



Agriculture Appeals Office

Annual Report 2007



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To the Minister for Agriculture, Fisheries and Food, Mr. Brendan Smith T.D.

Cuirim tuairisc maidir le gníomhartha na hOifige Achomhairc Talmhaíochta i 2007 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 2007.

John Murphy

(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, Fisheries and Food 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, Fisheries and Food regarding their entitlements under certain schemes as set out in the Schedule to the Agriculture Appeals Act 2001. 394 appeals cases were received in 2007 across the various different schemes.

This report sets out the major developments during the year and a statistical breakdown of the Office's work. 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, Fisheries and Food 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, Fisheries and Food, the report will be of use to farmers, the Department of Agriculture, Fisheries and Food and other interested parties.

John Murphy

(Acting) Director of Agriculture Appeals Office
June 2008

2. Agriculture Appeals Office 2007

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, Fisheries and Food 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, Fisheries and Food 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 FOI

Business Plan

In accordance with the Strategic Management Initiative, a 2007 Business Plan was formulated to co-ordinate with the Department of Agriculture, Fisheries and Food Statement of Strategy 2005 – 07. 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 and an electronic library of decisions ensures 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, Fisheries and Food

Ongoing contact with various Divisions of the Department of Agriculture, Fisheries and Food to discuss various issues that arise from appeal cases continued in 2007.

Meetings of Appeals Officers

10 meetings of Appeals Officers were held in 2007. 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.

Freedom of Information

A number of formal requests were received under the provisions of the Freedom of Information Acts. All of these requests were in respect of personal information contained on file.

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. To date eight cases received in 2007 have been referred to the Ombudsman. There have been no occurrences where the Ombudsman has requested this Office to amend its decision.

3. Appeals Procedure and Oral Hearings

Of the 394 appeals received in 2007, some 241 (61%) involved oral hearings. (58% in 2006).

On receipt of an appeal, this Office,

- Requests the relevant file from the Department of Agriculture, Fisheries and Food
- 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.

Appeals are dealt with in the order that they are received.

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,

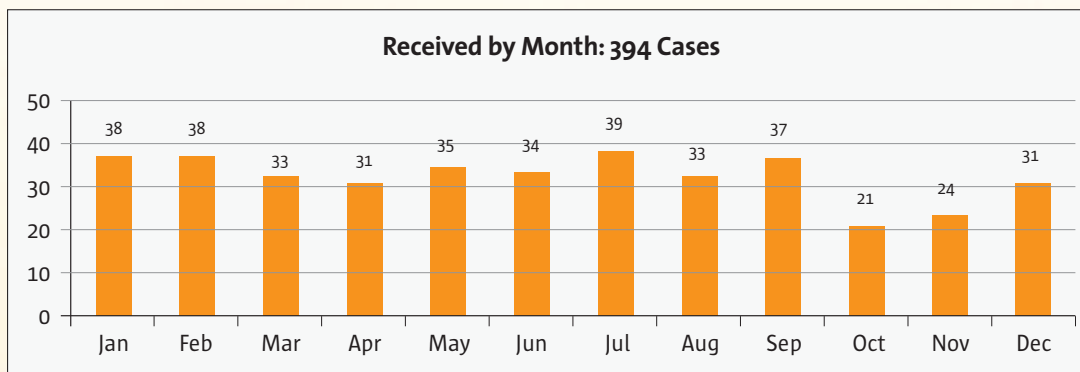
- It is held in private and is informal in format
- The appellant has a right to representation but must attend the hearing in person

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.

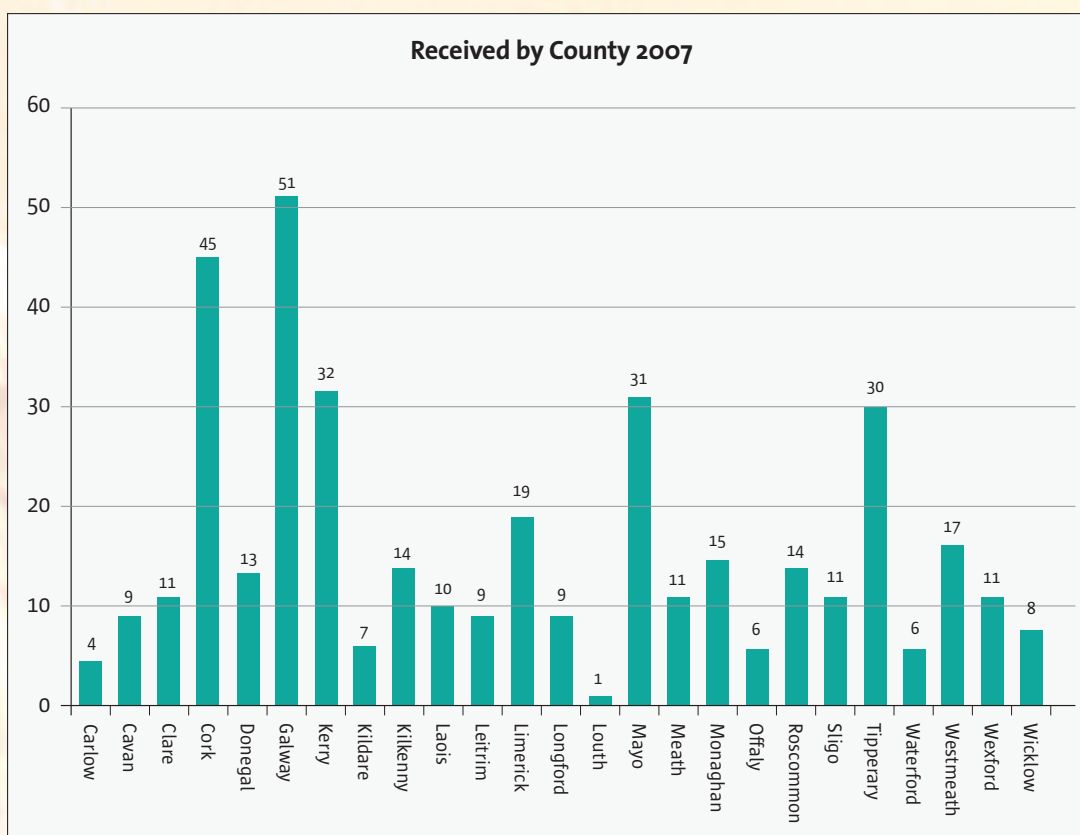
4. Statistics – 2007

394 cases were received in 2007 compared with 427 in 2006, an 8% decrease.

