



**2022**

**ANNUAL REPORT**

**of the**

**AGRICULTURE APPEALS OFFICE**



**To the Minister for Agriculture, Food and the Marine,**

I hereby submit the 2022 Annual Report of the Agriculture Appeals Office pursuant to the provisions of Section 14(1) of the Agriculture Appeals Act, 2001 (as amended). This is the 21<sup>st</sup> Annual Report submitted in relation to the work of the Agriculture Appeals Office since its establishment in 2002.

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*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

We are pleased to present the 2022 Annual Report of the Agriculture Appeals Office. This is the 21<sup>st</sup> Annual Report of the Office. A main objective of our Office is to provide a fair and efficient appeals service to applicants of Schemes administered by the Department of Agriculture, Food and the Marine. The Office also provides administrative and secretariat support to the Forestry Appeals Committee (FAC) and all Agriculture Appeals Officers are also appointed as members of the FAC. The Office also provides administrative support to the Aquaculture Licences Appeals Board.

In 2022, the Office received of 635 agriculture appeals which represents a 22% decrease in the number of appeals received by the Office in 2021 which was 809. However, the number of cases closed by the Office increased again in 2022 from 757 in 2021 to 930 in 2022 representing a 22% increase in the number of appeals closed. Credit is due to the Appeals Officers and administrative staff for achieving these results. We wish also to express our gratitude to the Department of Agriculture, Food and the Marine on the timely provision of statements and the relevant documentation for each appeal.

With the further easing of COVID-19 restrictions in 2022 and the resultant increase in venue availability, especially Teagasc Offices, the use of which we are most grateful to Teagasc for, there were 466 oral hearings were held around the country during 2022 compared with 282 in 2021.

The number of forestry appeals submitted to FAC in 2022 increased to 201 appeals against 128 licence decisions, up from 149 appeals against 109 licence decisions in 2021. The FAC heard appeals relating to 53 licence decisions in 2022 and FAC decisions issued on 66 appeals concerning 57 licence decisions. All FAC decisions made during 2022 are published weekly on our website at [www.agriappeals.gov.ie/forestryappealscommittee/facdecisions/](http://www.agriappeals.gov.ie/forestryappealscommittee/facdecisions/) .

The Annual Report includes the following information:

- a statistical breakdown of agriculture appeals dealt with by the Office in 2022 and the outcome of those appeals.
- examples of agriculture appeal cases determined by Appeals Officers in 2022.
- suggestions for the Department's consideration in respect of issues arising in appeals.
- suggestions for scheme applicants that might assist in improving the awareness of scheme issues arising.



The outcome of all agriculture appeals closed in 2022 is as follows:

- 44% allowed, partially allowed, or the Department decision was revised in favour of the appellant after the appeal was submitted,
- 40% of appeals disallowed,
- 16% of appeals withdrawn, invalid, or received after the 3-month deadline.

In choosing sample cases to be included in the Annual Report, we have endeavoured to select cases which will be of relevance to and assist farmers considering making an appeal. In that regard, we would urge the Department, advisors and farmers to examine the sample cases and the suggestions for the Department and Scheme applicants that are contained within this report. We have outlined causal factors in appeals that would appear fully avoidable. These may assist in reducing the application of penalties on scheme applicants and participants and it may also ensure appeals are not deemed invalid.

We made significant progress in 2022 in putting measures in place to implement the recommendations contained in the 2017 Report on the Review of the Agriculture Appeals Act 2001. A review of the existing legislation was carried out and required amendments to the Act to give effect to some recommendations, including the establishment of an independent Agriculture Appeals Review Panel, were considered, and drafted. The panel will conduct reviews of Appeals Officer decisions on the basis of error in fact or in law. The process of implementing the required legislative amendments is at an advanced stage.

We want to express our gratitude to our colleagues in the Agriculture Appeals Office, including those who left the Office during 2022. There was a notable increase in the number of hearings held and appeals closed in 2022 and this would not have been possible without the hard work and commitment of the Appeals Officers and administrative staff. We would like to thank the Chairperson of the FAC, Mr. Seamus Neely, the Deputy Chairpersons and the members of the FAC, who engaged with professionalism and integrity to help achieve our objectives during 2022. We would also like to acknowledge the dedication and exceptional service provided by Mr Des Johnson, who served as FAC Chairperson until April 2022.

*Lynda O'Regan*

*Pat Coman*

*Director*

*Deputy Director*





## **2. OVERVIEW OF THE AGRICULTURE APPEALS OFFICE**

### **2.1 Appeal services provided by the Agriculture Appeals Office**

The Agriculture Appeals Office was established in 2002 pursuant to the Agriculture Appeals Act 2001, as amended. The Agriculture Appeals Regulations 2002 sets down the independent functions of the Director and the Appeals Officers and the scheme decisions that may be appealed to the Office. Schedule 1 to the Act includes a list of schemes administered by the Department of Agriculture, Food and the Marine (The Department). Farmers who are dissatisfied with decisions of the Department concerning their entitlement under the schemes listed in Schedule 1 to the Act may submit an appeal to this Office.

In 2017, the Agriculture Appeals Act, 2001, was amended to include appeals against decisions of the Department on forestry licence applications. In 2018, the Minister established the Forestry Appeals Committee (FAC) to consider such appeals. The FAC is chaired by an independent Chairperson and consists of a number of external members, some of whom are appointed as Deputy Chairpersons, additionally all Agriculture Appeals Officers are appointed as members of the FAC, and during 2022 two Appeals Officers also worked as members of the FAC. The Appeals Office provides administrative and secretariat support to the FAC.

### **2.2 Purpose of this Report**

This report fulfils the legal requirement of Section 14 of the Agriculture Appeals Act, 2001, which requires the Director of Agriculture Appeals to submit an annual report to the Minister for Agriculture, Food and the Marine on her activities and the activities of Appeals Officers during 2022. The report primarily concerns activities directly related to agriculture appeals. However, this report also provides some information on procedures and statistics for forestry licence appeals received and processed during 2022. Section 14(4) of the amended Act provides for separate reporting arrangements for the FAC.



### **2.3. Mission Statement of the Agriculture Appeals Office**

The mission of the Office is as follows:

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

### **2.4. Procedures Manual**

Under the Freedom of Information Act 2014, the Agriculture Appeals Office is legally obliged to prepare a Procedures Manual setting out procedures to be followed by the Office. The Procedures Manuals for Agriculture Appeals and Forestry Licence appeals can be accessed on the website, [www.agriappeals.gov.ie](http://www.agriappeals.gov.ie).

### **2.5. Overview of the Agriculture Appeal Procedure**

- Scheme applicants must complete a Notice of Appeal Form which must be submitted to the Agriculture Appeals Office together with a copy of the Department decision under appeal. The Department decision under appeal must concern a scheme listed in Schedule 1 to the Agriculture Appeals Act, 2001, as amended.
- For agriculture appeals, appellants can download the Agriculture Appeals Procedure Information Note and the Notice of Appeal Form from the Office’s website [www.agriappeals.gov.ie](http://www.agriappeals.gov.ie). Appeals may be posted to the Agriculture Appeals Office or may be submitted by e-mail to [appeals@agriappeals.gov.ie](mailto:appeals@agriappeals.gov.ie). However, the Notice of Appeal Form must be completed and signed.
- Applicants have three months from the date of the Department’s decision to lodge an appeal to the Office. An appeal received after three months may only be accepted by the Director if there are exceptional circumstances which led to the delay in submitting the appeal.
- Appeals are checked on receipt to establish their validity.
- On receipt of an appeal, the Appeals Office forwards the appellant’s grounds of appeal to the Department along with a request for any relevant documents and a statement responding to





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

- On receipt of the Department file and statement, the Director assigns the case to an Appeals Officer for consideration and determination.
- Appellants may opt to have an oral hearing as part of their appeal, and this is notified to the Office on the Notice of Appeal Form. An Appeals Officer may hold a number of hearings on the same day in a particular region. The key features of an oral hearing are that:
  - they are private and informal,
  - the appellant is present and may bring representatives,
  - the Department is represented.
- The Appeals Officer considers all the evidence from both the Department and the appellant, including any evidence presented at an oral hearing. 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.
- An Appeals Officer may 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 the decision was given.
- The Director of Agriculture Appeals may revise a decision of an Appeals Officer where it has been established that there has been a mistake in relation to the law or the facts of the case.
- An appeal to this Office does not preclude an appellant from raising their case with the Office of the Ombudsman.
- An appellant dissatisfied with the decision of an appeals officer, or a revised decision of the Director, may appeal that decision to the High Court on any question of law.

## **2.6 Overview of Forestry Licence Appeal Procedure**

- Applicants or third parties who are dissatisfied with and wish to appeal a decision of the Minister for Agriculture, Food and the Marine concerning a forestry licence application must complete a FAC Notice of Appeal Form and submit it to the Forestry Appeals Committee (FAC) located at the Agriculture Appeals Office. The FAC Notice of Appeal Form must be received by the FAC within 14 days of the date of the licence decision by the Minister.



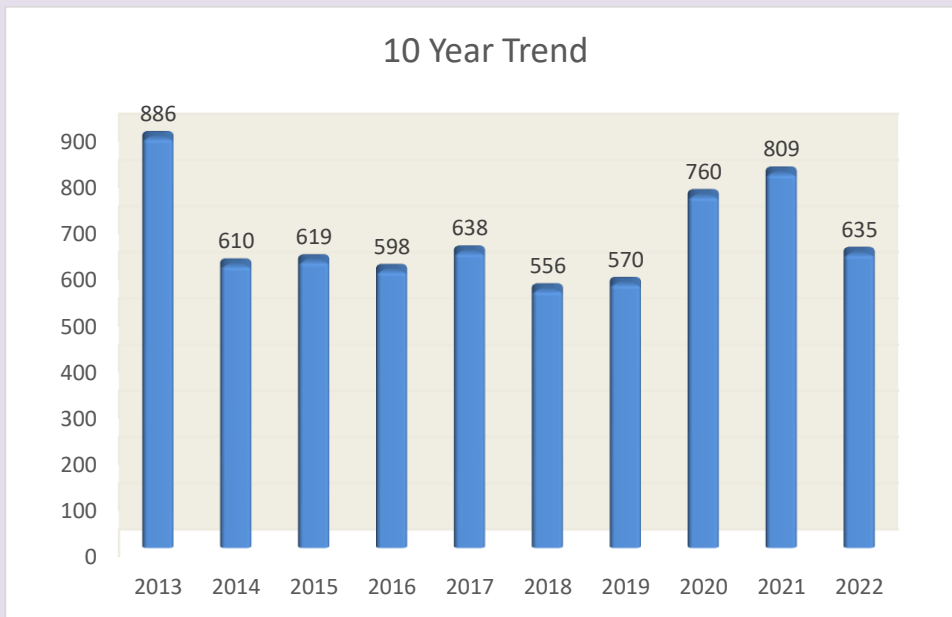
- Appellants may download the FAC Notice of Appeal Form from the website. The Notice of Appeal Form must be completed and signed.
- From 6<sup>th</sup> of October 2020, in accordance with the Forestry Appeals Committee Regulations S.I. 418 of 2020 a fee of €200 per appeal is applicable to forestry licence appeals. Licence appeals submitted from that date must be accompanied by the relevant fee. The fee may be included by way of postal order, bank draft or cheque with the FAC Notice of Appeal Form. Payment should be made payable to the 'Forestry Appeals Committee'. Failure to submit the fee with an appeal will result in the appeal being deemed invalid and rejected.
- Through the provisions of S.I. No. 353 of 2021 each forestry licence decision has a 14-day period from the date of the Minister's decision during which the applicant or any other party who is dissatisfied with the decision can appeal the decision to the independent FAC. . During this period, no forestry operations may be commenced on foot of the appealed licence. Appeals are checked on receipt to establish their validity which includes a check to ensure the grounds of appeal are specific to the licence decision.
- On receipt of a valid appeal, the Office forwards the appellant's grounds of appeal to the Department along with a request for any information, documents, and items relevant to the appeal and a statement responding to the appellant's grounds. The Department's statement on the appellant's grounds of appeal is subsequently forwarded to the appellant and, where the appellant is not also the applicant, to the applicant.
- On receipt of the Department documents, information and statement, the appeal is scheduled for hearing.
- Where multiple appeals are received for one licence, all appeals may be heard at one hearing.
- The FAC considers all the evidence from all parties to the appeal including any evidence presented at an oral hearing where the FAC considers such a hearing is required. When the FAC makes a determination on an appeal, the written decision, setting out the reasons for that decision, is notified to all parties to the appeal. FAC decisions are published weekly on the FAC section of the Agriculture Appeals Office website [www.agriappeals.gov.ie](http://www.agriappeals.gov.ie).



