and contentions upon which the Appellant intends to rely.

(5) An Appellant shall send to the Director, along with the notice of appeal, such documentary evidence as the Appellant wishes to submit in support of his or her appeal, and the notice shall contain a list of any such documents.

(6) A person wishing to withdraw an appeal may do so by sending a written notice to that effect to the Director.

Notification of appeal and information to be supplied.

- 6.(1) The Director shall notify the Minister of each notice of appeal.

(2) The Minister shall, in relation to each notice of appeal, give to the Director –

- (a) a statement showing the extent to which the facts and contentions advanced by the Appellant are admitted or disputed, and
- (b) any information, document or item in the power or control of the deciding officer that is relevant to the appeal.

(3) The Director may fix the period within which any statement, information, document or item referred to at paragraph (2) of this Regulation should be given.

Notice of appeal.

7. Where the Director has been given notice of an appeal he shall notify any other person he or she considers to be concerned with the appeal.

Further information to be supplied and amendment of pleadings.

8. The appeals officer to whom an appeal is referred may at any time –

- (a) require the Appellant, the deciding officer, or any other person appearing to the appeals officer to be concerned, to furnish to him or her, in writing, further particulars regarding the appeal,
- (b) allow the amendment of any notice of appeal, statement, or particulars at any stage of the proceedings, and
- (c) fix the period for the furnishing of any such statement or particulars upon such terms as he or she may think fit.

Summary appeals.

9. Where an appeals officer is of the opinion that any appeal referred to him or her is of such a nature that it can properly be determined without an oral hearing, and such a hearing has not been requested under section 8 of the Act, he or she may decide the appeal without such hearing.

Hearings.

10. Where, in the opinion of the appeals officer to whom an appeal has been referred or at the request of the Appellant under section 8 of the Act, a hearing is required, the appeals officer shall, as soon as may be, fix a date and place for the hearing, and give reasonable notice of the hearing to the Appellant, the deciding officer, and any other person appearing to the appeals officer to be concerned in the appeal.

Failure to attend hearing.

11. Where, after notice of a hearing has been given under Regulation 10 of these Regulations, any of the parties fail to appear at the hearing, the appeals officer hearing the appeal may, at his or her discretion, decide to proceed with the hearing or defer it to a later date and place fixed by him or her.

Appeal may be decided despite failure to comply with Regulations.

12. An appeals officer may decide any appeal referred to him or her under the Act, notwithstanding the failure or neglect of any person to comply with any requirement of these Regulations.

Procedure at hearing.

- 13. (1) The procedure at a hearing under the Act shall be such as the appeals officer hearing the appeal may determine.
- (2) An appeals officer hearing an appeal may postpone or adjourn the hearing as he or she may think fit.
- (3) An appeals officer may, at the hearing of an appeal, admit any duly authenticated written statement or other material as prima facie evidence of any fact in any case in which he or she thinks it appropriate.

Decision of Appeals Officer.

- 14. (1) The decision of an appeals officer shall have regard to the principles of natural justice and comply with any relevant legislation and terms, conditions and guidelines of the Minister governing or relating to the scheme in question.
- (2) The decision of an appeals officer shall be in writing and shall include the reasons for the decision which shall be notified as soon as may be to the Appellant, the Minister and any other person concerned.

GIVEN under my Official Seal,
8 May 2002

JOE WALSH TD

Minister for Agriculture, Food and Rural Development



S.I. No. 558 of 2002
Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2002

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 5(2) of the Agriculture Appeals Act 2001 (No. 29 of 2001) (as adapted by the Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 306 of 2002)), hereby make the following regulations:

1. These Regulations may be cited as the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2002.
 2. The Schedule to the Agriculture Appeals Act 2001 (No. 29 of 2001) is amended -
 - (a) by deleting the following schemes -

“Beef Cow Scheme in Less Severely Handicapped Areas and Coastal Areas with Specific Handicaps”,

“Cattle Headage Scheme in More Severely Handicapped Areas”,

“Equine Headage Scheme in all Disadvantaged Areas”,

“Goat Headage Scheme in All Disadvantaged Areas”, and

“Sheep Headage Scheme in All Disadvantaged Areas”,

and
 - (b) by adding the following schemes -
 - (i) “Disadvantaged Areas Compensatory Allowances Scheme” before mention of “EU Area Aid Scheme (including the Arable Aid Scheme)”, and
 - (ii) “Scheme of Grant Aid for the Development of the Organic Sector” after mention of “Scheme of Early Retirement from farming”,
- and the said Schedule, as so amended, is set out in the Table to this Regulation.