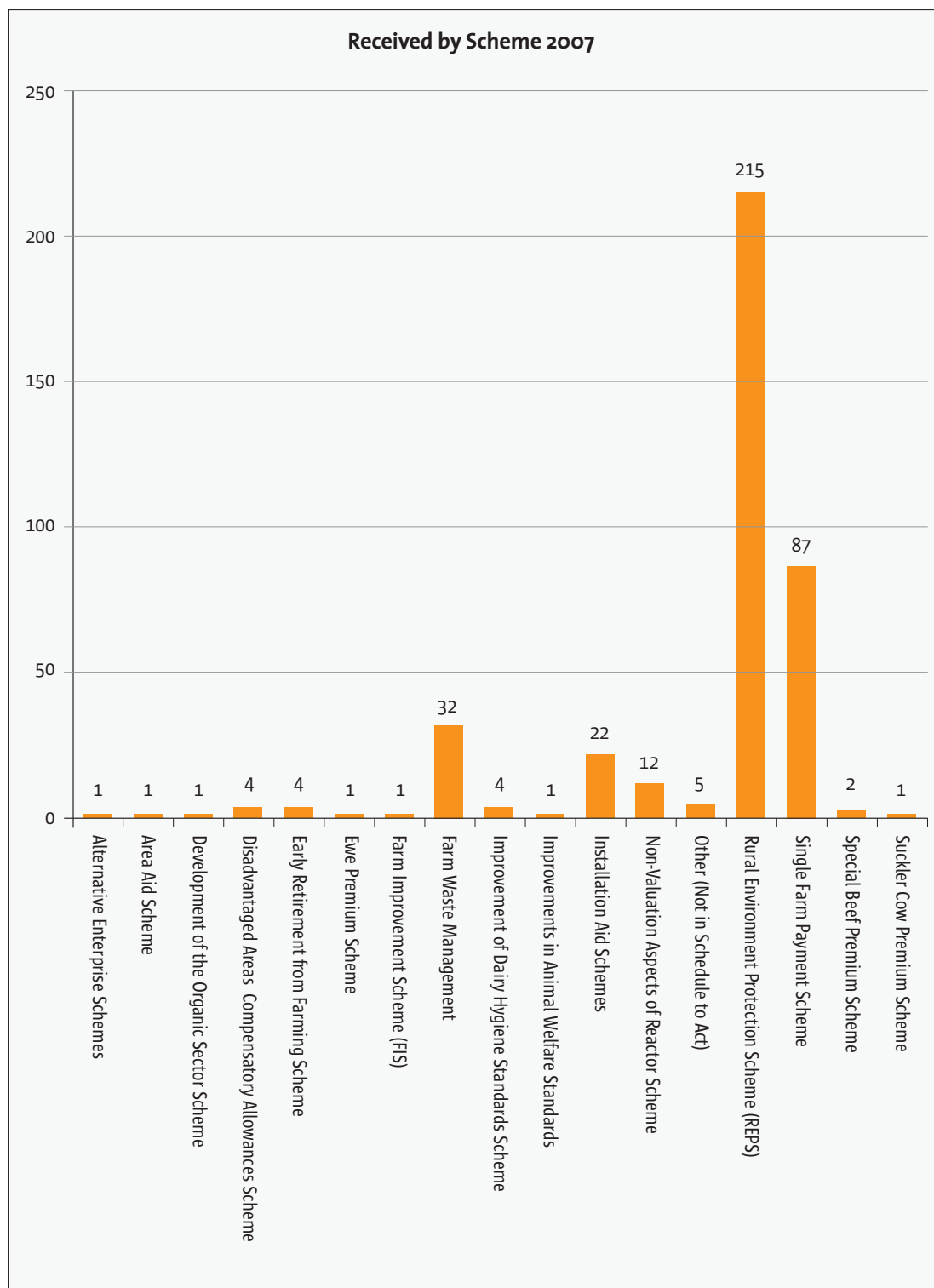
4(a) Appeals Received by Month



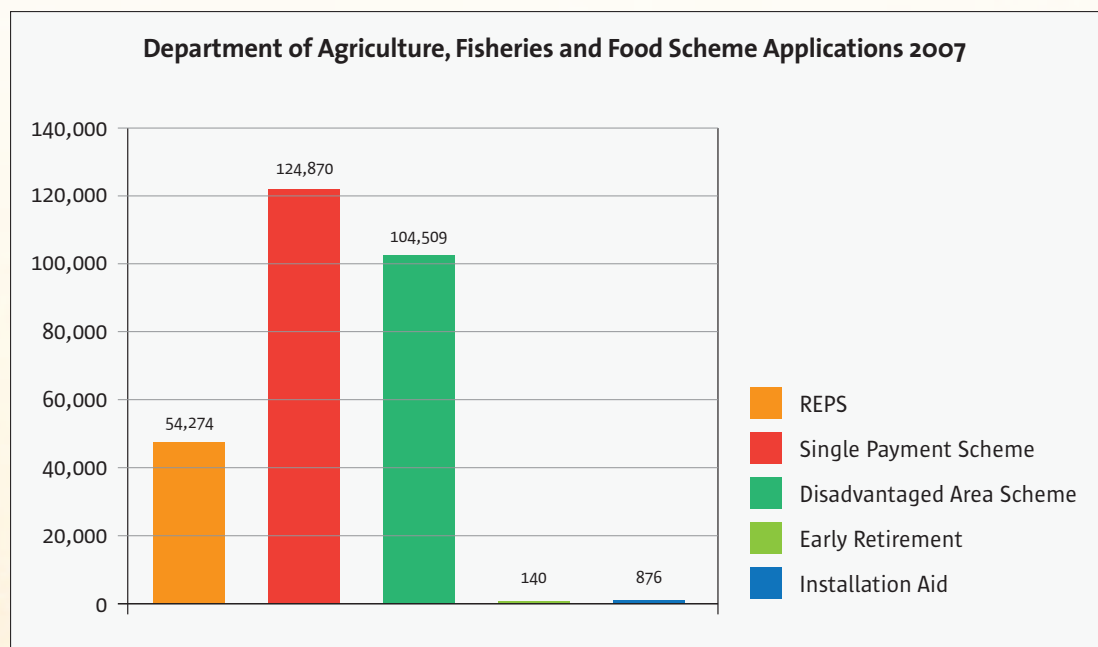
4(b) Appeals Received by County



4(c) Appeals Received by Scheme



4(d)



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

4(e) Outcome of Appeals Received in 2007

Comparison with previous years;	2007	2006	2005	2004	2003
Appeals Allowed, Partially Allowed or Revised	38%	36%	36%	33%	38%
Appeals Withdrawn, Not Valid or Out of Time and Advice Given	13%	14%	11%	11%	7%
Disallowed	42%	40%	49%	51%	54%
Open	7%	10%	4%	5%	1%

Above figures are based on statistics available at time of publication.

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.

Not valid: 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, Fisheries and Food.

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.

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. This category refers to advice given by the Director.

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, Fisheries and Food to be the correct one.

Open: 2007 cases which have still to be finalised to date.

4(f) Outcome by Scheme received in 2007

Scheme ID	Received	Allowed	%	Partially	%	Revised	%	Withdrawn	%	Not Valid	%	Out of Time	%	Advice Given	%	Disallowed	%	Open	%
Alternative Enterprise Schemes	1	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	1	100.0%	-	0.0%
Area Aid Scheme	1	0	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	1	100.0%	-	0.0%
Development of the Organic Sector Scheme	1	1	100.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	0	0.0%	-	0.0%
Disadvantaged Areas Compensatory Allowances Scheme	4	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	3	75.0%	-	0.0%
Early Retirement from Farming Scheme	4	1	25.0%	-	0.0%	-	0.0%	1	25.0%	-	0.0%	-	0.0%	-	0.0%	2	50.0%	-	0.0%
Ewe Premium Scheme	1	-	0.0%	-	0.0%	-	0.0%	-	0.0%	1	100.0%	-	0.0%	-	0.0%	0	0.0%	-	0.0%
Farm Improvement Scheme	2	-	0.0%	-	0.0%	-	0.0%	-	0.0%	1	50.0%	-	0.0%	-	0.0%	0	0.0%	1	50.0%
Farm Waste Management	31	4	12.9%	2	6.5%	4	12.9%	2	6.5%	-	0.0%	1	3.2%	-	0.0%	16	51.6%	2	6.5%
Improvement of Dairy Hygiene Standards Schemes	4	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	1	25.0%	-	0.0%	3	75.0%	-	0.0%
Improvements in Animal Welfare Standards	1	-	0.0%	-	0.0%	-	0.0%	1	100.0%	-	0.0%	-	0.0%	-	0.0%	0	0.0%	-	0.0%
Installation Aid Schemes	22	1	4.5%	-	0.0%	2	9.1%	-	0.0%	1	4.5%	1	4.5%	-	0.0%	4	18.2%	1	4.5%
Non-Valuation Aspects of Reactor Scheme	12	3	25.0%	1	8.3%	1	8.3%	-	0.0%	2	16.7%	1	8.3%	-	0.0%	4	33.3%	-	0.0%
Other (Not in Schedule to Act)	5	0	0.0%	-	0.0%	-	0.0%	-	0.0%	5	100.0%	-	0.0%	-	0.0%	0	0.0%	-	0.0%
Rural Environment Protection Scheme (REPS)	215	22	10.2%	25	11.6%	47	21.9%	7	3.3%	2	0.9%	10	4.7%	-	0.0%	94	43.7%	8	3.7%
SFPS- Over declaration of land/setaside	30	4	13.3%	4	13.3%	7	23.3%	3	10.0%	1	3.3%	-	0.0%	-	0.0%	8	26.7%	3	10.0%
SFPS-Cross-compliance	26	9	34.6%	1	3.8%	-	0.0%	-	0.0%	-	0.0%	1	3.8%	-	0.0%	12	46.2%	3	11.5%
SFPS-Late submission of applications	12	1	8.3%	-	0.0%	4	33.3%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	5	41.7%	2	16.7%
SFPS-Under declaration of land	5	-	0.0%	-	0.0%	2	40.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	3	60.0%	-	0.0%
Single Farm Payment Scheme - Other	14	-	7.1%	1	7.1%	1	7.1%	-	0.0%	8	57.1%	-	0.0%	-	0.0%	3	21.4%	-	0.0%
Special Beef Premium Scheme	2	0	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	1	50.0%	-	0.0%	1	50.0%	-	0.0%
Suckler Cow Premium Scheme	1	-	100.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%	0	0.0%	-	0.0%

4(g) Time from Department of Agriculture, Fisheries and Food to Appeals Office

For 2007 cases the average time taken by the Department to return files was 33 days. The average for 2006 was 27 days. A breakdown follows by Scheme;

Scheme	2007
Alternative Enterprise Schemes	27
Area Aid Scheme	52
Development of the Organic Sector Scheme	64
Disadvantaged Areas Compensatory Allowances Scheme	87
Early Retirement from Farming Scheme	14
Farm Waste Management Scheme	33
Improvement of Dairy Hygiene Standards Schemes	23
Installation Aid Schemes	32
Non-Valuation Aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors	31
Rural Environment Protection Scheme (REPS)	28
Special Beef Premium Scheme	9
Suckler Cow Premium Scheme	16
Single Payment Scheme	16

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

- Requests the relevant file from the Department of Agriculture, Fisheries and Food
- 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. 51 reminders were issued in 2007.