### 3. STATISTICS ON AGRICULTURE APPEALS DEALT WITH IN 2022

#### 3.1. Total Agriculture Appeals Received

635 appeals were received in 2022, this was a decrease of 22% when compared with 809 appeals received in 2021. The number of appeals received in 2022 is lower than the 10-year annual average of 668 appeals, as shown in the following table:

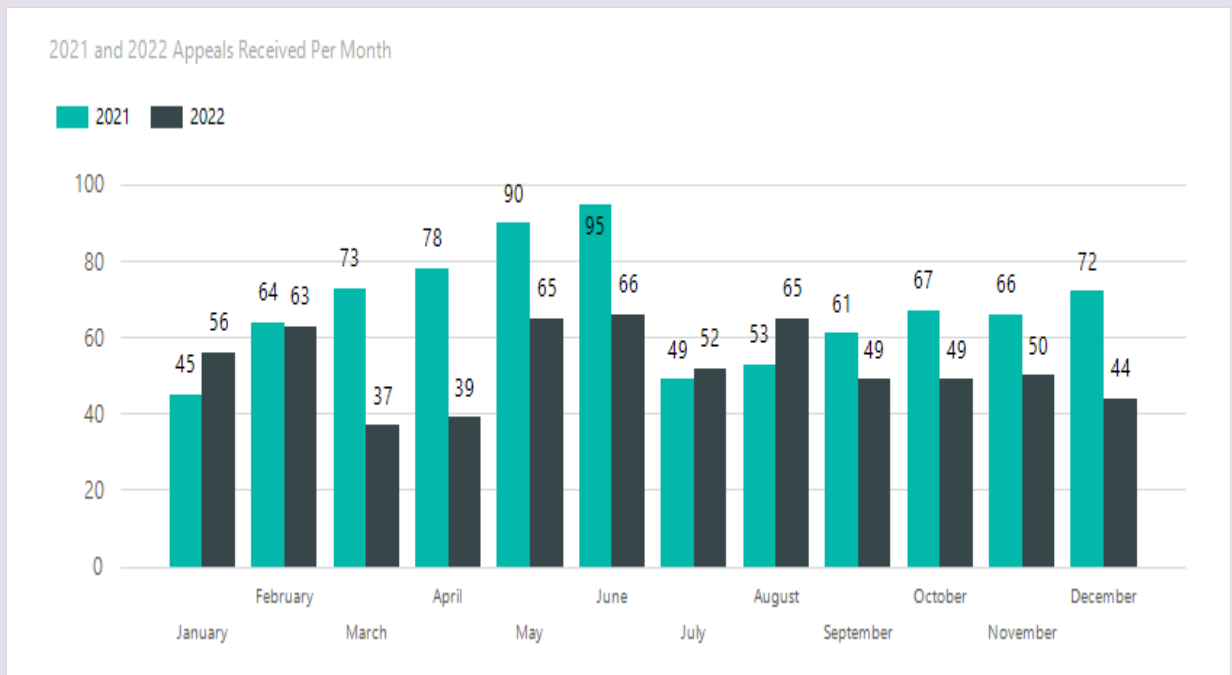




### 3.2. Agriculture Appeals Received Per Month

The number of appeals received per month may be linked to a number of variables including the date of receipt of scheme applications, the date of the Department inspection/findings and the date of the Department's final decision.

The table below shows the number of appeals received per month in 2022 compared with 2021.

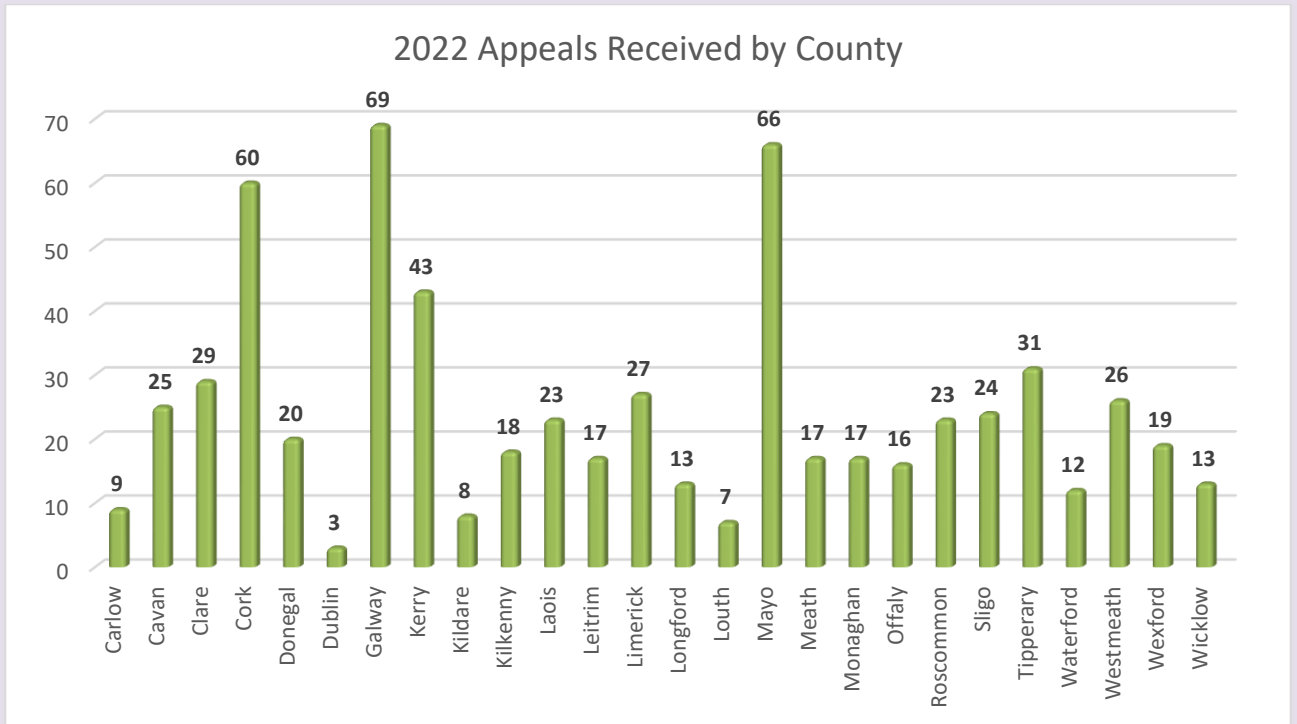


The highest monthly number of appeals (66) was received in June 2022. The majority of those appeals concerned the Beef Exceptional Aid Measure (BEAM) and the Beef Data and Genomics Programme (BDGP).



### 3.3. Agriculture Appeals Received Per County

A breakdown of agriculture appeals received per County is set out hereunder.



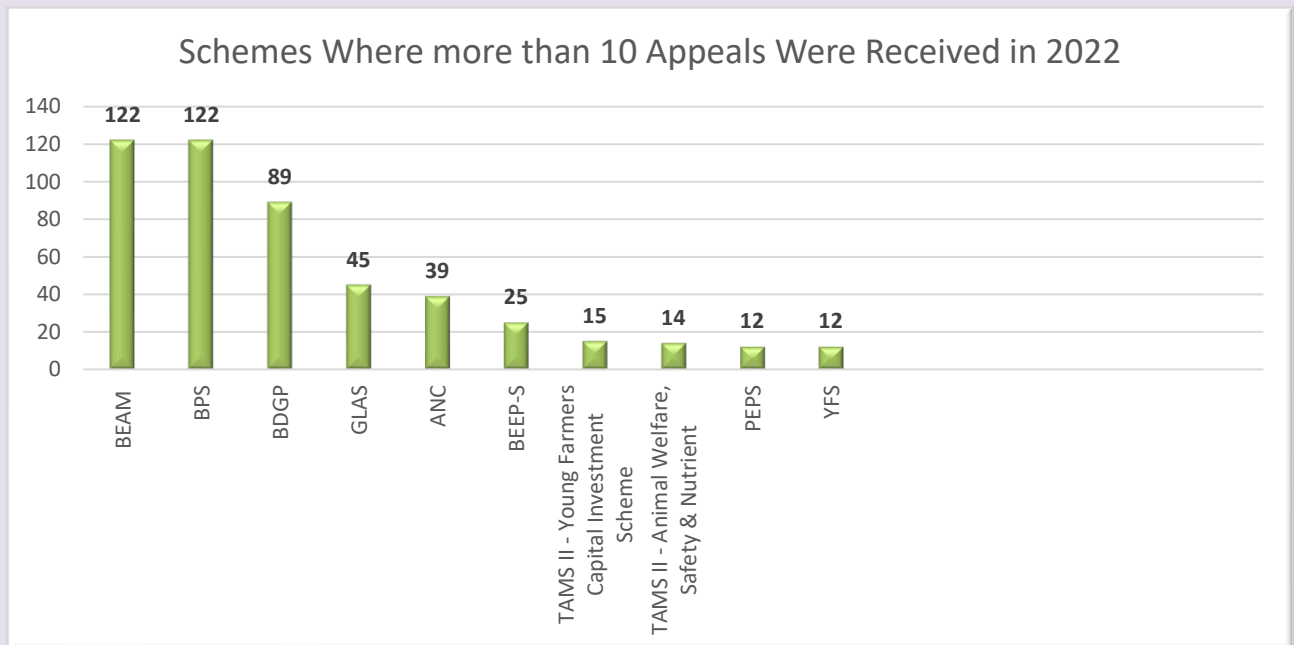
The highest number of appeals was received from Galway (69 appeals) and Mayo (66 appeals) in 2022.





### 3.4. Agriculture Appeals Received Per Scheme

The table below shows the breakdown of appeals received per scheme and includes only schemes where more than 10 appeals were received, giving a total of 495 appeals of the 635 received in 2022.