**TABLE
SCHEDULE
Schemes**

Disadvantaged Areas Compensatory Allowances Scheme
EU Area Aid Scheme (including the Arable Aid Scheme)
EU De-seasonalisation Slaughter Premium Scheme
EU Ewe Premium Scheme
EU Extensification Premium Scheme
EU Slaughter Premium Scheme
EU Special Beef Premium Scheme
EU Suckler Cow Premium Scheme
Farm Improvement Programme (FIP)
Farm Improvement Programme (FIP) Horticulture
Installation Aid Scheme (IAS)
National Scheme of Installation Aid (SIA) (introduced December 1998)
National Scheme of Investment Aid for the Control of Farm Pollution (introduced June 1999)
National Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (introduced May 1999)
Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
Rural Environment Protection Scheme (REPS)
Scheme of Early Retirement from farming
Scheme of Grant Aid for the Development of the Organic Sector
Scheme of Grant-Aid for Investment in Alternative Enterprises
Scheme of Grant-Aid for Investments in Agri-Tourism
Scheme of Installation Aid (SIA)
Scheme of Investment Aid for Farm Waste Management (FWM)
Scheme of Investment Aid for the Control of Farm Pollution (CFP)
Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
Scheme of Investment Aid for upgrading of On-Farm Dairying facilities
Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)

GIVEN under my Official Seal,
6th December 2002

JOE WALSH TD

Minister for Agriculture and Food



S.I. No. 507 of 2004
Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2004

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 5(2) of the Agriculture Appeals Act 2001 (No. 29 of 2001) (as adapted by the Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 306 of 2002)), hereby make the following regulations:

1. These Regulations may be cited as the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2004.
2. The Schedule (as amended by the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2002 (S.I. No. 558 of 2002)) to the Agriculture Appeals Act 2001 (No. 29 of 2001) is amended by adding after the mention of “Installation Aid Scheme (IAS)” the following scheme:
‘Landslide Damage Relief Scheme for the Pullathomas Area of County Mayo’ and the said Schedule, as so amended, is set out in the Table to this Regulation.

**TABLE
SCHEDULE
Schemes**

Disadvantaged Areas Compensatory Allowances Scheme
EU Area Aid Scheme (including the Arable Aid Scheme)
EU De-seasonalisation Slaughter Premium Scheme
EU Ewe Premium Scheme
EU Extensification Premium Scheme
EU Slaughter Premium Scheme
EU Special Beef Premium Scheme
EU Suckler Cow Premium Scheme
Farm Improvement Programme (FIP)
Farm Improvement Programme (FIP) Horticulture
Installation Aid Scheme (IAS)
Landslide Damage Relief Scheme for the Pullathomas Area of County Mayo
National Scheme of Installation Aid (SIA) (introduced December 1998)
National Scheme of Investment Aid for the Control of Farm Pollution (introduced June 1999)
National Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (introduced May 1999)
Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
Rural Environment Protection Scheme (REPS)
Scheme of Early Retirement from farming
Scheme of Grant Aid for the Development of the Organic Sector
Scheme of Grant-Aid for Investment in Alternative Enterprises
Scheme of Grant-Aid for Investments in Agri-Tourism
Scheme of Installation Aid (SIA)
Scheme of Investment Aid for Farm Waste Management (FWM)
Scheme of Investment Aid for the Control of Farm Pollution (CFP)
Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
Scheme of Investment Aid for upgrading of On-Farm Dairying facilities
Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)

GIVEN under my Official Seal
3rd day of August, 2004.