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

For 2007 cases, the average time taken to deal with a case from the time of receipt of the Department file and statement until the issue of the decision was 104 days. The average for 2006 was 71 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. For 2007 cases, the average appeal took 121 days. Some cases, due to circumstances outside the control of the Appeals Office may not be completed within the set time frame.

4(i) Position as at year end

Status (as at 31st December)	2007	2006	2005	2004	2003
Cases Closed	254	288	762	821	841
Work in Progress – Appeals Office	134	130	13	200	181
Awaiting Department Response	6	9	15	95	121
Total on Hand	140	139	28	295	302
Overall Total	394	427	790	1,116	1,143

Cases closed in 2007	
2007 Cases closed in 2007	254
2005 & 2006 Cases closed in 2007	143
Total no. of cases closed in 2007*	397

**Note: In addition to the cases closed above The Single Payment Appeals Committee closed a total of 488 cases pertaining to the Single Payment Scheme. Please see following Section for further information.*

5. Single Payment Appeals Committee

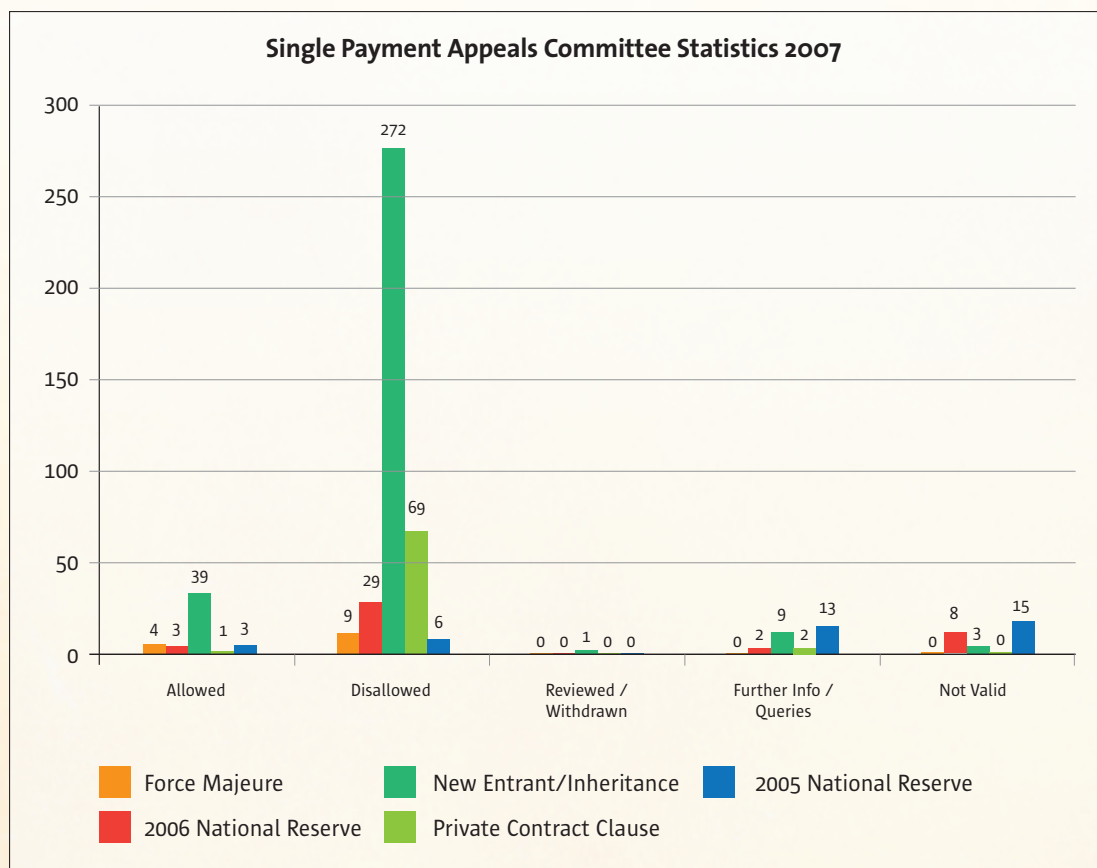
The Single Payment Appeals Committee was established in February 2004 to deal with appeals made by farmers who are not satisfied with the decisions of his Department in relation to the implementation of the various facets of the Single Payment Scheme.

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.

The Single Payment Appeals Committee examines appeals in relation to the decisions of the Department of Agriculture, Fisheries and Food under various aspects of the Single Payment Scheme. These include Force Majeure, New Entrant/Inheritance arrangements, with the majority of the work making decisions on cases relating to the allocation of entitlements from both the 2005 and 2006 National Reserve. A number of Non Applicant cases and Private Contract Clause cases were also considered.

There were 7 meetings of the Committee in 2007. The Committee concluded the consideration of 488 cases in that time and made recommendations to the Department as set out in the table below.

Single Payment Appeals Committee Statistics 2007						
	Force Majeure	New Entrant / Inheritance	2005 National Reserve	2006 National Reserve	Private Contract Clause	Overall Totals
Allowed	4	3	39	1	3	50
Disallowed	9	29	272	69	6	385
Reviewed/Withdrawn	-	-	1	-	-	1
Further Info/Queries	-	2	9	2	13	26
Not Valid	-	8	3	-	15	26
Total	13	42	324	72	37	488



6. Selected Appeal Cases

Case 1 Farm Waste Management Scheme

The appeal concerned the revised Farm Waste Management (FWM) Scheme introduced 23rd March 2006. The Department of Agriculture received an application for payment of grant aid on mobile equipment under the Scheme in September 2006, and in late October 2006 acknowledged receipt of the application to the farmer. In the acknowledgment letter the Department stated that aid would not be given for works commenced before the written approval issued. Subsequently approval issued during November 2006, with the conditions of approval specified.

In December 2006 the Department received confirmation from the appellant of the investment including an invoice dated May 2006 and a receipt dated July 2006. The Department deemed that the investment pre-dated the November 2006 approval, and refused grant aid on the grounds that grant aid would not be given for works commenced before written approval was conveyed to the applicant.

The appellant stated to the Appeals Officer that when the item was ordered, the machinery dealer advised that a six months waiting period was involved prior to delivery. The appellant also stated that the FWM scheme application was arranged with an Agricultural Adviser. The appellant accepted that when a suitable slurry tanker had become available earlier than expected, no FWM application had yet been lodged to the Department. An application was then lodged without delay. The appellant's advisor told the Appeals Officer that the deadline for slurry spreading was approaching on 15th Oct 2006 and the situation would have been unmanageable if slurry was not spread by then, also that the appellant was compromised with the earlier than expected availability of the tanker.

The Appeals Officer found the dates of invoice and purchase were not in dispute. The machinery dealer had also confirmed that the tanker was ordered in March 2006 with delivery anticipated in September 2006 but that a suitable tanker had become available earlier. The machinery dealer confirmed that the tanker remained on his premises until the receipt date in July 2006. The Appeals Officer noted that paragraph 8 of the scheme conditions states that items invoiced or delivered, purchased or payments made before the date of approval are not eligible for grant aid.

Medical evidence was also provided, but the Appeals Officer found that it would at least have to be evident that the medical condition prevented the making of the application. The Appeals Officer found instead that the application was handed to the farmer's advisor in otherwise sufficient time. The medical evidence was found not to constitute grounds on which to excuse having the equipment purchased before written approval was conveyed to the appellant.

The Appeals Officer noted that the equipment purchased would otherwise be eligible for grant aid, but could not on the grounds of appeal set aside the fact that it was purchased prior to application. The appeal was disallowed.

Case 2 Single Payment Scheme

The appellant did not submit the 2007 Single Payment Scheme application form within the application period, and furthermore did not do so within the 25 days late application period that was provided subject to a 1% penalty per working day late. In 2007 the scheme closing date was the 15th May, which is the latest allowed by the governing regulation. The appellant lodged the application on 29th June 2007. The Department informed the appellant that a 100% penalty applied to the Single Payment amount for 2007.

In the appeal notice, the appellant stated that the application form had been submitted in error with other paperwork to the accountant when preparing farm accounts. The accountant provided evidence in support of this. In reply to the appeal the Department stated that the appellant had submitted other grounds in writing with the late application form and had not made mention of the submission of the document to the accountant.

The Appeals Officer had regard to the fact that the closing date for the scheme was well publicised in the national media, as well as it being highlighted on the scheme documents; a pre-printed version of which was provided to the appellant well in advance of the scheme closing date. The Appeals Officer found that no circumstance described in the grounds of appeal could be considered acceptable under force majeure, and that a late application may only be excused on such grounds. While the Appeals Officer had sympathy with the appellant on the oversight, the necessity to submit an application within the timeframe was not considered unreasonable. The appeal was disallowed.