The number of appeals received in 2022 was highest for the following schemes:

Beef Exceptional Aid Measure (BEAM) c.19%

Basic payment Scheme (BPS) c.19%



### 3.5. Number of Agriculture Appeals Closed

In 2022, the Office closed 930 agriculture appeals. This compares with 757 appeals that were closed in 2021. The appeals closed include appeals that were received in 2022 and in previous years as set out in the following Table:

<b>Year in which Agriculture Appeals were received</b>	<b>Number of Agriculture Appeals Closed in 2022</b>
2022	284
2021	497
2020	131
2019	12
2018	3
<b>2017</b>	<b>1</b>
<b>2016</b>	<b>2</b>
<b>Total</b>	<b>930</b>

The reasons for carryover of appeals may include the timing of receipt of the appeal (i.e. received towards the previous year end), the timing of receipt of Department statement and supporting documents, availability of parties to attend oral hearings, the complexity of the appeal, the need to obtain legal advice or time taken by appellants and/or the Department to revert with additional information requested.



### 3.6. Outcome of Agriculture Appeals Closed in 2022

There are several possible outcomes to appeals which are described below.

#### 3.6.1. Terminology used for Outcome of Agriculture Appeals

The breakdown of the outcome of appeals is categorised using the following terminology:

**Appeal Allowed** This category includes cases where the Appeals Officer, having considered the case put forward, decided that the Department's decision to impose a sanction should be overturned.

**Partially Allowed** This category includes cases where an Appeals Officer decides that a lesser or revised penalty/sanction than that imposed by the Department should apply.

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

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

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

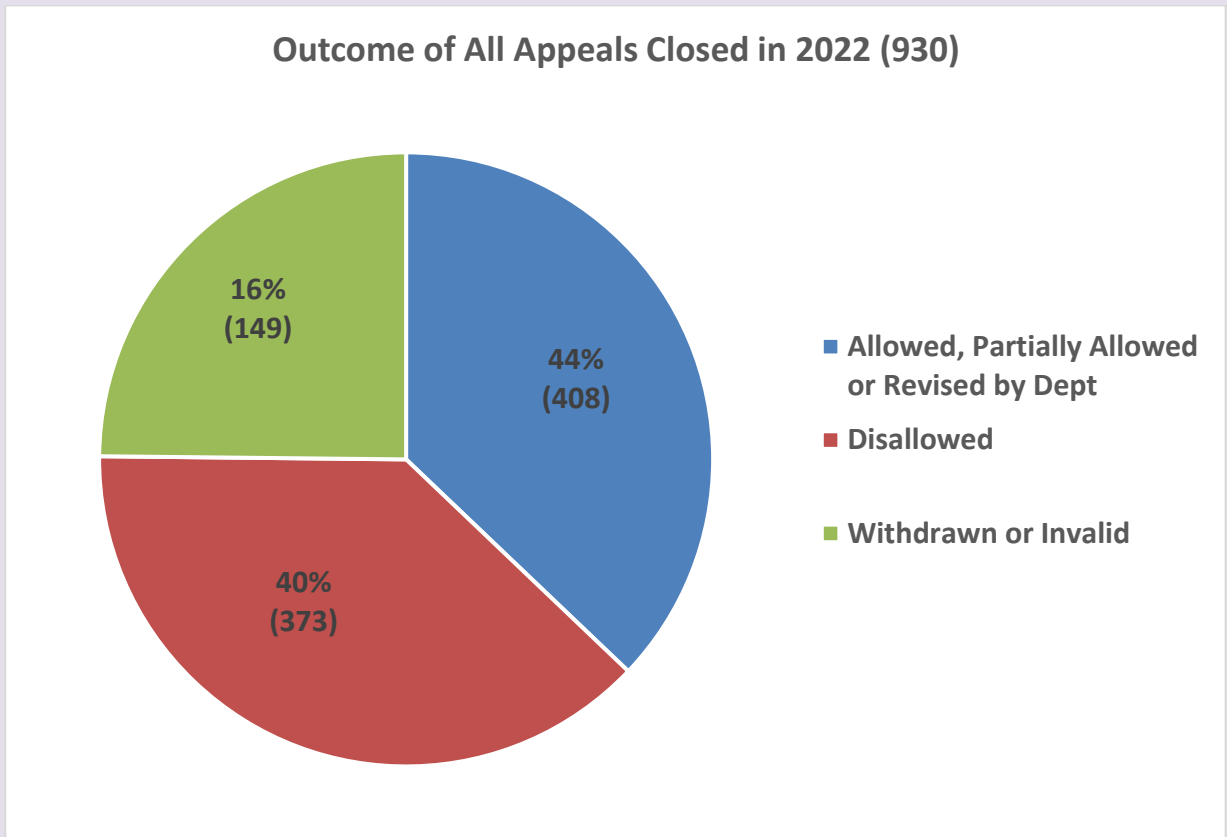
**Appeal Disallowed** This category includes cases where an Appeals Officer, following consideration of the case and all relevant information, decided that the grounds of appeal do not warrant overturning the sanction imposed by the Department.

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



### 3.6.2. Outcome of All Appeals Closed in 2022

The outcome of all cases closed in 2022 was as follows (includes appeals received in years prior to 2022 and received in 2022<sup>1</sup>):

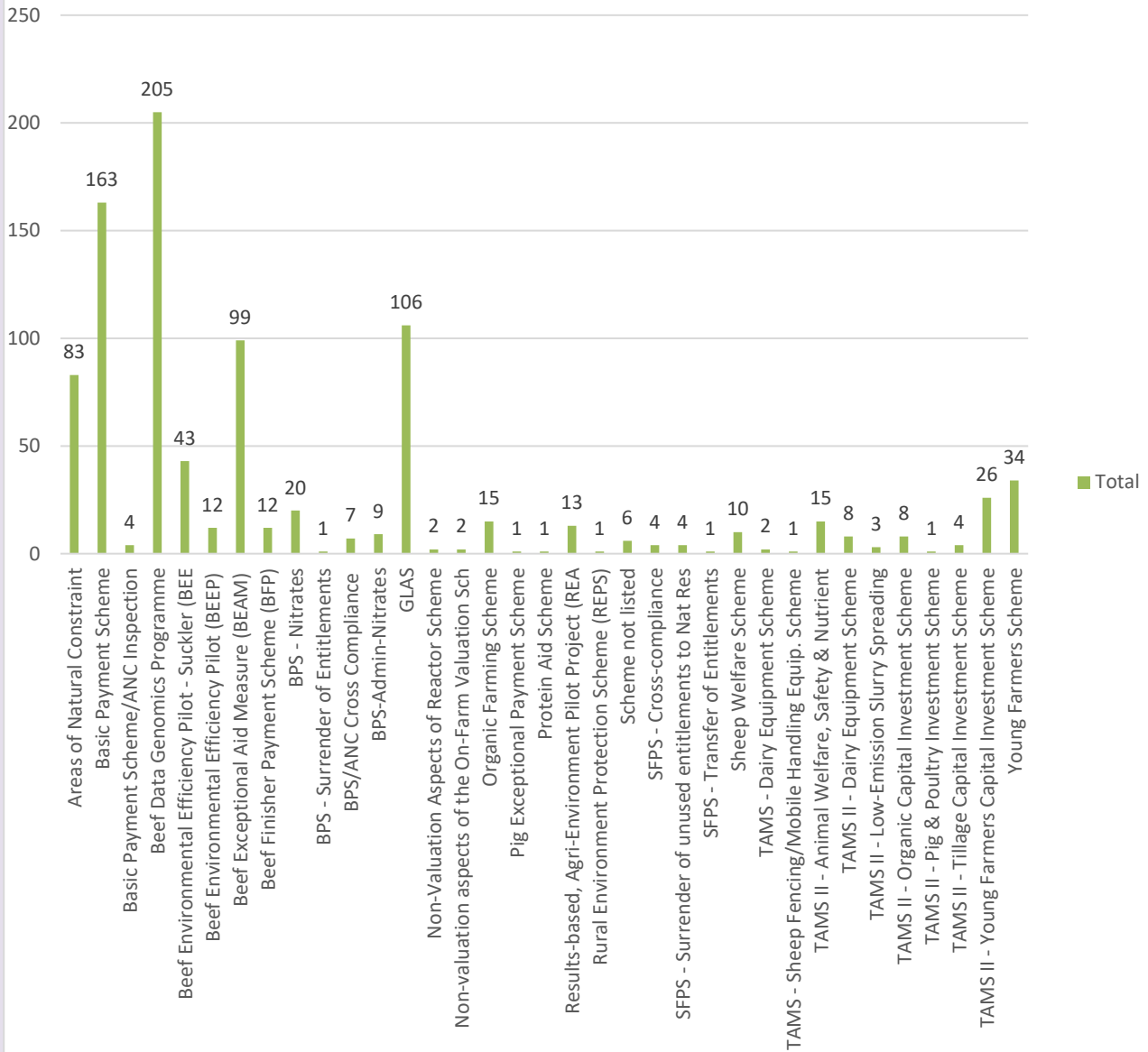


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<sup>1</sup> Numbers were rounded to the nearest percentage point



## All cases closed 2022 per scheme (930)





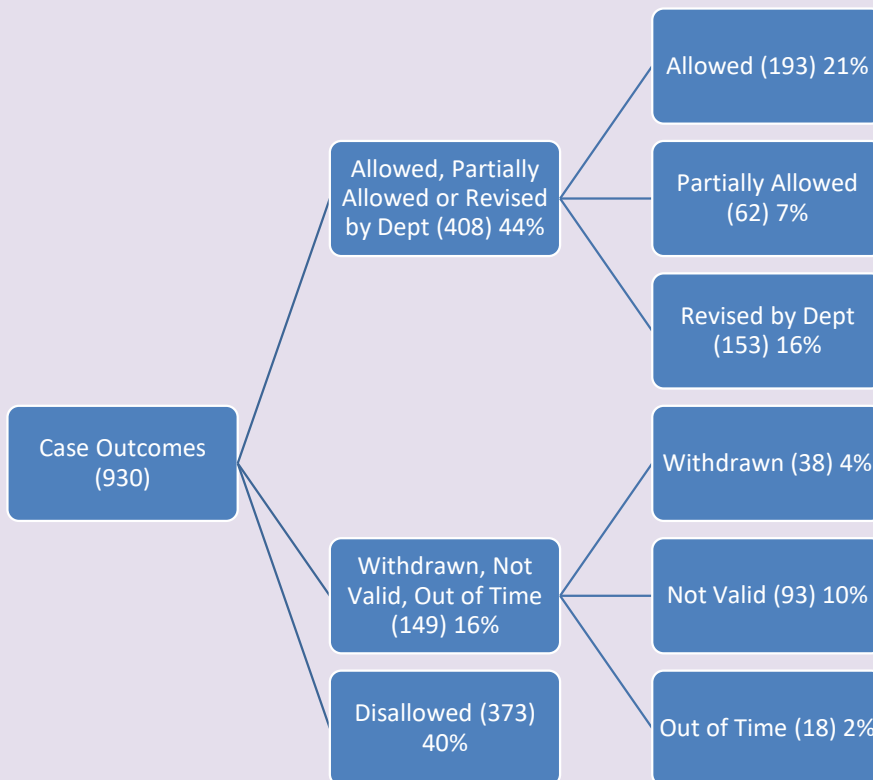


### 3.6.3. Breakdown of outcomes of all appeals closed in 2022

The chart below gives a further breakdown of the individual categories for outcomes referred to in the preceding Table and Graphs.