JOE WALSH TD

Minister for Agriculture and Food



S.I. No. 65 of 2006
Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2006

I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 5(2) of the Agriculture Appeals Act 2001 (No. 29 of 2001) (as adapted by the Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 306 of 2002)), hereby make the following regulations:

1. These Regulations may be cited as the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2006.
2. The Schedule (as amended by the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2004 (S.I. No. 507 of 2004)) to the Agriculture Appeals Act 2001 (No. 29 of 2001) is amended by adding -
 - (a) after the mention of “Scheme of Grant Aid for the Development of the Organic Sector” the following scheme: “Scheme of Grant Aid for Improvements in Animal Welfare Standards (Sow Housing)”,
 - (b) after the mention of “Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities)(AES)” the following part of a scheme:

“Single Payment Scheme, insofar as it relates to the following -

 - (a) Article 14(1a) (inserted by paragraph 6(b) of Article 1 of Commission Regulation (EC) No. 239/2005¹) of Commission Regulation (EC) No 796/2004²,
 - (b) Article 21 of Commission Regulation (EC) No 796/2004,
 - (c) Chapter I of Title IV of Commission Regulation (EC) No 796/2004,
 - (d) Chapter II of Title IV of Commission Regulation (EC) No 796/2004,
 - (e) Article 34.3 of Council Regulation (EC) No 1782/2003³, and
 - (f) Article 8 of Commission Regulation (EC) No 795/2004⁴.”,

and the said Schedule, as so amended, is set out in the Table to this Regulation.

¹ O.J. No. L42/3, 12.02.2005

² O.J. No. L141/18, 30.4.2004

³ O.J. No. L270/1, 21.10.2003

⁴ O.J. No. L 141/1, 30.4.2004

**TABLE
SCHEDULE
Schemes**

Disadvantaged Areas Compensatory Allowances Scheme
EU Area Aid Scheme (including the Arable Aid Scheme)
EU De-seasonalisation Slaughter Premium Scheme
EU Ewe Premium Scheme
EU Extensification Premium Scheme
EU Slaughter Premium Scheme
EU Special Beef Premium Scheme
EU Suckler Cow Premium Scheme
Farm Improvement Programme (FIP)
Farm Improvement Programme (FIP) Horticulture
Installation Aid Scheme (IAS)
Landslide Damage Relief Scheme for the Pullathomas Area of County Mayo
National Scheme of Installation Aid (SIA) (introduced December 1998)
National Scheme of Investment Aid for the Control of Farm Pollution (introduced June 1999)
National Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (introduced May '99)
Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
Rural Environment Protection Scheme (REPS)
Scheme of Early Retirement from Farming
Scheme of Grant-Aid for the Development of the Organic Sector
Scheme of Grant-Aid for Improvements in Animal Welfare Standards (Sow Housing)
Scheme of Grant-Aid for Investment in Alternative Enterprises
Scheme of Grant-Aid for Investments in Agri-Tourism
Scheme of Installation Aid (SIA)
Scheme of Investment Aid for Farm Waste Management (FWM)
Scheme of Investment Aid for the Control of Farm Pollution (CFP)
Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
Scheme of Investment Aid for upgrading of On-Farm Dairying Facilities
Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)
Single Payment Scheme, insofar as it relates to the following ;
 (a) Article 14(1a) (inserted by paragraph 6(b) of Article 1 of Commission Regulation (EC) No. 239/2005¹) of Commission Regulation (EC) No 796/2004²,
 (b) Article 21 of Commission Regulation (EC) No 796/2004,
 (c) Chapter I of Title IV of Commission Regulation (EC) No 796/2004,
 (d) Chapter II of Title IV of Commission Regulation (EC) No 796/2004,
 (e) Article 34.3 of Council Regulation (EC) No 1782/2003³, and
 (f) Article 8 of Commission Regulation (EC) No 795/2004⁴.

GIVEN under my Official Seal,
3rd February 2006

MARY COUGHLAN TD

Minister for Agriculture and Food

¹ O.J. No. L42/3, 12.02.2005

² O.J. No. L141/18, 30.4.2004

³ O.J. No. L270/1, 21.10.2003

⁴ O.J. No. L 141/1, 30.4.2004



S.I. No. 584 of 2006
Agriculture Appeals Act 2001 (Amendment of Schedule) (No. 2) Regulations 2006

I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 5(2) of the Agriculture Appeals Act 2001 (No. 29 of 2001) (as adapted by the Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 306 of 2002)), hereby make the following regulations:

1. These Regulations may be cited as the Agriculture Appeals Act 2001 (Amendment of Schedule) (No. 2) Regulations 2006.

2. The Schedule (as amended by the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2006 (S.I. No. 65 of 2006)) to the Agriculture Appeals Act 2001 (No. 29 of 2001) is amended by inserting after “Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)” the following:

“Scheme of Investment Aid for Demonstration On-Farm Waste Processing Facilities”,
and the said Schedule, as so amended, is set out in the Table to this Regulation.