Case 3 Rural Environment Protection Scheme (REPS)

A 10% penalty was applied because the appellant had not applied lime in accordance with the nutrient management measure of the REPS plan. The availability of plant nutrients is affected by the pH of the soil. The major plant nutrients nitrogen (N), phosphorus (P) and potassium (K), as well as calcium (Ca) and magnesium (Mg), show a marked reduction in availability in acid conditions. Application of lime reduces soil acidity. The Department's REPS specification allows farmers to apply ground limestone or granulated lime. Granulated lime is an aggregation of very finely ground particles of limestone formed into granules. It can be considered as a rapid maintenance application to the top few centimetres of soil rather than a remedial treatment for the whole soil profile. The REPS plan included an undertaking to apply a total of 23 tonnes of ground limestone to identified fields before the end of year 2 of the appellant's 5-year REPS contract. The amount of lime required was based upon the results of laboratory soil analysis, undertaken during the preparation of the appellants REPS plan.

The appellant applied 1 tonne of granulated lime in year 2 of the 5-year REPS contract. The appellant stated that he was informed that 1 tonne of granulated lime was equivalent to 5 tonne of standard ground limestone. The appellant stated that the field requiring lime was a poor quality grass sward and was in need of reseeding. Subsequent to the inspection he had reseeded 4 acres and had applied a further 0.5 tonne of granulated lime. He added that he intended to reseed a further 4 acres the following year and he would apply more granulated lime to both areas then. The appellant suggested that a pro-rata penalty could be applied as he had applied some lime.

According to the Department's REPS 3 Specifications for REPS planners, 1 tonne of granulated lime is equivalent to 3 tonnes of standard ground limestone. Furthermore if a REPS participant decides to use a granulated lime product, it must be applied annually in equal amounts over the 5 years of the REPS contract. In the appellant's case, the amount of ground limestone at 23 tonnes, recommended following soil analysis, was equivalent to 7.7 tonnes of granulated lime. This 7.7 tonnes of granulated lime should have been applied in equal annual amounts for the duration of the 5-year REPS contract i.e. 1.5 tonnes of granulated lime applied annually.

Therefore as the appellant decided to use granulated lime he should have applied 1.5 tonnes of granulated lime during each year of his 5-year REPS contract. The record sheets presented by the appellant indicated that he had only spread 1 tonne of granulated during the first 2 years of his REPS contract. The decision under appeal was whether the Department correctly imposed the 10% penalty. It was not within the remit of the Appeals Officer to apply a pro-rata penalty. The appeal was disallowed.

Case 4 Rural Environment Protection Scheme

As a result of the findings of an on-farm REPS inspection a penalty of 15% was imposed under Measure 3, as bovines were not excluded from watercourses/waterbodies marked blue on the appellant's REPS maps. Under Measure 3, the REPS Plan specified the plot numbers to be fenced and that access by bovines *"to within 1.5m of watercourses"* must be prohibited before the end of the first year of the plan. Initially, the penalty was not appealed but after receiving a final notification of the penalty it was appealed to the Agriculture Appeals Office. No oral hearing was requested.

In the letter of appeal, it stated that there were no fences adjacent to the watercourses on the day of inspection as a result of poor timing and unfortunate circumstances. Fences by the River Shannon had been washed away, due to unusual high water levels over the summer period and the fence along a watercourse had been removed temporarily, to facilitate the expected arrival of a contractor for cleaning the watercourse. It was reported at the time of appeal that all fences had been restored and stockproofed again.

In considering the appeal, the Appeals Officer referred to the EU Regulations governing the Scheme as set out in the Scheme specification. Paragraph 27 of the Terms and Conditions of the Rural Environment Protection Scheme Document dated 5 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 the application to be admitted into the REPS Scheme the farmer signed a declaration which stated 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"*. He agreed to familiarise himself with the REPS Plan and to farm in accordance with the specifications set out in that plan.

The Terms and Conditions of REPS 3 are very specific and state, *"Access by bovines to within 1.5m of watercourses shall be prohibited before the end of the first year of the plan"*. It is considered that there were options available to the farmer to ensure continuous compliance with his REPS contract, i.e. removal of the bovines from the relevant plots or erection of a temporary fence. It was also noted that there was no maintenance schedule set out in his Agri-Environmental Plan for any of the watercourses. The Appeals Officer acknowledged that there might have been bad timing and unfortunate circumstances that led to the penalty imposed as it was noted that compliance was achieved at a previous inspection. However, on the day of inspection the fencing was not in place as required. Therefore the appeal was disallowed.

Case 5 Single Payment Scheme

The 2005 Single Payment Scheme (SPS) application was received on the 3rd May 2005. The appellant declared 32.18 hectares of land while having 24.34 entitlements. A similar declaration was made in respect of the 2006 Single Payment Scheme. It was subsequently discovered that the appellant was unable to provide a rental agreement in respect of 2 land parcels, a total of 9.8 hectares and penalties were applied for both 2005 and 2006 SPS years. Penalties were also applied in respect of Disadvantaged Area Scheme (DAS) payment for the same years. The appellant sought a review of these penalties based on the fact that the penalties represented all of his income for the year 2005. However the Department upheld the penalty in a letter to the appellant.

In his grounds of appeal the appellant stated that he had use of the disputed plots for a number of years including 2005 and 2006. It was only in 2007 that he didn't have the land as the owner wished to let it to someone else. He did not have any documentation to support this and he had paid the rent in cash each year. He stated that he would be unable to get confirmation of this from the owner.

In considering the appeal, the Appeals Officer is required to have regard to the EU Regulation governing the scheme as set out in the scheme specification as given to every herdowner at the commencement of the scheme. As the penalty relates to two schemes SPS and DAS, each one is dealt with separately.

Single Payment Appeal, 2005 and 2006.

The two plots concerned were included on the 2005 and 2006 Single Payment form as rented land. The appellant was requested to provide proof of the renting of these lands, however, he was unable to provide any proof of a rental agreement between himself and the owner. He was also unable to provide any proof that payment changed hands for the rental of the land. The Appeals Officer found therefore that the decision of the Department of Agriculture, Fisheries and Food was correct and these plots were not deemed eligible under the 2005 or 2006 Single Payment Scheme.

However, the Appeals Officer found that the calculation of the penalty under the 2005 and 2006 Single Payment scheme was incorrect. The penalty should have been calculated based on the number of entitlements held by the appellant. In effect, the difference between the number of entitlements held (24.34) and the number of hectares found at inspection (22.38) is 1.96 ha, and represents the area overclaimed. As this figure is less than 2 hectares, the overclaim is **not** doubled; consequently the eligible area for the basis of calculating the Single Payment should have been 22.38 hectares. This means that payment should be based on 22.38 entitlements for 2005 and 2006.

The appeal under the 2005 and 2006 Single Payment Scheme was partially allowed.

Disadvantaged Area Appeal, 2005 and 2006.

Further to the application under the Disadvantaged Area payment for 2005 and 2006, the appellant declared an area for payment in each of these years as 32.18 ha. Had this total area been available to him, he stood to receive payment in respect of the full area. As he did not have the full area available to him, the penalty must be calculated in accordance with the area declared for payment and thus he had overdeclared the area for payment by greater than 20%. The penalty for overdeclaration greater than 20% is a nil payment in each year.

The Appeals Officer found that the penalty under the 2005 and 2006 Disadvantaged Area payment scheme was correct and in accordance with the terms and conditions of the scheme. The appeal under this scheme was disallowed.

Case 6 Installation Aid Scheme

The Department of Agriculture, Fisheries & Food received the initial application form, IAS1, under the Installation Aid Scheme (IAS) on the 17 June 2006. An application form for payment, IAS2, with supporting documentation was received on the 8 February 2007. In processing the claim for payment, the Department applied a late penalty of 55% as the IAS1 form was not received within 6 months of the date of set up which was deemed to be 10 February 2005. The appellant sought a review of this decision on the basis that there was a delay for legal reasons in getting the land transferred into his name, that he had a serious accident in 2003 and that his father suffered a serious illness in 2005 and he had to care for him, this caused the delay in submitting the IAS1 form. However, the Department upheld the penalty.

At the oral hearing and in documentation submitted the appellant outlined the grounds of his appeal. He explained how, for legal reasons, the land was not transferred into his name until October 2004, however, he resided on the farm since 2001. He stated that although he obtained his herdnumber in February 2005, he did not recall the Installation Aid scheme until reminded of it by his brother in 2006, when he informed him that it would be subject to a late penalty at that time. The appellant understood that he had two years in which to apply although he did acknowledge that the scheme formed part of the 180 hour course he had taken in 2003. He explained that his brother completes all paperwork for him such as the 2005 and 2006 Single Payment Scheme forms even though he does not have any Single Payment entitlements. The appellant stated that he works off the farm and this keeps him very busy with little time for paperwork.

He submitted that his father's illness in 2005 was a contributory factor in being late in sending in the IAS1 form and submitted a medical certificate in support of this. He was also required to contribute to the care of other family members during 2005.

He had put forward that the reason for this scheme is to help young farmers and stated that the aid was needed to bring the farm up to a reasonable standard.