#### Outcome of All Appeals Closed in 2022 (Including Appeals Received in Previous Years)

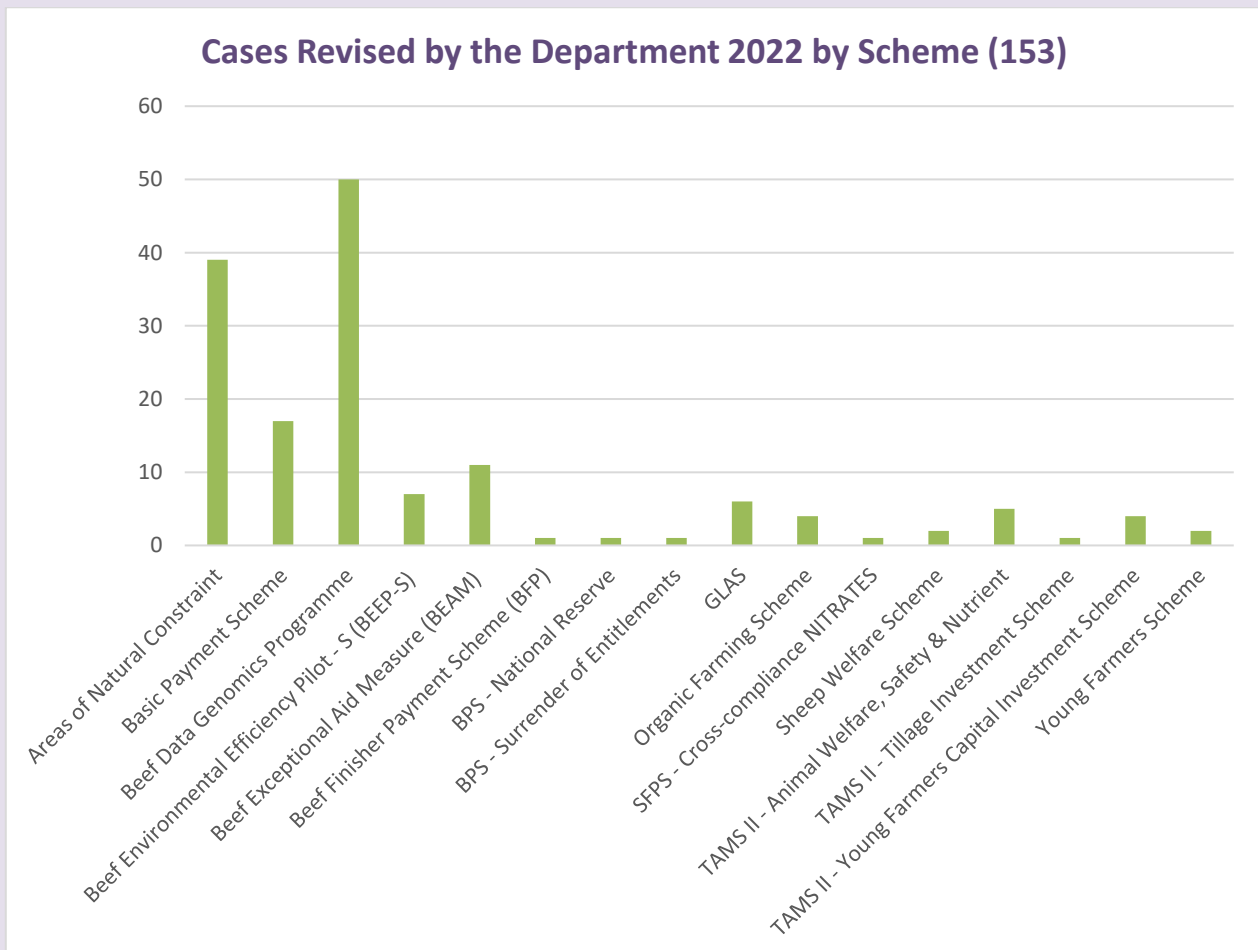
(930 Cases)





### 3.6.4. Decisions Revised by the Department in favour of Appellants - 153 Cases

There were 153 cases revised by the Department in favour of the appellant after submission of an appeal to this Office in 2022. The reasons for such revisions in 2022 generally concerned the submission of additional information not previously made known to the Department and/or queries raised by this Office once the appeal was submitted to the Agriculture Appeals Office. The graph below shows the breakdown of schemes that were the subject of appeals in the “revised by the Department” category.



The highest categories of schemes for which decisions were revised by the Department concerned appeals against BDGP and Areas of Natural Constraints (ANC) scheme decisions.

Of the appeals involving BDGP, 30 appeals that were subsequently revised by the Department had been assigned to Appeals Officers. Of those, 22 had oral hearings organised. Decisions



on 20 other appeals involving BDGP were revised by the Department before assignment to an Appeals Officer.

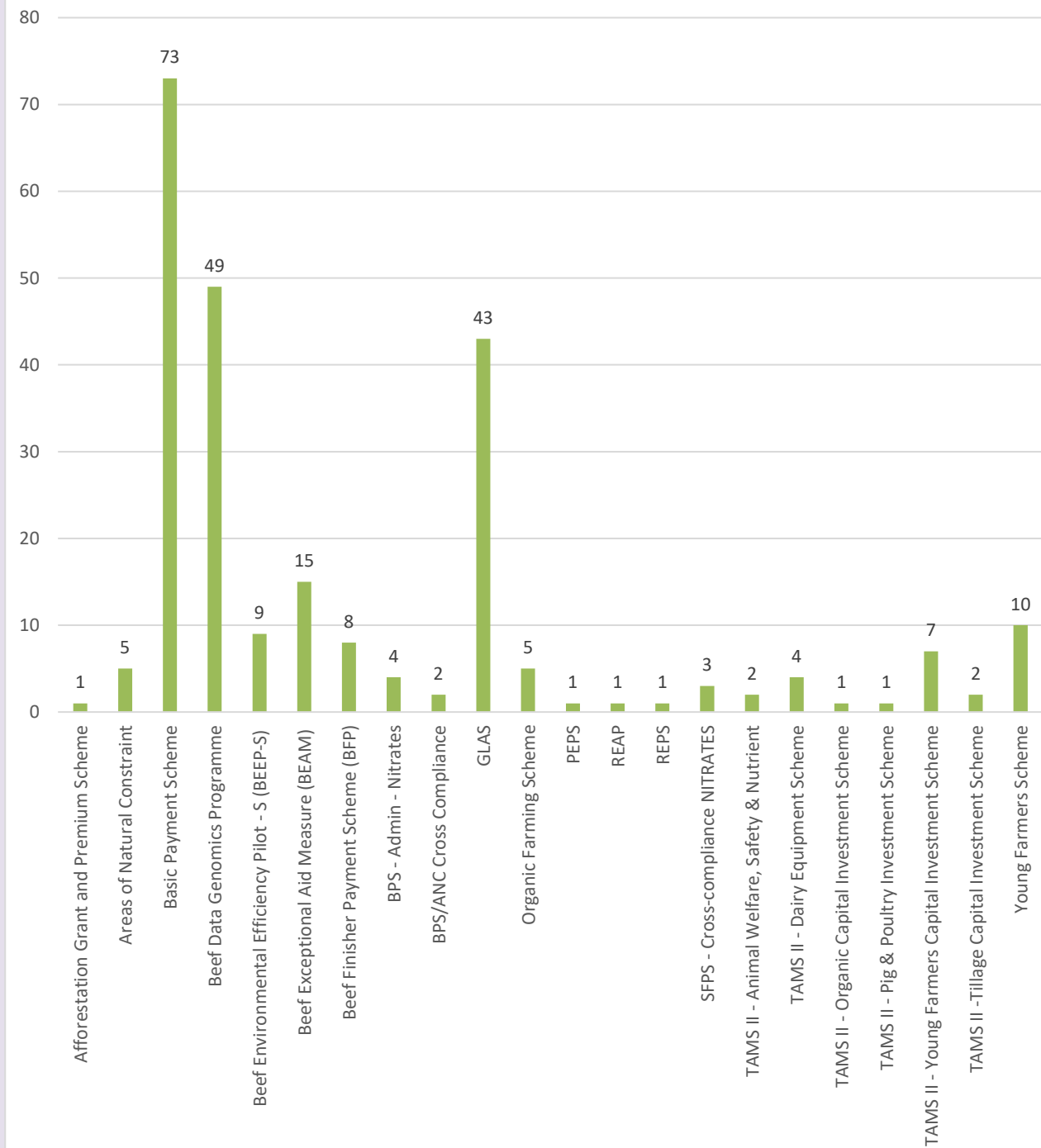
Of the ANC appeals, a total of 2 had been assigned to an Appeals Officer of which 2 oral hearings were held before the Department revised its decision. The Department revised a further 37 ANC decisions before assignment to an Appeals Officer.

### *3.6.5. Appeals Allowed and Partially Allowed*

The scheme with the highest number of appeals that were Allowed (58) or Partially Allowed (15) was the BPS. The graph below shows the breakdown of appeals that were Allowed or Partially Allowed for all schemes.



## Appeals Closed in 2022 - Allowed and Partially Allowed (255)





### 3.6.6. Breakdown of Appeals Disallowed

The scheme with the highest number of appeals disallowed by Appeals Officers was the Beef Data Genomics Programme (BDGP), accounting for 30% of all disallowed appeals. The graph below shows the breakdown of appeals that were Disallowed for all schemes.







### 3.7. Time Period for Receipt of Department Documents

On receipt of an appeal, the Agriculture Appeals Office requests the Department to provide a statement and the relevant documentation/file to the Office within two weeks of the request. This is to ensure that appeals can be allocated to an Appeals Officer without delay. Reminders are issued where required. A number of reminders and repeat reminders were issued by the Appeals Office to the Department in 2022. The average number of days for the return of the statement and documents from the Department was 28 days for appeals received in 2022. This compares with an average of 30 days in 2021. A breakdown of the average number of days for receipt of the Department file documents from the date of request by the Appeals Office is set out below for a selection of schemes (*Statistics in the examples below refer only to a selection of schemes where more than 10 appeals were received*).

Scheme	No. of appeals	Average number of days for return of Department documents
Areas of Natural Constraint	39	67
Basic Payment Scheme	122	20
BEAM	122	52
Beef Data Genomics Programme (BDGP)	89	22
Beef Environmental Efficiency Pilot - Suckler (BEEP-S)	25	33
GLAS	45	16
PEPS	12	19
TAMS II – Animal Welfare, Safety & Nutrient	14	11
TAMS II - Young Farmers Capital Investment Scheme	15	11
Young Farmers Scheme	12	12



### 3.8. Time Taken to Determine Appeals

The Agriculture Appeals Office has set itself a target of three months for closure of an appeal from the time of receipt of the Department file documents and assignment of the appeal to an Appeals Officer until the issue of an appeal decision letter. Due to circumstances outside of the control of the Agriculture Appeals Office, appeals might not be completed within that target time frame. The reasons for appeals being closed outside the three-month period varies and can include delays in agreeing dates for oral hearings with all parties, complexity of cases, legal issues, time taken by appellants and/or the Department to revert with additional information requested, and resource capacity. For appeals received in 2022, the average time taken to close an appeal was 120 days from date of receipt of the Department statement and documents and the assignment of the appeal to an Appeals Officer.