**TABLE
SCHEDULE**

Disadvantaged Areas Compensatory Allowances Scheme
EU Area Aid Scheme (including the Arable Aid Scheme)
EU De-seasonalisation Slaughter Premium Scheme
EU Ewe Premium Scheme
EU Extensification Premium Scheme
EU Slaughter Premium Scheme
EU Special Beef Premium Scheme
EU Suckler Cow Premium Scheme
Farm Improvement Programme (FIP)
Farm Improvement Programme (FIP) Horticulture
Installation Aid Scheme (IAS)
Landslide Damage Relief Scheme for the Pullathomas Area of County Mayo
National Scheme of Installation Aid (SIA) (introduced December 1998)
National Scheme of Investment Aid for the Control of Farm Pollution (introduced June 1999)
National Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (introduced May 1999)
Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
Rural Environment Protection Scheme (REPS)
Scheme of Early Retirement from Farming
Scheme of Grant-Aid for the Development of the Organic Sector
Scheme of Grant-Aid for Improvements in Animal Welfare Standards (Sow Housing)
Scheme of Grant-Aid for Investment in Alternative Enterprises
Scheme of Grant-Aid for Investments in Agri-Tourism
Scheme of Installation Aid (SIA)
Scheme of Investment Aid for Farm Waste Management (FWM)
Scheme of Investment Aid for the Control of Farm Pollution (CFP)
Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
Scheme of Investment Aid for upgrading of On-Farm Dairying Facilities
Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)
Scheme of Investment Aid for Demonstration On-Farm Waste Processing Facilities
Single Payment Scheme, insofar as it relates to the following -
 (a) Article 14(1a) (inserted by paragraph 6(b) of Article 1 of Commission Regulation (EC) No. 239/2005) of Commission Regulation (EC) No 796/2004,
 (b) Article 21 of Commission Regulation (EC) No 796/2004,
 (c) Chapter I of Title IV of Commission Regulation (EC) No 796/2004,
 (d) Chapter II of Title IV of Commission Regulation (EC) No 796/2004,
 (e) Article 34.3 of Council Regulation (EC) No 1782/2003, and
 (f) Article 8 of Commission Regulation (EC) No 795/2004.

GIVEN under my Official Seal,
16th November 2006.
MARY COUGHLAN TD

Minister for Agriculture and Food

³ O.J. No. L270/1, 21.10.2003

⁴ O.J. No. L 141/1, 30.4.2004



S.I. No. 169 of 2008
AGRICULTURE APPEALS ACT 2001 (AMENDMENT OF SCHEDULE) REGULATIONS 2008

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 5(2) of the Agriculture Appeals Act 2001 (No. 29 of 2001) (as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order 2007 (S.I. No. 705 of 2007)), hereby make the following regulations:

1. These Regulations may be cited as the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2008.

2. The Schedule (as amended by the Agriculture Appeals Act 2001 (Amendment of Schedule) (No. 2) Regulations 2006 (S.I. No. 584 of 2006)) to the Agriculture Appeals Act 2001 (No. 29 of 2001) is amended—

(a) by inserting before “Disadvantaged Areas Compensatory Allowances Scheme” the following:

“Animal Welfare, Recording and Breeding Scheme for Suckler Herds”,

“Bio Energy Scheme (excluding Willow)”,

(b) by deleting “Farm Improvement Programme (FIP)”,

(c) by inserting “Farm Improvement Scheme” after “EU Suckler Cow Premium Scheme”,

(d) by inserting “Organic Farming Scheme” after “Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors”,

and

(e) by substituting for all the matter from “Single Payment Scheme”, down to and including “Article 8 of the Commission Regulation (EC) No. 795/2004”, the following:

“Single Payment Scheme, excluding Article 37(2), 40 and 42 of Chapter 2 of Council Regulation (EC) No. 1782/2003”, and the Schedule, as so amended, is set out in the Table to this Regulation.