In considering the appeal, the Appeals officer is required to have regard to the EU Regulations governing the scheme as set out in the scheme specifications as issued to every herdowner at the commencement of the scheme. In particular to this case is the requirement that the IAS1 form must be lodged **“within 6 months of date of set up”**.

The date of set up was deemed to be the 10 February 2005, the date on which the appellant applied for his herdnumber, having previously become the owner of more than 5 hectares of land. The IAS1 form should have been submitted by the 09th August 2005 but was not received until 17th June 2006 some 11 months later.

The difficulties in getting the land into his name and his accident occurred prior to obtaining the herdnumber and therefore was not considered to have affected his ability to lodge the IAS1 form on time.

The appellant had also submitted that his father's illness together with the need to look after his brothers caused him to be late in submitting the form. The medical certificate lodged confirmed that his father was admitted to hospital in February 2005. This was during the period of the 6 months in which he could lodge his IAS1 form. However, it is considered that he had until August 2005 to submit the form. The Appeals Officer did not accept that his father's illness prevented him from submitting the IAS1 form for a further period up to June 2006. This is particularly so given that the appellant did submit a 2005 and 2006 Single Payment application form in each of those years notwithstanding that those forms may have been prepared by his brother, on his behalf.

The onus is on the herdowner to ensure that he is aware of schemes and scheme conditions and these are set out clearly in scheme documentation. The appellant acknowledged that there was a reference to the Installation Aid Scheme when he completed his 180 hour course in 2003. If he wished to avail of the scheme, he could have sought details, terms and conditions directly from the Department of Agriculture, Fisheries and Food to confirm dates etc.

Given the circumstances above, the Appeals Officer found that the decision of the Department in respect of the late submission of IAS1 was correct and in accordance with the scheme terms and conditions. The appeal was disallowed.

Case 7 Early Retirement Scheme

An application was submitted for admission to the Early Retirement Scheme in December 2006. An area of 24.534 hectares was declared. This land was contained on two folios. Another parcel of land with no available folio was accounted for by means of a declaration. Arising out of a Department examination of the application a number of issues were noted, foremost of these was the lack of proper title for the unregistered land. It was confirmed that an application to become the owner of the unregistered land was pending. An affidavit concerning the unregistered land had also been furnished. The Inspector approved an area exclusive of the unregistered area for payment. A review was sought and the original decision was upheld.

The decision was appealed to the Agriculture Appeals Office. The area claimed for pension purposes was 24.534 hectares. Part of the holding did not have land registry or registry of deeds documentation. The grounds of appeal included a sworn affidavit outlining the occupancy and possession of the land was submitted with the application. Furthermore, it was stated that the land was subject to an application for first registration, that the land had been farmed since 1970, and had been declared on Area Aid, and was included in the County Rate Demand Note until rates were abolished. It had been undisputed as to use and benefit for over thirty years.

The appellant argued that the lands in question were adjacent to other land and there had never been any reason to register them. The first registration was based on the fact of possession. Issue was taken as to the unfairness of the decision taken by the Department. There was no claim against the property; no proceedings and no litigation. Also, the lands had been submitted for REPS and had been inspected on a number of occasions. There had never been any query raised in relation to land ownership in the course of those inspections.

The Appeals Officer noted that the land declared on the application had been farmed for a number of years and it was entered for Area Aid/Single Payment Scheme as evidenced by the records provided. It was also noted that the said lands were farmed by the appellant's grandfather and father. Notwithstanding that history of application the fact remained that there was not a proper title to the land. In order for payment to be made the lands declared must fulfil the conditions set down in the application form and associated terms and conditions. The payments of rates were not sufficiently probative in this instance to warrant setting aside the Terms and Conditions of the Scheme as set down in the Departmental documentation.

The Appeals Officer found that at the time of lodging the application the lands were not registered. It is a condition of the Scheme that lands which are the subject of first registration under section 49, Land Registration Act 1964 are not eligible for pension purposes **unless they are registered prior to making application under the Scheme**. There was a sufficient passage of time from the

date the lands were acquired up to the present time to facilitate the registration of the land. Therefore, it is not unreasonable to contend that the lands could have been registered in advance of participation in the Early Retirement Scheme. There is an onus on applicants and their agents to fully appraise themselves of the requirements of a Scheme that they propose to avail of.

The Appeals Officer found that the calculation of lands eligible for pension was correctly done and the exclusion of the unregistered lands was correct in the circumstances. The decision reached by the Department with respect to the exclusion was correct and was within the ambit of their powers so to do. The appeal was disallowed.

Case 8 Rural Environment Protection Scheme

The appellant commenced participation in REPS on 1st November 2002 in respect of 22.71 hectares of land. Following an inspection on the 24th March 2004, it was noted that two fields had undergone groundwork as if for building development and the appellant requested the lands be withdrawn from REPS through his planner. It was also noted that the appellant had not submitted an application for second year payment under the scheme. The appellant informed the inspector that he had sold this land the year before. The Department of Agriculture, Fisheries & Food sought to recoup payment in respect of year 1 of REPS.

The appellant explained that he considered himself a part time farmer and found it difficult to make money from farming, that he had entered into a second REPS contract but in 2003 received an offer for the land from a builder and sold the land. The appellant confirmed that the reason for selling was that it made good financial sense and was not due to any illness or other exceptional circumstance. He put forward that he complied with all REPS requirements while in the scheme.

In considering the appeal, the Appeals Officer is required to have regard to the EU Regulations governing the scheme as set out in the scheme specification as issued to every herdowner at the commencement of the scheme. In particular to this case is the requirement that

‘Participants in the scheme must carry out their farming activities for a five year period in accordance with an agri-environmental plan and these specifications. Failure to comply with the plan may result in a monetary penalty or suspension from the scheme, and may require reimbursement of all or portion of payments already given.’

In addition where there is a reduction in the land farmed, the REPS specifications state ‘Where the plan is not continued, the transferor will be required to reimburse the aid paid’.

In submitting the REPS plan, the appellant undertook to continue in REPS for a five-year period and he signed that he understood and agreed to abide by the terms and conditions of the scheme. The appellant put forward that he complied with the REPS plan up to the day of sale in 2003. However, the Appeals Officer found that the appellant could not be considered to have complied with the terms of the scheme that he entered. The Appeals Officer found that the appellant made a financial decision to sell the land in 2003, thereby being unable to complete the five year contract under REPS. The appellant confirmed that the sale was not due to ill health or exceptional circumstances and therefore does not qualify under force majeure criteria, nor did another farmer include the land in REPS.

The terms and conditions of the scheme are clear in this circumstance where there is a reduction in the land farmed within the five-year period of the plan, in requiring that the plan is terminated and aid already paid must be reimbursed. The appeal was disallowed.

Case 9 Single Payment Scheme

A herdowner was notified that there would be a reduction of 9% in the Single Farm Payment for 2006 following a Department Cross Compliance Inspection. In the course of that check it was discovered that 13 animals were non-compliant with the requirements set down for the Statutory Management Requirements 7 and 8 i.e., requirements pertaining to the identification and registration of animals. The specific animals were listed by the Department, which noted that their movements were not notified to the Cattle Movement and Monitoring System (CMMS) prior to inspection date.

The herdowner sought a review of the decision. In correspondence it was outlined how attempts were being made to put together a herd of purebred cattle; how animals were purchased and delivered to the herdowner. He signed the permits and was told by the vendor that documentation would be sent on to the Department. The problem came to light after an inspection when the sale of the 13 animals was not notified to CMMS. On contacting the vendor, the herdowner was informed that owing to sickness permits had been sent on later than they should have been. A letter was supplied explaining this situation. While the herdowner accepted the need for the CMMS to be correct he was of the view that the problem was not fully his fault. The Reviewing officer upheld the earlier decision.

The decision was appealed to the Agriculture Appeals Office (AAO). It reiterated the information previously referred to. In addition comment was made on the contention that the buyer and seller are equally responsible. The herdowner noted that the Department only supply one piece of returnable permit and therefore one party must rely on the other to send on the relevant paperwork. At the oral hearing the Department outlined its position with regard to maintaining the integrity of the database.

The herdowner viewed the decision as harsh. He had endeavoured to record animal details on computer. He had no problems with the inspection process itself. He had cattle tested within 30 days. He presumed that the Department would have noted the other herdowner's cattle in his test. He could not ascertain if the other herdowner had sent away the paperwork. He had not appealed a 2005 penalty as it was set originally at 1% but subsequently raised to 3%. While realising his probable error he was unhappy about the situation. He commented that cattle had been bought subsequently but there had been a problem with the seller not having his paperwork in order. Herd owner also commented on number of inspections he had. He stated that the seller had forgotten to return the paperwork.

The requirements of the relevant legislation must be brought to bear on the facts. Under the Statutory Instrument S.I. 655 of 2003 National Beef Assurance Scheme Act 2000 (Animal Movement) Regulations 2003 section 5(4) describes the procedure that an animal movement should follow. *The movement of an animal under Regulation 4 (c) shall be notified to the Minister by the dealer moving the animal and the keeper taking possession of the animal in the holding*

or premises into which it is moving in accordance with the format set out... within seven days of the event occurring.