### 3.9. Number of Oral Hearings held in 2022

There were 466 oral hearings held by Appeals Officers in 2022. This compared with 282 held in 2021. The 466 appeals that had an oral hearing in 2022 included appeals received in 2021 and previous years. 139 oral hearings that were scheduled to take place in 2022 were cancelled/postponed - this equates to 23% of all hearings scheduled in 2022. These include cancellations due to revised decisions by the Department and requests by appellants where the Appeals Officer was satisfied there was sufficient reason to cancel. Of the 466 oral hearings held in 2022, the breakdown of appeal years is as follows:

Number of oral hearings held in 2022 (466)	Year in which appeal received
148	2022
254	2021
55	2020
9	2019



### **3.10. Out of Time/Late Appeals received outside the 3-month deadline**

The records indicate that, in 2022, 84 appeals were received outside of the three-month deadline. 57 of these appeals were accepted by the Director after consideration of the Appellant's case that exceptional circumstances were causal of the delay.

### **3.11. Open Appeals at 2022 Year End**

The number of open appeals on 31 December 2022 is set out below:

<b>Position at 31 December 2022</b>	
Total received 2022	635
Total carried over from previous years	769
Closed 2022	930
Appeals on Hand 31/12/2022	474

### **3.12. The Office of the Ombudsman**

The Ombudsman Act 1980 (as amended) provides that appellants may make a complaint to the Office of the Ombudsman following the decision of an Appeals Officer. The appeal file and documents in respect of 9 appeal cases were requested by the Office of the Ombudsman in 2022. Of the 9 appeal files requested by the Ombudsman in 2022, 5 cases have been closed by the Ombudsman and the Appeals Office decision was upheld following the Ombudsman Office examination of the case.



### 3.13. Freedom of Information and Access to Information on the Environment

The Agriculture Appeals Office received 2 requests under the provisions of the Freedom of Information Act in 2022.

Agriculture FOI Request 2022	Forestry FOI Request 2022
2	0.

The Agriculture Appeals Office as the administrative support for the FAC received and closed 12 Access to Information on the Environment (AIE) requests in relation to forestry licence appeals. All decisions issued within the one-month timeframe. The AIE decisions comprised of four granted, five part-granted and three refused. Of the twelve decisions, the requestors sought an internal review in three instances. The internal reviews resulted in one decision being upheld and two were varied. There were two internal review decisions appealed to the Office of the Commissioner for Environmental Information, the decisions for both remained outstanding at the end of 2022.

### 3.14. Litigation

The Agriculture Appeals Act provides that appellants may appeal their case to the High Court on a point of law. Appellants may also apply to the High Court to take judicial review proceedings. No Judicial Review legal proceedings were initiated in 2022, one Judicial Review of an Agriculture Appeals case was closed during 2022.

### 3.15. Requests for Reviews of Appeals Officer Decisions

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



40 reviews of Appeals Officers decisions were completed in 2022 of which 28 were requested by appellants and 12 by the Department. The outcome of the reviews completed in 2022 can be broken down as follows:

Of the 28 reviews requested by Appellants:

- 2 were partially revised by the Director
- 3 was revised by the Director
- 1 was revised by an Appeals Officer
- 1 was revised by Department
- 21 remained unchanged

Of the 12 reviews requested by the Department:

- 5 were revised by the Director
- 2 were partially revised by the Director
- 5 remained unchanged





## 4. OTHER APPEAL RELATED ACTIVITIES UNDERTAKEN BY THE AGRICULTURE APPEALS OFFICE

### 4.1. Legislation

The Schedule of Schemes appended to the Agriculture Appeals Act, 2001, was amended to include additional schemes to allow appeals for those schemes to be submitted to the Appeals Office (S.I. No. 743 of 2022 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations).

### 4.2 Forestry Appeals Committee (FAC)

The FAC is based in the Agriculture Appeals Office and the Appeals Office provides all administrative and secretariat support to the FAC. Appeals Officers are also appointed as members of the FAC. A Department decision on a forestry licence may be the subject of multiple appeals.

Since the FAC was established, the number of appeals significantly increased year on year up to 2020 and significantly reduced during 2021 following the introduction of legislative changes to The Forestry (Miscellaneous Provisions) Act 2020 in October 2020. The following table outlines the trend from 2018 to 2022.

Appeals Trend

	2017	2018	2019	2020	2021	2022	Total
*Appeals received	34	197	489	874	149	201	1,944
Licence decisions appealed	21	150	311	582	109	128	1,301
Closed by Licence decisions appealed	21	150	309	565	92	58	1,195

\* There can be more than one appeal against a licence decision of the Minister



The Forestry (Miscellaneous Provisions) Act 2020 (the Act) was enacted on 6<sup>th</sup> October 2020 and this provides for, inter alia, Divisions of the FAC. Since November 2020, four Divisions of the FAC hear appeals.

Mr Des Johnson stood down from the role as Chairperson to the FAC in April 2022. Mr Seamus Neely was appointed to the role of Chairperson by the Minister for Agriculture, Food and the Marine in June 2022.

A measure introduced under the amendments to the Agriculture Appeals Act 2001 by the Forestry (Miscellaneous Provisions) Act, 2020 was the introduction of a fee for the lodging of an appeal. The fee is currently set at €200 per individual appeal. In 2020, the FAC received on average 80 appeals per month and the average for 2021 was 13 appeals per month. In 2022 the FAC received on average 16.75 appeals per month.

#### **4.3. Review of the Agriculture Appeals Act, 2001**

The Programme for Government; Our Shared Future (2020) includes a commitment to establish an independent Agriculture Appeals Review Panel in legislation. In addition, the Report on the Review of the Agriculture Appeals Act, 2001 and Operations of the Agriculture Appeals Office, published in February 2018, includes this recommendation and a number of others. Some recommendations will require amendments to the Agriculture Appeals Act 2001 and during 2022 engagement took place with relevant stakeholders to progress this issue. This work was at an advanced stage at the end of 2022 and the amended legislation is expected to be in place during 2023.

Recommendations made in the 2018 Report that are already in place include the appointment of a Deputy Director, bespoke legal training for Appeals Officers, engagement with the farm bodies involved in the Farmer's Charter of Rights Monitoring Committee, formal induction training for newly appointed Appeals Officers, the publishing a Code of Practice for Appeals Officers, the holding of case conferences, and the holding of remote oral hearings for appellants.



#### **4.4. Agriculture Appeals Office IT systems**

In 2022 the Office began enhancing the agriculture appeals database functionalities and the development of an online appeals facility and this is expected to be available to users during 2023.

#### **4.5. Business Plan**

The 2022 Business Plan formed the basis for the work of the Office and is subject to regular review. Targets included in the business plan were monitored regularly.



## 5. EXAMPLES OF AGRICULTURE APPEALS CASES DECIDED BY APPEALS OFFICERS DURING 2022

### Case 01: Green Low-Carbon Agri-Environment Scheme tranche 2 (GLAS - 2)

The farmer was a participant in GLAS 2 and selected a number of actions including Catch Crop and Environmental Management of Fallow Land. The contract commenced in early 2016. A compliance inspection during March 2020 identified issues regarding non-establishment of Catch Crops and the Environmental Management of Fallow Land. An internal Department of Agriculture, Food and the Marine (DAFM) review deemed the Catch Crop action eligible but upheld the findings in relation to the Environmental Management of Fallow Land due to the non-submission of labels and the action was deemed ineligible.

The farmer appealed the decision and did not wish to have an oral hearing of the appeal. In the grounds of appeal, the farmer stated the fallow land is in place since the beginning of the GLAS contract and there was no issue with the land when inspected. The farmer submitted they supplied a copy of the invoice for the seed purchase, but they no longer held a copy of the seed labels concerned.

In considering the case, the Appeals Officer was required, amongst others, to have regard to the EU Regulations governing the scheme as set out in the Terms and Conditions.

Of relevance to this case, is the requirement set out in the GLAS 2 Specifications for the Green, Low-carbon, Agri-environment Scheme action as follows:

- 1. Establish a fallow area through sowing a grass seed mix containing at least 60% Cocksfoot or Timothy or a combination of these at the standard rate of 25-30 Kg/Ha by 31st of May 2016. Grass seed labels and receipts must be kept for the duration of the GLAS contract.*

The Appeals Officer found the requirements for the Environmental Management of Fallow Land are very specific and clear in the GLAS 2 Specifications.

The Appeals Officer noted the Terms & Conditions for GLAS 2 provided as follows:

#### 17. Penalties

- 17.2. Penalties will apply to certain specific breaches of the Schemes and are set out in Annex 2 and Annex 3.*



## Annex 2: Penalty Schedule for GLAS

<p><i>i. Baseline Breach.</i></p> <p><i>ii. Action not delivered or required minimum area not delivered (0.25ha).</i></p> <p><i>iii. Area over-declared.</i></p> <p><i>iv. Action not managed as set out in points 4, 5, 6, 7, and 8 of the GLAS specification.</i></p>	<p><i>i. 100% of the GLAS payment for this action for one year.</i></p> <p><i>ii. Action ineligible for GLAS payment. Claw-back of any payments made on this action to date.</i></p> <p><i>iii. Reduce GLAS payment if there is a difference between eligible area found and area claimed using IACS Rules (See Annex 3). Claw back amount not delivered in previous years. GLAS payment in successive years will be limited to delivery found.</i></p> <p><i>iv. Payment on area found (subject to iii) is allowed however as action not managed as per Specification:-</i></p> <p><i>Penalty is the non-compliant area multiplied by the annual payment rate for the action for one year.</i></p>
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The Appeals Officer noted there were no adverse findings in relation to the management of the Environmental Management of Fallow Land action and the only adverse finding was in relation to the non-submission of grass seed labels as outlined in the inspection Control Report

*“No grass seed labels submitted in support of this measure following two requests. Grass seed labels and receipts must be kept for the duration of the contract. The action is not eligible due to non-submission of grass seed labels. Planning agent conveyed those labels were submitted to the inspecting officer. However, inspecting officer has confirmed that no labels were received.”*

The Department decision letter had referred to the GLAS 2 Terms & Conditions, Annex 2, Penalty Schedule for GLAS and the following.

<p><i>ii. Action not delivered or required minimum area not delivered (0.25ha) =scheme penalty</i></p>	<p><i>ii. Action ineligible for GLAS payment. Claw-back of any payments made on this action to date.</i></p>
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The DAFM review set out *the applicant failed to submit the required supporting documentation (labels) in relation to the Environmental Management of Fallow Land action. Accordingly, it is recommended that the action be deemed ineligible.*

The Appeals Officer examined Annex 2 of the Penalty Schedule in relation to the Environmental Management of Fallow Land action and found that the penalty under *ii. Action not delivered or required minimum area not delivered (0.25ha)* was incorrectly applied as there were no inspection findings in respect of the delivery of the action.

The Appeals Officer noted that while there is a requirement in the GLAS Specification for Tranche 2 Participants to retain the grass seed labels for the duration of the GLAS contract, there is no specific penalty outlined in the penalty schedule for not retaining these labels.