**TABLE
SCHEDULE
Schemes**

Animal Welfare, Recording and Breeding Scheme for Suckler Herds
Bio Energy Scheme (excluding Willow)
Disadvantaged Areas Compensatory Allowances Scheme
EU Area Aid Scheme (including the Arable Aid Scheme)
EU De-seasonalisation Slaughter Premium Scheme
EU Ewe Premium Scheme
EU Extensification Premium Scheme
EU Slaughter Premium Scheme
EU Special Beef Premium Scheme
EU Suckler Cow Premium Scheme
Farm Improvement Scheme
Farm Improvement Programme (FIP) Horticulture
Installation Aid Scheme (IAS)
Landslide Damage Relief Scheme for the Pullathomas Area of County Mayo
National Scheme of Installation Aid (SIA) (introduced December 1998)
National Scheme of Investment Aid for the Control of Farm Pollution (introduced June 1999)
National Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (introduced May 1999)
Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
Organic Farming Scheme
Rural Environment Protection Scheme (REPS)
Scheme of Early Retirement from Farming
Scheme of Grant-Aid for the Development of the Organic Sector
Scheme of Grant-Aid for Improvements in Animal Welfare Standards (Sow Housing)
Scheme of Grant-Aid for Investment in Alternative Enterprises
Scheme of Grant-Aid for Investments in Agri-Tourism
Scheme of Installation Aid (SIA)
Scheme of Investment Aid for Farm Waste Management (FWM)
Scheme of Investment Aid for the Control of Farm Pollution (CFP)
Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
Scheme of Investment Aid for upgrading of On-Farm Dairying Facilities
Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)
Scheme of Investment Aid for Demonstration On-Farm Waste Processing Facilities
Single Payment Scheme, excluding Article 37(2), 40 and 42 of Chapter 2 of Council Regulation (EC) No. 1782/20032.

GIVEN under my Official Seal,
29 May 2009

BRENDAN SMITH TD

Minister for Agriculture, Fisheries and Food.



S.I. No. 106 of 2011

AGRICULTURE APPEALS ACT 2001 (AMENDMENT OF SCHEDULE) REGULATIONS 2011

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 5(2) of the Agriculture Appeals Act 2001 (No. 29 of 2001) (as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order 2007 (No. 705 of 2007)), hereby make the following regulations:

1. These Regulations may be cited as the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2011.

2. The Schedule (as amended by the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2008 (S.I. No. 169 of 2008)) to the Agriculture Appeals Act 2001 (No. 29 of 2001) is amended—

(a) by inserting before “Animal, Welfare, Recording and Breeding Scheme for Suckler Herds” the following:

“Afforestation Grant and Premium Scheme

Agri-Environment Options Scheme (AEOS)”,

(b) by inserting after “Animal, Welfare, Recording and Breeding Scheme for Suckler Herds” the following:

“Bio Energy Scheme

Burren Farming for Conservation Programme

Dairy Efficiency Programme

Disadvantaged Areas Scheme”,

(c) by deleting “Bio Energy Scheme (excluding Willow)”,

(d) by deleting “Disadvantaged Areas Compensatory Allowances Scheme”,

(e) by deleting “Farm Improvement Programme (FIP) Horticulture”,

(f) by inserting after “Farm Improvement Scheme” the following:

“Forest Environment Protection Scheme (FEPS)

Forest Road Scheme

Grassland Sheep Scheme”,

(g) by deleting “Hygiene Standards (introduced May 1999)”,

(h) by deleting “Landslide Damage Relief Scheme for the Pullathomas Area of County Mayo”,

(i) by deleting “National Scheme of Installation Aid (SIA) (introduced December 1998)”,

(j) by deleting “National Scheme of Investment Aid for the Control of Farm Pollution (introduced June 1999)”,

(k) by deleting “National Scheme of Investment Aid for the Improvement of Dairy”,

(l) by inserting after “Installation Aid Scheme (IAS)” the following:

“Native Woodland Scheme Neighbourhood Scheme”,

(m) by inserting “Reconstitution of Woodland Scheme” after “Organic Farming Scheme”,