While the requirements of the relevant Statutory Instrument would seem not to have been met the herdowner acted in good faith. There is an onus to keep the database informed within the 7-day period of animal movements.

Notwithstanding that the vendor had undertaken to submit the permits, the herdowner was – under the legislation- equally responsible for that notification. The herdowner asserted that there was only one returnable document notifying the database and this was significant and in practical terms means that the requirement set out in the Statutory Instrument cannot be adhered to fully. The system that was in place at that time is the one that an Appeals Officer must have regard to. It was found that the herdowner acted in a fair and reasonable way. An examination of the returnable section of compliance certificate clearly shows the document was signed and corroborated the assertion that herdowner did so to facilitate the seller. The understanding that the CMMS must be kept up to date was noted, as were efforts to computerise record of stock numbers. Given that there was only one returnable document and he had received assurances from the seller that he would return it in good time it was found that his actions were justified. The vendor could have taken note of the relevant numbers and amended his register upon his return home. Such action would have allowed submission of the certificates to the Movement Agency in good time. The circumstances that prevailed however precluded the herdowner from so acting and therefore, the decision of the Appeals Officer was to allow the appeal. In giving effect to this decision cognisance was also taken of the trebling of the 2005 penalty. As the decision of the AAO was to allow the appeal the 9% sanction applied to the 2006 payment under the Single Payment Scheme also fell. The appeal was allowed.

Case 10 Rural Environment Protection Scheme

The farmer joined REPS 2 with a contract area of 36.10 Ha in 2002. On 01/09/2004 he transformed from REPS 2 to REPS 3. In accordance with the undertakings given by him (REPS 3 Dec) when transforming to REPS 3, a full consolidated REPS 3 agri environmental plan was required to be submitted to the Department by 31/10/2007. This plan was submitted on 24/10/2007 and on 31/10/2007 the Department notified the farmer that his contract area had been reduced to 35.28 Ha, a reduction of 0.62 Ha and the Department sought a claw-back for the 3 previous plan years.

The REPS Planner, on behalf of the farmer, unsuccessfully sought a review of the decision from the Department, stating that a parcel of land 0.70 Ha had been omitted from the consolidated plan and the relevant amended pages were submitted. On appeal to the Agriculture Appeals Office the REPS Planner stated that the omission was an innocent error on their behalf and that the plot of land involved was a plot of bog which was mapped throughout the plan but did not appear under the land section details.

The Appeals Officer agreed with the planner's explanation according to the evidence. A map of this plot, outlined in red, had accompanied the consolidated plan that was submitted, indicating it was included in the holding. Also the plot which was described as a habitat in both REPS 2 and REPS 3, was referred to on page 4 of the plan as a plot that was not soil tested. The plot was also referred to under Measure 4 of the plan where it was listed as a habitat and described as a raised bog. The plot of land had also been included on all Area Aid and Single Farm Payment applications made by the farmer from 2002 to 2007 and it had been re-digitised in 2003.

The Appeals Officer concluded from the evidence that it was not intentional to leave the plot off the plan and excluded from REPS payment, but its omission was in fact an innocent error that the plot details were not included at the payment section of the plan. The appeal was allowed.

Case 11 Disadvantaged Areas Compensatory Allowance Scheme

The Department sought to recoup a 2006 Disadvantaged Areas Compensatory Allowance Scheme (DAS) payment on grounds that the payment had issued in error. The Department found that the appellant had not actually applied for the DAS payment but had been paid in error on foot of an application by another individual.

The appellant submitted that he should be allowed to keep the DAS payment. The appellant appealed on grounds, firstly, that he would have been entitled to the payment had he applied for it and, secondly, that the Department's negligence had caused him not to be in a position to apply for the DAS payment in his own right.

A deceased family member had willed his holding, together with entitlements garnered therein, to the appellant. The appellant did not reside at the same address as the deceased family member. The appellant claimed that he sought to have all Department correspondence directed to his own address. The appellant said that he was partially successful in this regard as the Department activated some but not all of the address changes requested.

The 2006 DAS/Single Payment Scheme (SPS) amounts issued by the Department were sent to the address of the deceased family member. The appellant said that he failed to receive notification of 2006 DAS and 2006 SPS entitlements details, including the DAS/SPS application form, because of the Department's failure to make the necessary mailing address changes. The appellant claimed that he was entitled to but had not been given an opportunity to apply for the 2006 DAS payment.

A person or persons unknown submitted a 2006 DAS/SPS application - in the name of the deceased family member - to the Department. The 2006 DAS payment issued to the appellant on foot of this application. On finding that the appellant had not submitted the application for DAS payment, the Department deemed the payment to have been wrongful and sought to recoup the monies paid therein.

The Appeals Officer found that the process whereby the appellant received the DAS payment was inappropriate and unacceptable and that benefit could not be allowed to accrue from such process. The appeal was disallowed. The appellant was advised that it was open to him to raise with the Department alleged Department deficiencies on the matter of the mailing address issue.

Case 12 Non-Valuation Aspects of the On-Farm Valuation Scheme

Following a herd test in August 2006 six TB reactor animals were removed from the farm. The Valuer placed a total value of €4,495.00 on the animals. The appellant completed a form V8 signifying acceptance of the valuation and agreement to the removal of the animals from the holding. The animals were removed and slaughtered in September 2006. The animals realised a gross salvage value from the abattoir of €2,816.46, with factory deductions of €132.96, resulting in a net salvage value to the farmer of €2,683.50. The Department paid the farmer an amount of €1,760.71 this to comprise the difference between the on-farm valuation and the gross salvage value but excluding 'non-statutory' deductions that amounted to €50.79.

The Department refused the farmer's application for the 'outstanding' €50.79. Referring to the *'Important Information for Farmers'* document, which had been made available to the farmer, the Department advised that it could refund only those deductions that are 'statutory' and include An Bord Bia levy, veterinary inspection fees and bovine diseases levies. The Department listed insurance, BSE test, clipping charges and IFA levy as examples of non-refundable non-statutory deductions.

In appealing the Department's decision the farmer said that it was her understanding that she would receive full market value for the reactor animals. The market value was €4,495.00 and it was her contention that she should receive this full amount and that there should be no deductions.

The factory deductions totalling €132.96 were apportioned between veterinary fees, insurance/disposal, Bord Bia levy, E.I.F levy, bovine diseases levy, BSE test and haulage. The Department found that the farmer could be refunded the deductions in respect of An Bord Bia levy, veterinary fees and the bovine diseases levy. The Department found that there was no provision for refunding the farmer the remaining factory deductions.

The Appeals Officer found that there was legislative provision – in An Bord Bia, Bovine Diseases and Diseases of Animals acts and regulations – for the deductions classified by the Department as statutory deductions. The Appeals Officer could not find such provision for the remaining deductions. Noting that the *'Important Information for Farmers'* document clearly established that only statutory deductions would be refunded to the farmer, the Appeals Officer found that the Department was entitled to refund only those deductions that had a statutory basis. The appeal was disallowed.

Case 13 Disadvantaged Areas Compensatory Allowance Scheme

The appellant made an application under the 2005 Disadvantaged Areas Scheme (DAS). The Department conducted a DAS inspection. The stocking density on the holding was checked and determined as 0.10 livestock units per hectare (lu/ha). The appellant was deemed ineligible as the stocking density on his holding was below the DAS minimum required stocking density of 0.15 lu/ha.

The appellant submitted an appeal to the Agriculture Appeals Office (AAO). The appellant stated that ER 22 and ER 23 (ERAD TB and Brucellosis Herd restriction notices) were sent to him in July 2004, a few days after he became a registered herdowner. He received an ER39 - withdrawal of restricted holding status - in January 2006 following a clear herd test.

The appellant stated that he had no recollection of ever having received an ER37 permit for movement of animals from a restricted herd. The herdowner must complete the ER37, and it must be authorised by a Department official, before bovines may be moved into a restricted herd. The appellant claimed that the Departments failure to issue an ER37 to him, had contributed to his failure to meet the stocking density requirement of the DAS. The failure to issue an ER37 meant he did not know he could purchase cattle while his herd was restricted.

The appellant also outlined how he interpreted the DAS stocking density requirements. He stated that he would only receive DAS payments up to an overall payment ceiling of 45 hectares, he did his stocking rate calculation using this 45 ha figure. On the basis of this interpretation he had more than 0.15 lu/ha.

The Appeals Officer found no records on the Appellant's local office DVO file that an ER1d - notification informing of the granting of a herd number - or that an ER37 permit were issued to him in 2004. However the appellant accepted that he was made aware that he had been granted a herd number, before the restriction notices ER22 and ER23 were issued in July 2004. The fact that the appellant moved cattle into his herd in July 2005 indicated that he was aware, that he was permitted to move cattle into his herd despite the fact that it was restricted. An application to move these cattle was received by the Cattle Movement Notification Agency and a compliance certificate was issued.