The Appeals Officer was satisfied from the evidence presented that the relevant seed for the Environmental Management of Fallow Land action was purchased by the farmer.

The appeal was allowed.





## Case 02: Green Low-Carbon Agri-Environment Scheme (GLAS) Tranche 1

The farmer was a participant in GLAS 1 and their chosen actions included the Laying of Hedgerows action. The Department of Agriculture, Food and the Marine (DAFM) carried out an on-farm compliance inspection during November 2021. In May 2022, and based on the inspection findings, the DAFM issued formal notice that non-compliance with the Laying of Hedgerow action was found. The action was not completed in line with the GLAS 1 specification and as a result, the action was ineligible for payment and repayment of all monies paid on the action was sought. The farmer sought an internal review from the DAFM and, in their review decision, the DAFM upheld their decision.

The farmer appealed to the Agriculture Appeals Office and did not request an oral hearing. The grounds of appeal included evidence of health problems which started in 2017, and because of poor health they were unable to carry out the Laying of Hedgerow action. The farmer submitted they had infilled gaps in the hedgerow and fenced off the hedge to be laid.

The Appeals Officer was bound to 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.

In the GLAS Specification for Tranche 1 under the heading Laying of Hedgerows the Objective is to '*rejuvenate overgrown hedgerows, increase biodiversity and enhance the visual landscape*'. The requirements of the Specification included that all action hedgerows be laid by the 28 February 2017. The requirements also provided for infilling and fencing.

Section 17 of the GLAS Tranche 1 terms and conditions is titled penalties. Paragraph 17.1 states; *Failure to comply with these Terms and Conditions will result in an appropriate penalty/sanction.* Annex 3 of the GLAS Tranche 1 Terms and Conditions for sanctions regards the Laying of Hedgerows Action states:





Action	Type of Non-Compliance	Scheme Penalty
<i>Laying of Hedgerows</i>	<i>ii. Action not delivered or required minimum length not delivered (10m).</i>	<i>ii. Action ineligible for GLAS payment. Clawback of any payments made on this action to date.</i>

The Appeals Officer was satisfied the action had to be completed by 28 February 2017. The farmer was in a 5-year contract and had undertaken to carry out the approved action for the contract duration. The Appeals Officer had regard to the fact the inspection took place in November 2021, some 4.5 years into the contract, and while it was accepted by all sides infilling and fencing had been carried out, the laying of the hedgerows had not been commenced or completed.

The Appeals Officer considered the medical evidence, which included serious illness. The Appeals Officer noted the deadline for the laying of hedgerows action (28 February 2017) well predated the illness diagnosis. Also, given the skills involved in laying hedgerows it was likely the farmer would have engaged someone to carry out the work. The farmer was bound by their GLAS 1 contract to have the works completed and were paid accordingly. It was only at inspection in 2021 the works were found not have been completed. The Appeals Officer found the DAFM decision was in accordance with the scheme provisions.

The appeal was disallowed.



### **Case 03: Cross Compliance - Nitrates Regulations – affecting Basic Payment Scheme (BPS) 2021 and other payments.**

The Department of Agriculture, Food and the Marine (DAFM) notified the farmer that as a result of a breach of the Nitrates regulations, by exceeding the 170kgs per hectare limit for nitrogen from livestock manure in 2020, a 200% penalty was applicable. The DAFM records, based on livestock numbers and area, indicated 892kg organic nitrogen per hectare. The decision was upheld in an internal review by the DAFM where the farmer had submitted that additional area of land was farmed. The DAFM found that the additional land was not on their BPS application and no Nitrates Record 5 was submitted within the required time identifying the additional land as farmed. *(The Record 5 is the Nitrates form used to seek credit for short-term rentals/grazing agreements that are outside of what must be declared on the annual BPS application).*

The farmer appealed to the Agriculture Appeals Office and requested an oral hearing. The farmer understood the land area used for the 892kg per hectare calculation was well short of the area actually farmed. A significant holding was farmed with an elderly relative, with diminishing health, who had very few animals of their own that were kept mainly for sentimental reasons. The farmer submitted their nitrogen calculations should be on the larger area farmed. The fact the land was not declared on their BPS application and not declared using the Record 5 form was not disputed. The farmer stated they were unaware of the requirements for such land. The farmer submitted that they farm both holdings, that the combined nitrates figures are very low and well under the 170 kg limit per hectare, the arrangements are informal and have been in place some year. The farmer further submitted that they are the sole beneficiary of the relative's farm and involved in significant caring of their relative. The farmer stated the penalty imposes hardship and diminishes cash flow when input prices are rising. The farmer had been unaware of the importance of previous years' notifications.

The DAFM submitted in reply that the only mechanism to claim additional land for use in the calculations of nitrates levels is, to submit by 31 December of the relevant year, a Record 5 form to detail a short-term grazing agreement. That land claimed on the BPS application of another herdowner is also only eligible for nitrates calculations of the BPS applicant regardless of any other paperwork submitted as only one herdowner can have the benefit of the land area. The DAFM submitted that there are two separate holdings, two individual farmers, two herd numbers. The DAFM explained there had been previous breaches, but no monetary consequence occurred as no entitlements were



held, and 2021 was the first year with entitlements. It was emphasised there were no issues pollution wise, instead it was a matter of the required paperwork not being in place.

The Appeals Officer noted the purpose of the Nitrates Regulations is to provide a basic set of measures to ensure the protection of waters, including drinking water sources, against pollution caused by nitrogen and phosphorus from agricultural sources, with the primary emphasis on the management of livestock manures and other fertilisers.

Article 20 (1) of S.I. No. 605 of 2017 states:

*The amount of livestock manure applied in any year to land on a*

*holding, together with that deposited to land by livestock, shall not exceed an amount containing 170 kg of nitrogen per hectare.*

The 2021 BPS Terms and Conditions state:

*For the purposes of the Nitrates Regulations, the land declared by you on your Basic Payment Scheme application will be used to calculate compliance with the Nitrates Regulation. The Explanatory Handbook for Good Agricultural Practices for the Protection of Water Regulations 2021 provides 'Help sheets' to check compliance with this regulation...*

In this case the 200% sanction was calculated on the basis of the level of breach and the reoccurrence of breaches under the same Statutory Management Requirement. Previously a 20% sanction had been applied in 2015, 45% in 2016, 100% in 2017, 200% in 2019, and 200% in 2020.

Under the provisions of Article 38 of EU Regulation 640/14 and Article 99 (1) of EU Regulation 1306/2013, the Appeals Officer examined for reoccurrence, severity, extent and severity, and the provisions within Articles 39 and 40 of EU Regulation 640/2014 regarding negligence and intentional breaches. The Appeals Officer also considered force majeure or exceptional circumstances as set down in Article 2 of EU Regulation 1306/2013 and found no real basis on which to apply force majeure in this instance. The Appeals Officer found the sanction was applied in the correct year as, although the breach concerns 2020, it was identified in 2021.

Based on the evidence provided, including the oral evidence, the Appeals Officer was not satisfied the non-compliance determined was committed intentionally and instead resulted from negligence



throughout the years involved. Also, it is required that the penalty imposed is proportionate and graduated having regard to the severity, extent, permanence, and reoccurrence of the non-compliance found.

The Appeals Officer found the severity of the non-compliance is minimal having regard to the importance of the consequences of the non-compliance, taking into account the aim of the Nitrates Regulations. One of the main points of the Nitrates Regulations is that a farmer must not spread more than 170 kg of organic nitrogen per hectare in a year. The Appeals Officer found this is not a case of pollution caused by a breach of 170kgs of nitrogen per hectare in a year, or that the reality on the ground equated to a breach of the 170kgs limit. Rather this involved a negligent administrative non-compliance. The identified non-compliance has no consequence regarding the principal objective to ensure the protection of waters against pollution caused by nitrogen.

The non-compliance in question had no negative impact within the holding or further afield in terms of protecting waters against pollution caused by nitrogen. The identified non-compliance has no short, medium or long-term effect. It is an administrative matter rather than a pollution matter.

The EU Regulation sets out that the reoccurrence shall depend on whether similar non-compliances have been determined more than once within a consecutive period of three years. In this case there has been reoccurrence as set out previously when describing how this 200% penalty imposed for 2021 has been calculated.

The Appeals Officer considered the duration and reoccurrence of the negligent administrative non-compliance had been considerable, and the importance of the DAFM correspondence was not understood despite a number of letters, until the financial penalty was imposed in 2021. In previous years, there was no financial impact due to not having entitlements.

Based on the evidence, the Appeals Officer was satisfied that nitrogen produced on the farmer's holding was also deposited on land not declared as eligible on BPS. This was not a case where there had been pollution potentially caused through the deposit of livestock manure in excess of 170 kg per hectare; this matter had not impacted negatively on the objective and purpose of the Nitrates regulations.



The Appeals Officer found there had been negligence over a number of years in terms of the farmer's administration and reporting, but there was no intentional non-compliance. The Appeals Officer also found that as the negligent administrative non-compliance had a reoccurrence that spans 2014, 2015, 2016, 2018, 2019 & 2020. As the 200% penalty applied in this case was not proportionate and graduated having regard to the severity and extent of the non-compliance, and as the non-compliance was administrative with no detrimental impact in terms of primary objective of preventing water pollution, the Appeals Officer found that the penalty imposed should be amended from 200% to 15%. Where a non-compliance determined results from the negligence of the beneficiary, the reduction shall, as a general rule, be 3%; however, a 15% penalty is appropriate here given the reoccurrence involved. It is noted that even where a compliance is deemed technically to involve intent, the regulations provide that the penalty can be reduced to 15%.

The appeal was partially allowed.





### **Case 04: Green Low-Carbon Agri-environment Scheme (GLAS) 3**

The farmer was a GLAS 3 participant and, during validation checks in May 2021, the Department of Agriculture, Food and the Marine (DAFM) identified that a parcel containing the farmer's Traditional Hay Meadow action, their Conservation of Solitary Bees action and their Bird Boxes actions, was not claimed on the farmer's Basic Payment Scheme (BPS) application for 2020. This was a requirement under Section 8.5 of the GLAS 3 Terms and Conditions. The DAFM notified the farmer the actions were rejected from the GLAS 3 contract, as per the Penalty Schedule in the Terms and Conditions. During 2021 the farmer sought an internal review from the DAFM, but the original decision was upheld. The farmer appealed to the Agriculture Appeals Office and an oral hearing was requested.

The grounds of appeal included that the farmer had used the services of an agricultural advisor to complete all their online applications to DAFM. The farmer stated the identification number for this parcel had changed and it did not transmit onto the BPS application form though it was on pre-printed BPS notifications. The farmer stated the parcel was omitted due an innocent and very genuine error. The farmer had followed all their GLAS 3 commitments under the contract and the penalty was considered severe, given their compliance with the actions.

The Department responded that the GLAS 3 contract period was from the start of 2017 to the end of 2021. Validation checks during 2021 had shown the land parcel was not included on the farmer's BPS 2020 application form, contrary to what is required under the GLAS 3 contract and Terms and Conditions. The DAFM had to recognise the non-application of the land parcel as a non-compliance and apply the sanction as per the GLAS 3 Terms and Conditions. The DAFM had experienced delays due to Covid-19 related issues.