(n) by deleting “Scheme of Grant-Aid for Investment in Alternative Enterprises”,

(o) by deleting “Scheme of Grant-Aid for Investments in Agri-Tourism”,

(p) by deleting “Scheme of Installation Aid (SIA)”,

(q) by deleting “Scheme of Investment Aid for the Control of Farm Pollution (CFP)”,

(r) by deleting “Scheme of Investment Aid for upgrading of On-Farm Dairying Facilities, and

(s) by inserting at the end of that Schedule ” the following:

“Sow Housing (Animal Welfare) Scheme

Targeted Agricultural Modernisation Scheme (TAMS), including—

(a) the Dairy Equipment Scheme

(b) the Poultry Welfare Scheme

(c) the Sheep Fencing/Mobile Handling Equipment Scheme

(d) the Sow Housing Scheme, and

(e) the Water Harvesting/Conservation Scheme

Upland Sheep Payment Scheme

Woodland Improvement Scheme

Young Farmer’s Installation Scheme”,

and, for convenience of reference, the Schedule, as so amended, is set out in the Table to this Regulation.

TABLE
SCHEDULE
Schemes

Afforestation Grant and Premium Scheme
Agri-Environment Options Scheme (AEOS)
Animal Welfare, Recording and Breeding Scheme for Suckler Herds
Bio Energy Scheme
Burren Farming for Conservation Programme
Dairy Efficiency Programme
Disadvantaged Areas Scheme
EU Area Aid Scheme (including the Arable Aid Scheme)
EU De-seasonalisation Slaughter Premium Scheme
EU Ewe Premium Scheme
EU Extensification Premium Scheme
EU Slaughter Premium Scheme
EU Special Beef Premium Scheme
EU Suckler Cow Premium Scheme
Farm Improvement Scheme
Forest Environment Protection Scheme (FEPS)
Forest Road Scheme
Grassland Sheep Scheme
Installation Aid Scheme (IAS)
Native Woodland Scheme
Neighbourwood Scheme
Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
Organic Farming Scheme
Reconstitution of Woodland Scheme
Rural Environment Protection Scheme (REPS)
Scheme of Early Retirement from Farming
Scheme of Grant-Aid for the Development of the Organic Sector
Scheme of Grant-Aid for Improvements in Animal Welfare Standards (Sow Housing)
Scheme of Investment Aid for Farm Waste Management (FWM)
Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)
Scheme of Investment Aid for Demonstration On-Farm Waste Processing Facilities
Single Payment Scheme, excluding Article 37(2), 40 and 42 of Chapter 2 of Council Regulation (EC) No. 1782/2003
Sow Housing (Animal Welfare) Scheme
Targeted Agricultural Modernisation Scheme (TAMS), including—
(a) the Dairy Equipment Scheme
(b) the Poultry Welfare Scheme
(c) the Sheep Fencing/Mobile Handling Equipment Scheme
(d) the Sow Housing Scheme, and
(e) the Water Harvesting/Conservation Scheme
Upland Sheep Payment Scheme
Woodland Improvement Scheme
Young Farmer's Installation Scheme

GIVEN under my Official Seal,
2 March 2011.

BRENDAN SMITH,

Minister for Agriculture, Fisheries and Food.



Appeal Procedure & Notice of Appeal Form

The Agriculture Appeals Office

The Agriculture Appeals Office is an independent agency established to provide an appeals service to farmers who are unhappy with decisions of the Department of Agriculture, Food and the Marine regarding their entitlements under certain schemes. The Agriculture Appeals Act 2001, along with the Agriculture Appeals Regulations 2002, sets down the functions of the Director and the Appeals Officers, the decisions that may be appealed and the procedures to be followed in respect of agriculture appeals. Under Section 14(1) of the Agriculture Appeals Regulations 2002, the decision of an Appeals Officer shall have regard to the principles of natural justice and comply with any relevant legislation and terms, conditions and guidelines of the Minister governing or relating to the scheme in question. Please see attached schedule regarding the current list of schemes that are covered.