In Restriction Notice ER22, the following reference is made to a movement permit: *The person who is for the time being in occupation of a restricted holding shall ensure that (1) no animal is moved into or out of the holding except under the authority of a movement permit.* A similar reference is made to a movement permit in Restriction Notice ER23.

The Appeals Officer also examined the terms and conditions of the 2005 DAS. These terms and conditions were issued to the appellant with the Single Payment Scheme (SPS) /DAS application form. Paragraph DA2 described the eligibility requirements for the Scheme at DA2.1.(g) *To be eligible for payment of Compensatory Allowance under the Disadvantaged Areas Scheme 2005 you must*

in your own right: have a holding with a minimum stocking level of 0.15 livestock units per forage hectare.

Paragraph DA3 dealt with Forage Area - DA3.1 *The forage area of your holding for the purpose of calculating payment of Compensatory Allowance under the Disadvantaged Areas Scheme 2005 is each hectare of land or part thereof situated within the State which is: Used for the grazing of cattle, sheep, horses, ponies, goats or deer; in a Disadvantaged Area designated as Less Severely Handicapped Lowland or as a Coastal Area with Specific Handicaps or as More Severely Handicapped Lowland or as Mountain Type Grazings within the State; claimed as forage area by you on your 2005 application.*

As the appellant had declared more than 45 hectares as suitable and available for agricultural use, his stocking density was correctly calculated using the greater area. There was no provision for using the 45 hectares, upon which the DAS payments would be made, as the basis of the stocking density calculation.

The Appeals Officer believed the appellant had misinterpreted the DAS terms and conditions regarding the calculation of stocking density. The fact that the DVO had no record of issuing an ER37 permit to him did not prevent him from subsequently moving cattle into his herd in July 2005. If he had purchased sufficient livestock at this time he may have met the stocking density requirements. Unfortunately the appellant did not own, possess, hold and maintain for at least four continuous months, sufficient livestock (cattle, sheep, horses, ponies, goats or deer) on his holding to meet the stocking density requirements of the Scheme. The appeal was disallowed.

Case 14 Farm Waste Management Scheme

The appellant lodged a Farm Waste Management Scheme (FWM) application in June 2006 for grant aid on (1) concrete floor in a shed (2) installation of down-pipes and guttering and (3) fixed cattle crush and enclosure with concrete base. The Department in acknowledging receipt of the application informed the appellant that aid would not be given for works commenced before written approval issued.

At a pre-approval inspection in July 2006, the Department noted possible planning issues and sought confirmation of planning permission or a letter from the Local Authority detailing that the proposed development was exempt from planning. The issues were resolved and the Department granted written approval on the 2nd March 2007 for the proposed works. On 9th March 2007 the appellant notified the Department that the works had commenced on the 7th March 2007. On 30th April 2007 the appellant notified the Department, by means of a Card C notification, of the completion of the works and lodged relevant invoices. A prepayment inspection was carried out in May 2007 and it was discovered that the dates on all the concrete certificates and invoices were prior to the approval date. The Department refused grant aid on the basis that items invoiced or delivered, purchased or payments made before the date of approval were not eligible for grant aid.

At appeal the appellant stated the Department was informed that the crush and holding pen were required as a matter of urgency as there were no facilities for testing cattle in order to comply with the Department rules, and animals on the holding were out of test. The appellant outlined the research he had undertaken in identifying a suitable structure to take account of his needs based on the site available to him. The appellant was not a full time farmer and claimed to be unfamiliar with the scheme.

On investigation it was found that the appellant had sent the Card C notification prematurely through misunderstanding, as only the works related to the crush were completed. The appellant believed that payment could be claimed in part. Excavation work and materials purchased relevant to the crush and holding pen had taken place prior to the approval. The appeals officer found that the manner in which the Card C was lodged did show a misunderstanding of the process.

In the document outlining the FWM Terms and Conditions there is a clear statement on page 1 which asserts that *'...aid will not be given for works commenced or equipment/items purchased before written approval has been conveyed to a farmer...'*. There is an onus on applicants to Schemes to be aware of the relevant provisions and to adhere to them rigidly. This onus also extends to those who hold themselves out as the providers of advice and consultancy services to appraise their clients of the necessary requirements and the consequences of non-compliance with those conditions.

In deciding the appeal the Appeals Officer was cognisant of the fact that the submission of the Card C could be interpreted by the Department as evidence of the entire approved works being completed. In this case it was clear from the application form that there were a number of components to this approval including the enclosure/cattle yard, fixed cattle crush/race and loose house for cattle. The Appeals Officer found that rather than treat the works as a single unit of work that the various components should be treated separately in this case. The Appeals Officer found that those works completed were outside the remit of the Scheme having being invoiced prior to approval, but that in fairness and equity the Department should consider the outstanding works for grant aid. That the Department should, if eligible in all other respects, award grant aid at the stipulated rate for the remaining approved investment works in recognition of the expenditure incurred. The appeal was partially allowed.

Case 15 Rural Environment Protection Scheme

In this case the appellant submitted his Form 1C in respect of his third year in REPS almost a year after the due date. The Department issued a reminder and informed the appellant that failure to submit the form by a certain date would result in his REPS contract being terminated. As the Form, though submitted, was not submitted by the deadline notified to the appellant, the Department terminated the REPS contract and sought to recoup monies paid in respect of the appellant's two years in REPS.

The decision of the Department was appealed on the grounds that the appellant was unable to carry out administrative duties for the year in question due to ill health. The appellant stated that he wished to continue in REPS for the remainder of the contract.

In considering the appeal, the Appeals Officer referred to the Annex 1 of the REPS Terms and Conditions regarding late lodgement of application for payment which provide that:

"Except in cases of force majeure, a penalty of 1% per working day will apply to applications for second and subsequent year payments lodged after the deadline for receipt of such application. If the delay amounts to more than 25 working days, the application shall be deemed inadmissible and no aid shall be granted for the recording year to which the application relates".

The Appeals Officer also gave consideration to Section 20.5 of the REPS Terms and Conditions, which provide that

"Serious breaches of the agri-environmental plan and/or the REPS Farmer's Handbook may lead to the termination of participation and/or exclusion from the Scheme for a period commensurate with the seriousness of the breach, and the refund of monies already paid".

The Appeals Officer decided that, as the appellant had not breached the terms and conditions in the past, late lodgement of Form 1C was not serious enough to warrant termination of the contract. The appeal was partially allowed in that the appellant was allowed to continue in REPS for the remainder of the contract. However, payment in respect of the third year was disallowed as the terms and conditions provide that where the Form 1C is submitted more than 25 working days late no aid shall be granted for the recording year.

Although medical evidence was submitted, this could not be accepted as grounds for allowing payment for the third year as Force Majeure is provided for in the terms and conditions where a contract is being terminated. The terms and conditions do not contain provision for Force Majeure to apply where a participant is unable to carry out duties for part of the 5-year contract.

7. Recommendations to the Department of Agriculture, Fisheries and Food arising from Appeal Cases.

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

General

- Due to recurring issues with non-notification of animal movements through assumptions by herdowners that the second party notified the CMMS database when in fact no notification was made. The Agriculture Appeals Office recommends that the Department consider the issuing of a movement permit cancellation notice once the maximum time allowed for CMMS movement notification elapses. That being the valid period of the permit plus the statutory 7 days to notify the database. Where the movement has taken place and the notification is not made within the required 7 days the DVO should have a role in resolving these movements. This would serve to copper fasten the statutory requirements of the movement notification system and serve as a reminder to those who omitted to post the movement slip, assisting in keeping herd records up to date. Also, as the cancellation notice would only issue where there are non-returns, the numbers required would be low.
- That ERAD issue the information booklet **“Compensation Arrangements for TB and Brucellosis – Important Information for Farmers”** with every restriction notice and that a counter version signed by both the farmer and a Department official or signed form of acceptance be retained by the Department.
- All newly registered herdowners should be introduced to the schemes available to farmers by way of an information pack at the time of notification of the herd number. This is especially important in respect of the Young Farmers Installation Scheme.

REPS

- The Department should give consideration to the issuing of a circular to all Planners and REPS participants detailing the manner in which Organic Nitrogen is calculated under the scheme and in what circumstances each level of penalty would apply.
- The Department should, in light of the sometimes severe and untimely consequences that arise where a REPS participant is deceased within contract, examine the possibility of permitting the reassigning of the REPS contract, subject to legal permissions.
- The Department should give consideration to a provision under REPS 3 to facilitate farmers who have acquired additional land after the close of REPS 3 but who do not wish to enter Reps 4.