The farmer's representative at the oral hearing explained there had been a change in the Land Parcel Identification Number (LPIS) number of the parcel in late 2019, and this parcel did not appear on the 2020 application form for BPS. Other parcel numbers had also been changed but all appeared on the 2020 BPS application. There was also a significant period from the error in 2020 to the notice of the finding during 2021 and an opportunity to rectify the error had not been given. The agricultural advisor had not removed the parcel, it was not on the system, and this was not flagged. The loss to the farmer was approximately €3,000. The farmer emphasised they disagreed with the basis of the penalty because they had delivered the actions as per contract.



In considering the appeal, the Appeals Officer was required to comply with the legislation and the GLAS 3 Terms and Conditions, including the GLAS 3 Specifications. Commitments are for a period of 5 years.

**13. Failure to Continue or Complete Actions** 13.1. *Where all or part of an action is not continued for the duration of contract, all or part of the aid paid in respect of the action shall be reimbursed and penalties may apply.*

*Annex 2: Penalty Schedule for GLAS*

<i>Action</i>	<i>Type of Non-Compliance</i>	<i>Scheme Penalty</i>
<i>Traditional Hay Meadow</i>	<i>ii. Action not delivered as per GLAS specification.</i>	<i>ii. Action ineligible for GLAS payment. Claw-back of any payments made on this action to date.</i>
<i>Bird Boxes</i>	<i>i. Action not delivered or required minimum unit not delivered (one box).</i>	<i>i. Action ineligible for GLAS payment. Claw-back of any payments made on this action to date.</i>
<i>Conservation of Solitary Bees (Sand)</i>	<i>i. Action not delivered or required minimum number of habitats not delivered (one habitat).</i>	<i>i. Action ineligible for GLAS payment. Claw-back of any payments made on this action to date.</i>





At application the farmer had agreed to abide by the Terms and Conditions and agreed that they understood that failure in this regard could result in sanctions and recoupment of monies paid. It was not disputed the land parcel containing the three actions subject to appeal was not claimed on their 2020 BPS application. The Appeals Officer noted the GLAS 3 Terms and Conditions required annual GLAS application using the BPS application form.

Supplementary information provided by DAFM and made known to the farmer for reply prior to the decision on the appeal, included that the preprint content is just a point in time cut of what is on the system, ... *it is up to the applicant or in this case the agent to ensure all lands farmed by the applicant are declared on the application. ... the agent added land to the 2020 application.....The last page of the online document gives a summary of the total land claimed.* The DAFM evidenced the parcel identification change had occurred during April 2020 due to a forestry ‘edit’ and accepted the new identification of the parcel should have appeared on the farmer’s application in place of previous one. The Appeals Officer also gave consideration to the content of the Pre-Printed Application Form and Pre-Printed Application Maps that issued to the farmer in March 2020. These are the documents that the farmer and their advisor would have examined in detail regarding the GLAS actions, and these contained the parcel in question. The following is an extract from the Pre-Printed Application Form:

*4. Your enclosed statement of land and maps are correct at the time of printing. The online application system will provide the most up-to-date land details and maps.*

The Appeals Officer was satisfied from the application history that the farmer or his agent did not exclude the parcel. The DAFM evidence included that in some instances the new LPIS number may fail to carry onto the online application. In this instance the online application system did not provide the farmer with the most up to date land details for the land parcel, as provided for at paragraph 4 of the Pre-Printed Application Form quoted above. The Appeals Officer acknowledged the DAFM’s position regarding the farmer’s responsibility to ensure the online application is correct and reflects the land and areas claimed. However, the Appeals Officer had regard, in this particular case, to an evidenced sequence of events that resulted in the omission of the parcel in question from the online application and that culpability cannot be regarded as resting entirely with the farmer.



The Appeals Officer had regard to the provisions for ‘obvious error’, while acknowledging the omission of the parcel was found during a validation check. The Appeals Officer acknowledged that an error ‘... *cannot be judged as obvious on the grounds that a Member State has set up an effective system for detecting irregularities.*’ However, the Appeals Officer also acknowledged a Commission Interpretative Note did not preclude the classification of this type of error as obvious when it states ‘... *Nevertheless, one cannot exclude the possibility of an error being obvious, even if the source of the information used to detect the error is not the farmer himself.*’ and ‘... *It is also possible that these types of error could be classified as obvious even when established as a result of an on-the-spot check.*’ The Commission Interpretative Note also states under the paragraphs entitled ‘Status’ at (2) that ‘... *this document does not and cannot classify every kind of potential error.*’ Therefore, the Appeals Officer found that recognising this type of error as an obvious error is not precluded or limited. The Commission Interpretative Note provided for an error being recognised, even where a higher payment has or would have resulted but cautions that ‘... *It is especially stressed in this respect that the competent authority must decide the matter on the basis of all available facts and circumstances for the individual case concerned.*’

The Appeals Officer found that a straightforward check between the Pre-Printed Application Form and the online application identifies the error and was satisfied from the evidence that the provisions of Article 4 of the Commission Implementing Regulation (EU) No 809/2014 on ‘obvious error’ were met in this case. The Appeals Officer found that the BPS 2020 application should be corrected to include the omitted parcel of the holding that contained the GLAS 3 actions.

The appeal was allowed.



### **Case 05: Areas of National Constraints Scheme (ANC) 2021**

The farmer was an applicant for the ANC 2021 and contacted the Department of Agriculture, Food and the Marine (DAFM) in mid-2021 after becoming concerned having sold cattle from their holding. Following checks, the farmer's ANC application was rejected because of they not having met the minimum stocking requirement for 2021 ANC eligibility of having at least 0.15 livestock units per hectare (LU/Ha) on their holding for seven consecutive months during 2021. The farmer appealed the decision to the Agriculture Appeals Office and an oral hearing was requested.

The grounds of appeal included the farmer erroneously selling their cattle when under pressure to do so due the age of the cattle. The farmer contacted the DAFM within 24 hours of the sale to check on ANC eligibility and enquired on possibilities to rectify the situation such as buying extra cattle, that a number of donkeys were held through which 50% of stocking density requirement could be fulfilled and should be considered to award 50% of the ANC payment. The farmer explained how they had met the requirements in 2020 with the purchase of 0.6 LU cattle and had carried those cattle into 2021 when they were 1.0 LU, and donkeys had been kept over several years. The farmer believed they had sufficient stock to meet the ANC requirements for 2021. The farmer's representative at the oral hearing considered the penalty very severe in the circumstances.

In response to the appeal the DAFM explained that in addition to the Scheme requirements for an annual stocking rate, there was also the requirement for a 7-month consecutive period of stocking. The key issue was the 7 consecutive month retention period was not met due to sale of cattle in May 2021, leaving the farmer 2 months short. The sale of the cattle was regarded a farm management decision. The DAFM clarified that this is not a penalty application and instead it is that the 2021 ANC application is deemed ineligible as an eligibility requirement is not met. The DAFM also replied there is no provision for a graduated payment, and they could not make a 50% payment, that the DAFM are bound by the Scheme Terms and Conditions and their management of the ANC and payments are open to audit every year by the EU.

In reaching a determination on the appeal, the Appeals Officer was required to comply with the legislation, guidelines and conditions of the Minister that govern the Scheme. The 2021 ANC Term and Conditions required.



***To qualify for the ANC/ASC Scheme you must –***

- *Maintain a minimum stocking density of 0.15 livestock units per eligible forage hectare for 7 consecutive months within the 2021 calendar year.*
- *Maintain an annual average stocking density of 0.15 livestock units per eligible forage hectare for the 2021 calendar year.*

With regard to the grounds of appeal on erroneously selling the cattle at the time and of having sufficient donkeys, the Appeals Officer found the ANC Terms and Conditions to be clear, a maximum of 50% of stocking density could be made up by donkeys, other livestock was therefore required. The Appeals Officer found the sale of cattle in May 2021 caused a breach of the above 7 consecutive months rule and that this meant the eligibility was not met and the farmer could not qualify for the ANC. The Appeals Officer acknowledged that it was the farmer that first contacted the DAFM on the matter and that the cattle sale was in error, but as this occurred during May 2021, this left no opportunity to fulfil the consecutive 7 months requirement.

The Appeals Officer also considered the remedy of Force Majeure, but regrettably the decision made by the farmer to sell the cattle was in the nature of a business decision and driven by market factors such as price and the increasing age of the animals, and these were not circumstances that could be considered force majeure.

The appeal was disallowed.



## **Case 06: Cross-Compliance affecting payments under the 2016 Basic Payment Scheme (BPS) and other schemes.**

The farmer was a 2016 BPS applicant. The Department of Agriculture, Food and the Marine (DAFM) carried out a cross-compliance based on-farm inspection during July 2016. At the inspection non-compliance was found in relation to Statutory Management Requirement (SMR) 1. At inspection the farmer was issued with a notice of a possible 5% sanction. A formal decision was later issued setting out the results of inspection, in relation to Area 1 – Environmental, Climate Change & Good Agricultural Condition of Land, SMR 1, Nitrates. The letter outlined the following non-compliance: *‘Visual evidence of inadequate collection of livestock manure, slurry/organic fertiliser & soiled water thus allowing run-off or seepage directly or indirectly into ground waters/surface waters of such pollutants. There are no collection or storage facilities on farm to collect the above listed pollutants. There is an unlined slurry lagoon on farm & being used to store all pollutants. This non-compliance is leading to a very serious pollution risk. All storage facilities should also comply with this Departments’ specifications. The above infrastructural deficiencies & pollution problem in the yard is leading to serious direct or indirect/ discharge to surface waters/ ground waters of such pollutants.’* The formal decision stated the overall cross-compliance result gave rise to an ‘intent’ sanction of 20% against the farmers scheme payments. The farmer sought a review of the decision with evidence the lagoon had been infilled. In their review decision, the DAFM found that the original decision to apply an intent sanction should stand, however a reduced sanction of 15% was applied. The farmer appealed the decision and sought an oral hearing.

In the grounds of appeal, the farmer stated a hole had been dug as an extension to a foundation of a concrete slab which the inspector called a lagoon and he said the inspector stated the penalty would be 5% and the control report was signed at the time. The farmer had filled in the hole at the request of the inspector and provided photographic evidence of this to the DAFM within a short period of time. The farmer disputed the measurements of the DAFM on the scale of the ‘hole’ and provided their own measurements. The farmer stated it did not contain slurry and instead contained a small amount of wet clay. The farmer had been in contact with DAFM on matters relating to the procedures followed.

In reply, the DAFM stated the inspector had reported an unlined lagoon of approximately 10m x 20m was found. The inspector was satisfied there were effluents within it and while the inspector had





indicated a possible sanction of 5%, the guidance provided in the DAFM procedures where an earthen (or unlined) lagoon or an excavated hole or any other makeshift facility is being used as a storage facility is an intent level sanction (20%). The DAFM clarified that the farmer's signing of the control report did not influence the level of sanction.

An oral hearing was conducted where the DAFM set out the basis for the inspection and the sanction. The DAFM stated that when reducing the sanction from 20% to 15% had noted low stocking rates, outwintering and there was no direct discharge of effluent into a watercourse or drain. The farmer outlined they had dug to extend a concrete slab during the summer but had not gotten the concrete in place by wintertime, and that the yard was 'totally clean' at the time of inspection. There was discussion on photographs the farmer said were provided. The DAFM confirmed to the Appeals Officer there was no issue raised regarding the County Council. The farmer confirmed their intention was to rectify the hole, it was not deliberately created in violation of the Nitrates Regulations.