How to Make an Appeal

Every appeal must be made in writing and addressed to: The Director, Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois. A standard 'Notice of Appeal' form is attached. Please note:

- The notice must be lodged **within 3 months** of notification of the decision under appeal. An appeal received after three months will only be accepted if the Director considers that there are exceptional circumstances.
- Before submission of an appeal to the Appeals Office, all internal review procedures within the Department of Agriculture, Food and the Marine must be exhausted.
- The notice of appeal should contain a statement of all the facts and contentions upon which it is intended to rely in the appeal. Documentary evidence submitted in support of the appeal should be enclosed along with the notice of appeal.
- A copy of the Department's final decision letter should be enclosed.
- Proof of postage must be obtained. Claims of appeals being lost in the post cannot be accepted.
- There is no charge for lodging an appeal.
- Each appeal is given a reference number and this number should be quoted when contacting the Agriculture Appeals Office.
- Each appeal is given a reference number and this number should be quoted when contacting the Agriculture Appeals Office.
- All appeals are acknowledged within 10 days of receipt.
- If you do not receive an acknowledgement letter within that time you should contact the office.

Appeals Process

When a final decision issues from the Department of Agriculture, Food and the Marine (i.e. after internal Department review), you will be notified of your option to appeal.

- The scheme applicant (appellant), dissatisfied with the decision, must complete a 'Notice of Appeal' form and submit it to the Agriculture Appeals Office.
- The Appeals Office requests from the Department of Agriculture, Food and the Marine, the relevant file and a statement regarding the Appellant's grounds of appeal. **Your grounds of appeal will be forwarded to the Department of Agriculture, Food and the Marine for their comments and observations.**
- On receipt of the file and statement, the Director assigns the case to an Appeals Officer.
- Appellants are entitled to an oral hearing as part of their appeal.
- The Agriculture Appeals Office contacts the appellant to arrange an oral hearing if required, or if deemed necessary by the Appeals Officer.
- It is the policy of the office to discuss the appeal with the appellant. If no oral hearing takes place, the Appeals Officer will contact the appellant to discuss the appeal.
- The Appeals Officer considers all the evidence in full (including any evidence presented at an oral hearing if there was one). The Appeals Officer makes a determination on the appeal and notifies the appellant of the decision in writing, setting out the reasons for that decision. The Department will also be notified of the decision.

Oral Hearings

Appellants are entitled to an oral hearing as part of their appeal.

- Oral hearings are held at a number of locations at a place and time convenient for appellants.
- Each case is assigned to an Appeals Officer, who will conduct the hearing.
- The office will contact the appellant about the arrangements for the oral hearing.
- Hearings are held in private and will be as **informal** as possible. The purpose of the hearing is to allow the appellants to put forward their case and to hear the case being put forward by the Department.
- An appellant may be represented by another person at the oral hearing, however **the appellant must attend the oral hearing in person.**
- A Department official(s) familiar with the case will also attend the hearing.
- The appellant must notify the Appeals Office 5 working days in advance of anyone accompanying them at the oral hearing.
- The Appeals Officer will decide the format of the oral hearing on the day.
- The Appeals Officer may postpone or adjourn the hearing if deemed necessary.
- The Appeals Officer may admit any duly authenticated written statement or other material or document as prima facie evidence of any fact in any case in which he or she thinks appropriate.
- An Appeals Officer has the power to take evidence on oath or affirmation if deemed necessary.

Right of Review

Please note that a decision of an Appeals Officer is final and conclusive, except in the following four circumstances,

- An Appeals Officer may change a decision where there is new evidence, new facts or a relevant change in circumstances.
- On request, from either party, the Director of the Agriculture Appeals Office may revise a decision where there has been a mistake made in relation to the law or the facts of the case.
- An appellant may wish to appeal the decision to the Office of the Ombudsman, 18 Lower Leeson Street, Dublin 2 (01) 6395600.
- The High Court may revise a decision on a point of law.