Single Payment Scheme

- That the Department would investigate the extension of the late application period for the Single Payment Scheme to 50 working days subject to penalties.
- The Agriculture Appeals Office recommends that the Department should ensure that all herdowners are issued with a 2008 SPS form including those who qualify for the Disadvantaged Area Scheme only and those who submitted a late application in 2007.
- That the Department would investigate the possibility of putting in place a database acknowledgement system in respect of the receipt of Single Payment Scheme applications, a reminder notice would be issued where the pre-printed form was not returned by the closing date. The late application period of 25 days being the critical period for such notice, thereby avoiding the loss to the farmer of the entire Single Payment Scheme amount where the sending of the form was intended but overlooked.

On Farm Investment Schemes

- Under the Young Farmers Installation Scheme, the Department should consider an initial check of the educational standard/qualification held by the applicant at IAS1 form stage and inform the applicant where they may need to reach a higher standard within timeframe available.

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 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.
- 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 claw back 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 Single Payment Scheme application, also not ensuring that plots / parcels no longer farmed are deleted out by drawing a line through them. Applicants should recheck and recheck again their Single Payment application prior to submission to ensure that the most up-to-date information is only 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 and planting, stone wall maintenance, fencing of watercourses and wells, painting of farm sheds, tidying of farm and farmyard, stock-proofing boundaries and provision of animal housing and related matters.
- REPS participants not returning the REPS 1C – annual application for payment – on time.

Single Payment Scheme

- Single Payment Scheme applicants with more entitlements than hectares of eligible land should investigate their options for the surplus entitlements such as 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 CMMS herd profile for their herd issued by the Department
 - immediately rectify any inconsistencies between their CMMS 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.
 - Farmers who have consolidated their entitlements should be aware that the consolidated entitlements are subject to the same 5-year usage requirements as National Reserve entitlements. Failure to use them can result in their loss to the farmer.

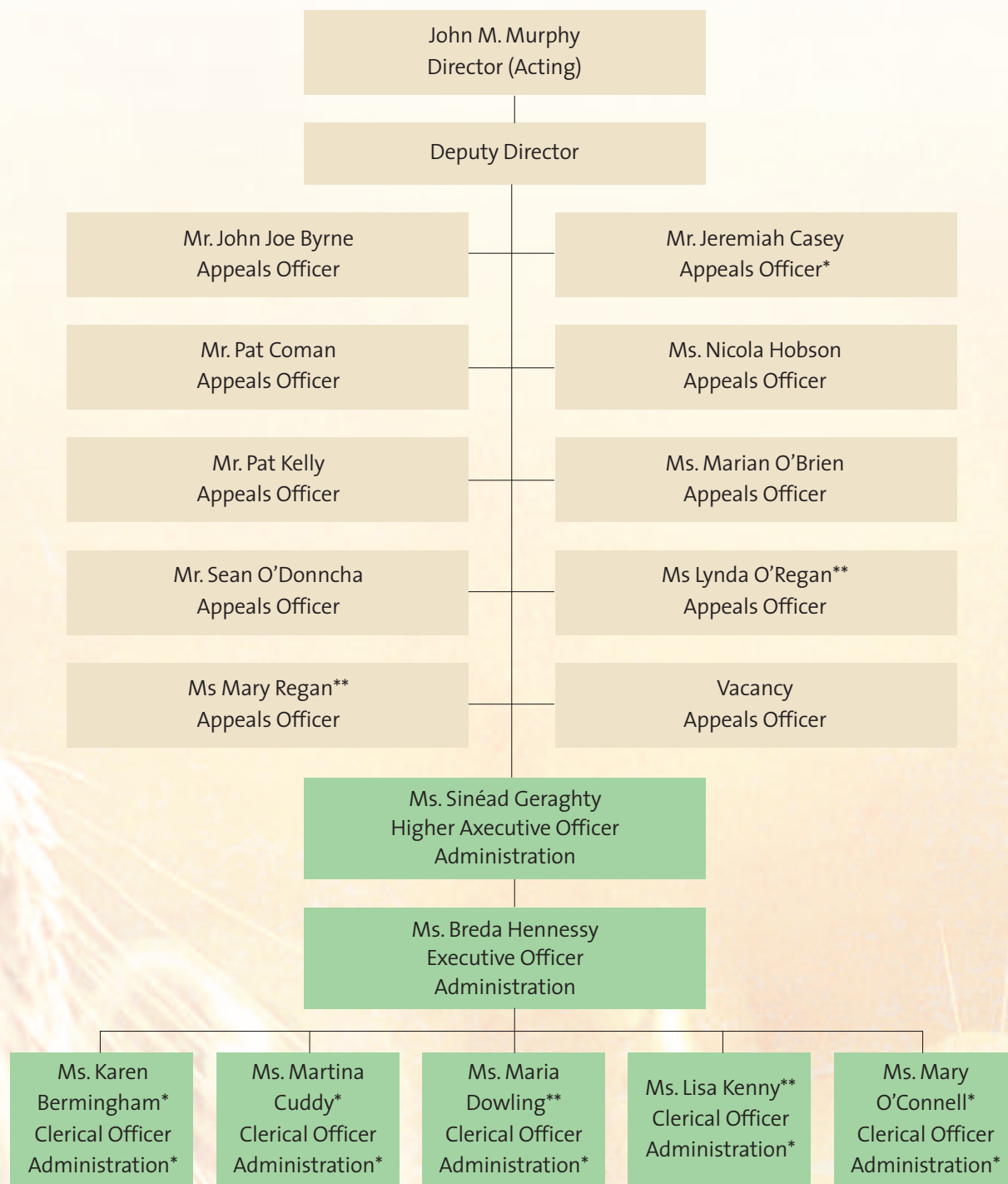
Disadvantaged Area Scheme

- Applicants should remain conscious of the continued stocking density requirement under the scheme.

Farm Waste Management Scheme

- Applicants should not purchase materials or begin work until they have received written approval from the Department

9. Staff of the Agriculture Appeals Office 2007



* Left the Office during 2007

** Joined the Office during 2007

Administration staff are responsible for the following activities; Appeal Receipt and File Management, General Administration and Accommodation, Appeals Officer Support, IT Maintenance and Development, Statistics and General Correspondence.



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,

Ombudsman Act, 1980

2000 2000, No. 2

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—

Interpretation.

“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

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

(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.

	<p>(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.</p>
Oral hearings.	<p>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.</p> <p>(2) An oral hearing under this section shall be held in private.</p> <p>(3) An appellant may represent himself or herself or be represented by another person at the oral hearing of his or her appeal.</p> <p>(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.</p> <p>(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.</p>
Decisions.	<p>9.—(1) The decision of an appeals officer and the reasons for making that decision shall be notified in writing to the appellant.</p> <p>(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.</p> <p>(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.</p>
Revised Decisions by Director and appeals officers.	<p>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.</p> <p>(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.</p> <p>(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.</p>
Appeals to High Court.	<p>11.—Any person dissatisfied with—</p> <p>(a) the decision of an appeals officer, or</p>

(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 <i>Schedule</i> 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 being 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.

EXPLANATORY NOTE

These Regulations, which come into effect on 13 May 2002 prescribe the functions of the Director, the decisions which may be appealed and the procedures to be followed in respect of agriculture appeals.

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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,
6 December 2002
JOE WALSH TD

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:

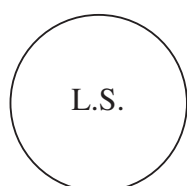
1. These Regulations may be cited as the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2004.
2. The Schedule (as amended by the Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2002 (S.I. No. 558 of 2002)) to the Agriculture Appeals Act 2001 (No. 29 of 2001) is amended 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, this 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 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)

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,

3 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 1782/2003³, and
- (f) Article 8 of Commission Regulation (EC) No 795/2004⁴.

GIVEN under my Official Seal,

16th November 2006

MARY COUGHLAN TD

Minister for Agriculture and Food

³O.J. No. L270/1, 21.10.2003

⁴O.J. No. L 141/1, 30.4.2004



Appeal Procedure & Notice of Appeal Form

Appeal Procedure & Notice of Appeal Form

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 and Food 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. 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 and Food 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.
- 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 and Food (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 and Food, 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 for their comments and observation.
- 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 3 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 Agriculture Appeals 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
e-mail:	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 and Food 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;

- 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;
 - under-declaration of land by omitting parcels:
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,
 - Late submission of applications:
Article 21 of Commission Regulation (EC) No 796/2004,
 - Penalties arising from eligibility criteria such as over-declaration of land or setaside:
Chapter I of Title IV of Commission Regulation (EC) No 796/2004,
 - Cross-compliance penalties:
Chapter II of Title IV of Commission Regulation (EC) No 796/2004
 - Surrender of entitlements to National Reserve where farmer fails to apply for Single Payment
Article 34.3 of Council Regulation (EC) No 1782/2003
 - Surrender of unused payment entitlements to the National Reserve:
Article 8 of Commission Regulation (EC) No 795/2004.

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.

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.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Signed: _____ Date: _____

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 and Food completed	Yes/No
4. All information requested has been provided (including a copy of the decision)	Yes/No

Agriculture Appeals Office **Annual Report 2007**