Contact Details

Address: Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co Laois.
Lo-Call: 1890 671671
Tel: (057) 8667167
Fax: (057) 8667177
email: appeals.office@agriculture.gov.ie
Web: www.agriappeals.gov.ie

Checklist before submission

- | | |
|--|--------|
| 1. Scheme is covered by the Agriculture Appeals Office (please check list of schemes overleaf) | Yes/No |
| 2. Decision is within the last three months. | Yes/No |
| 3. Internal review by the Department of Agriculture, Food and the Marine completed, informing you of your right to appeal. | Yes/No |
| 4. All information requested has been provided (including a copy of the decision | Yes/No |

You should have answered 'yes' to all of the above

Schedule of Schemes Covered

The Office deals with appeals under the following schemes;

- Afforestation Grant and Premium Scheme
- Agri-Environment Options Scheme (AEOS)
- Animal Welfare, Recording and Breeding Scheme for Suckler Herds
- Bio Energy Scheme
- Burren Farming for Conservation Programme
- Dairy Efficiency Programme
- Disadvantaged Areas Compensatory Allowances Scheme
- EU Area Aid Scheme (including the Arable Aid Scheme)
- EU De-seasonalisation Slaughter Premium Scheme
- EU Ewe Premium Scheme
- EU Extensification Premium Scheme
- EU Slaughter Premium Scheme
- EU Special Beef Premium Scheme
- EU Suckler Cow Premium Scheme
- Farm Improvement Scheme
- Forest Environment Protection Scheme (REPS)
- Forest Road Scheme
- Grassland Sheep Scheme
- Installation Aid Scheme (IAS)
- Native Woodland Scheme
- Neighbourwood Scheme
- Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors
- Organic Farming Scheme
- Reconstitution of Woodland Scheme
- Rural Environment Protection Scheme (REPS)
- Scheme of Early Retirement from Farming
- Scheme of Grant-Aid for the Development of the Organic Sector
- Scheme of Grant-Aid for Improvements in Animal Welfare Standards (Sow Housing)
- Scheme of Investment Aid for Farm Waste Management (FWM)
- Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)
- Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)
- Scheme of Investment Aid for Demonstration On-Farm Waste Processing Facilities
- Single Payment Scheme, excluding Article 37(2), 40 and 42 of Chapter 2 of Council Regulation (EC) No. 1782/2003².
- Sow Housing (Animal Welfare) Scheme
- Targeted Agricultural Modernisation Scheme (TAMS), including -
 - (a) the Dairy Equipment Scheme, (b) the Poultry Welfare Scheme, (c) the Sheep Fencing/Mobile Handling Equipment Scheme, (d) the Sow Housing Scheme and (e) the Water Harvesting/Conservation Scheme
- Upland Sheep Payment Scheme,
- Woodland Improvement Scheme
- Young Farmer's Installation Scheme.



Notice of Appeal Form

The Director
Agriculture Appeals Office
Kilminchy Court
Portlaoise
Co. Laois
Tel: (057) 8667167
Lo-Call: 1890 671671
Fax: (057) 8667177

Official use only

Eligible Scheme:	Yes/No
In time:	Yes/No
Dept Review carried out:	Yes/No

Appeal No: _____

Checked by: _____

Please complete parts 1 and 2 (overleaf) in full

Part 1 – Application Details (Please use block capitals)

1. Name: _____
2. Herd / REPS / Application Number: _____
3. Address: _____

4. Telephone Number: _____
5. Scheme under appeal: _____
(e.g. REPS, Early Retirement Scheme, Single Payment Scheme, On-Farm Investment Schemes, etc.)
6. Department Office that issued the decision: _____
7. Date of Department decision: _____
8. Do you wish to have an oral hearing in relation to your appeal: Yes ☐ No ☐
9. Please list and enclose any relevant documents that you wish to have considered. A copy of the Department's final decision should be enclosed. (If you are unable to make a copy please send the original, which we will copy and return.)

A. _____
B. _____
C. _____

Please outline the facts and contentions in support of the appeal in part 2 overleaf.

Herd / REPS / Application No:

Please set out all the facts that you wish to have considered; attach additional sheets if necessary. Please write your name and Herd / REPS / Application Number on each additional sheet.

[illegible]

Date: _____

- | Checklist before submission | |
|--|--------|
| 1. Scheme is covered by the Agriculture Appeals Office | Yes/No |
| 2. Decision is within the last three months | Yes/No |
| 3. Internal review by the Department of Agriculture, Food and the Marine completed | Yes/No |
| 4. All information requested has been provided (including a copy of the decision) | Yes/No |