In determining the appeal, the Appeals Officer was bound to 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.

The Appeals Officer considered the penalties provided for intent and negligence, in the 2016 EU Basic Payment Scheme (BPS)/ Greening Payment Terms and Conditions

- *Where the non-compliance is determined **intentional** the reduction shall normally be 20% but this may be reduced to 15% or increased up to 100% depending on the reoccurrence extent, severity and permanence of the non-compliance found.*
- *If an applicant is found to be in breach of Cross Compliance through **negligence**, a penalty of 3% will normally apply but this can be reduced to 1% or increased to 5% depending on the extent, severity and permanence of the non-compliance. If 'reoccurrence' applies the penalty will be multiplied by 3 to a limit of 15%. Repetition breaches after this will be considered as Intent'.*

From the evidence the Appeals Officer found the farmer should have filled the hole at the time of the building works. The Appeals Officer found it clear that the farmer did not intend to create a lagoon with the purpose of collecting effluents, none of the on-farm sheds were used for over wintering, and



there was no evidence of on-farm build-up of slurry or farmyard manure. The Appeals Officer was also cognisant there was no dung-stead or manure pits present on the farm, no silage pit or silage effluent, and there were very low stock levels. The Appeals Officer was satisfied from the evidence there no evidence of discharge either into or out of the excavated hole to a watercourse or drain on the day of inspection.

The Appeals Officer examined for 'negligence' and 'intent' regarding the non-compliance found and did not believe the farmer intended to create a lagoon or use the hole for the storage of any effluents. The Appeals Officer found that the specific situation occurred due to inadvertent negligence in relation to oversight. The Appeals Officer found a 'negligence sanction' of 5% was applicable.

The appeal was partially allowed.





### **Case 07: Beef Exceptional Aid Measure (BEAM)**

The farmer participated in the Beef Exceptional Aid Measure (BEAM) and under the BEAM Terms and Conditions was required to reduce the production of bovine livestock manure nitrogen on their holding by 5% for the period 1 July 2020 to 30 June 2021 as compared with the period 1 July 2018 to 30 June 2019. The Department of Agriculture, Food and the Marine (DAFM) checks showed production was not reduced by the required amount. An internal review was sought from the DAFM on grounds the herd was restricted from November 2018 to end of March 2019 and had contributed to an unusually low stocking rate during the initial reference period. The DAFM upheld its decision on the basis BEAM applicants were required to apply for a derogation in such circumstances by the end of September 2019, as per the BEAM Terms and Conditions. The farmer appealed to the Agriculture Appeals Office and requested an oral hearing.

In the grounds of appeal, the farmer stated that for 5 months of the 12-month reference period, the holding was restricted, and they were unable to buy in following the sale of autumn finishers and so were unable to maintain their higher stocking rate. As a result, the farmer stated the reference figure and target figure were not fair representations for the holding. The farmer submitted that Section 7.1.1.1 of the Terms and Conditions was not clear regarding a herd restriction, and in any event the DAFM would have been fully aware of the herd restriction imposed on the herd. The use of the word derogation was also found to be confusing where same is used for higher organic nitrogen farming.

In response the DAFM stated that in accordance with section 7.1.1 of the Terms and Conditions of the measure, the applicant agreed to reduce the bovine livestock manure nitrogen produced by animals on the holding by 5% as compared with the period 1st July 2018 to 30th June 2019. The measure had a reasonably short application window, and the Terms and Conditions were clear that an applicant must apply to the DAFM for derogation prior to 30th September 2019 and this had not happened. The DAFM accepted the nitrogen figure for the holding was much lower in the reference period that included a 5-month herd restriction than when compared with the previous 4 years.

In deciding the appeal, the Appeals Officer must comply with the legislation, as well as the conditions and guidelines of the Minister. The BEAM scheme is drawn up in accordance with Commission Implementing Regulation (EU) 2019/1132.



The BEAM 2019 Terms and Conditions provide:

***Commitments undertaken by participation in the Measure***

*7.1. Each applicant must undertake to meet all of the following commitments in order to participate in the Measure:*

*7.1.1. Reduce the production on the holding of bovine livestock manure nitrogen by 5% for the period 01 July 2020 to 30 June 2021 as compared with the period 01 July 2018 to 30 June 2019 as recorded on Department systems. Slurry exports are not reckonable as reduction.*

*7.1.1.1. Where an applicant's participation in a pre-existing scheme or programme, administered by the Department, or where a pre-existing legal obligation requires a minimum number of bovine livestock, and where achieving such reduction as outlined in 7.1.1 would result in a failure to meet that requirement, an applicant must apply to the Department for derogation prior to 30 September 2019. ... Such applications shall be reviewed on a case-by-case basis.*

The Appeals Officer found the BEAM Terms and Conditions explain the requirements to reduce the production on the holding and found that applications for derogation must be submitted prior to the 30<sup>th</sup> of September 2019. The request for the derogation was made in this instance during March 2021. The farmer's grounds of appeal stated that they believed the TB circumstances would automatically be considered, and that the wording of paragraph 7.1.1.1 of the Terms and Conditions is unclear regarding a TB restriction.

The Appeals Officer found that the TB Eradication Programme is a pre-existing programme and represents a legal obligation on the farmer regarding herd restriction. However, the Appeals Officer could find no clear indication that an obligation or requirement exists for a minimum number of livestock under the TB Eradication Programme. On this basis and in the circumstances of the case, the Appeals Officer accepted the wording of the paragraph 7.1.1.1 of the BEAM Terms and Conditions could cause confusion.

In addition, the Appeals Officer noted section 10 of the BEAM Terms and Conditions specifies that where the commitments of the Measure as defined in Section 7 are not satisfied in full, except in cases of Force Majeure, penalties shall apply. Also, section 13 provides for force majeure and importantly



lists typical scenarios where force majeure might apply including an epizootic affecting part or all of the beneficiary's livestock. On foot of this the Appeals Officer found clear indication in the Terms and Conditions that penalties would not apply to failure to meet the requirements at Section 7 where an incidence of force majeure arises. The Appeals Officer found there was clear incontrovertible evidence of a force majeure circumstance affecting part of the livestock during a key programme period.

The appeal was allowed.



### **Case 08: Targeted Agricultural Modernisation Scheme (TAMS) II – Young Farmers Capital Investment Scheme (YFCIS)**

The farmer made application to the Department of Agriculture Food and the Marine (DAFM) for the TAMS II - YFCIS in April 2020 and received approval. On 13 July 2021 they submitted a payment claim for a mobile slurry tanker with trailing shoe system. A prepayment inspection by the DAFM found a copy of the cashed cheque showed payment to the supplier was on the 19 of July 2021 after submission of the payment claim and was deemed ineligible by the DAFM. The farmer sought a review of this decision, and in November 2021 the DAFM upheld the decision. The farmer appealed to the Agriculture Appeals Office and an oral hearing was requested.

The grounds of appeal included that the investment item was in the farmer's possession and the farmer had an invoice confirming the purchase, which was signed and dated as paid on the 12 of July 2021, and the payment claim was based on these facts. The farmer explained that they do not normally use a cheque book and do all banking online. In this instance, they had detached the cheque earlier and the cheque stub was not completed until later. The farmer had no control over when the machinery supplier might lodge a cheque and a lodged cheque could take four days to clear. Also, the supplier delivered the machinery on the same date as the invoice, and the cheque was posted to the supplier on the delivery date. The farmer explained the transaction took place at an extremely busy time on their farm, and they simply mixed up the Mondays when dating for Monday the 19 of July 2021 instead of Monday the 12 of July 2019, citing this was just human error.

The DAFM confirmed the TAMS II - YFCIS Terms and Conditions dated 5 October 2019 apply. The DAFM stated that in claiming payment, the farmer verifies that all receipts and invoices are genuine and relevant to the claimed investment and that payment had been made in full to the supplier prior to the payment claim. The purpose of the inspection was firstly to see if the slurry tank and trailing shoe were on the farm, which they were and secondly were the investments to the Department's specifications, which was also in order and thirdly to confirm evidence of payment, which included an examination of the supporting financial records. In this instance the inspection found the cheque was transacted through the farmer's bank account on 26 July 2021, a date after the paid invoice. This led to the copy of the encashed cheque being sought, the cheque was dated 19 July 2021, a date after the payment claim, and the farmer had not incurred the cost of the invoice amount before or on the date of claim for payment submission. The cheque stub appeared to have an



amended date. As a result of the findings on payment a 100% sanction was applied to the TAMS II YFCIS application for grant aid. The DAFM accepted the farmer had until September 2021 to submit the payment claim. The DAFM referred to Section 8 of the Terms and Conditions where it states, *“Grant aid will not be paid in respect of new equipment or investments unless full ownership thereof has been transferred to the applicant prior to the lodgement of the payment claim”*. The DAFM submitted that full ownership is defined as when the applicant themselves have fully paid for the investment from their bank account and have taken possession and control of the investment. Also, Section 8.1 of the Terms and Conditions provides that payments made (including post-dated cheques) after the date of claim are not eligible for consideration and will be rejected.

This scheme is being implemented pursuant to an approved programme under Council Regulation (EC) No. 1305/2013 of 17 December 2013 and Commission Regulations (EU) 807/2014, 808/2014 and 809/2014 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD). Regulations (EU) 1306/2013 and 640/2014 as amended lay down the details in relation to Force Majeure and Administrative Penalties.

The TAMS II- YFCIS Terms and Conditions state:

Section 3.4:

*Full responsibility for the information contained in the application, payment claim and supporting documentation submitted whether online or manually in the case of supporting documentation rests with the applicant concerned. The Department shall not accept any responsibility for errors or omissions contained in applications for grant aid or any required supporting documentation.*

*Full responsibility for the receipt of applications on the Department’s online system by the closing date referred to in 1.4 above rests with the applicant concerned. It shall be the responsibility of the applicant to familiarise him/herself with the scheme Terms and Conditions, the specifications, and any amendments thereof and with the consequences for breaches of the scheme.*





Section 8 of the Terms and Conditions states:

*Grant aid will not be paid in respect of new equipment or investments unless full ownership thereof has been transferred to the applicant prior to the lodgement of the payment claim. Full ownership is defined as when the applicant has fully paid for the investment.*

Section 8.1 of the Terms and Conditions states:

*Payments made (including post payment cheques) after the submission of a payment claim are ineligible and will be rejected.*

In their deliberations on the appeal, the Appeals Officer had regard to specific financial evidence, the dating of cheques and the transfer of funds to the farmer's current account from which the cheque was drawn. The Appeals Officer further considered the resulting balances which showed sufficient funds in place from 16 July 2021 to meet the amount involved in payment for the investment item. There was no indication that sufficient funds were in the account on the date of the payment claim. The Appeals Officer therefore found it unlikely the cheque dated 19 July 2021 was instead intended for the 12 July 2021.

The Appeals Officer had regard to the declaration made by the farmer in their application and payment claim, was satisfied responsibility rested with the farmer to understand and comply with the scheme requirements. The Appeals Officer accepted the farmer was well within time to make a valid claim had they withheld the claim until the payment was made, they otherwise had paid for the item albeit after the payment claim and had the item on their holding. However, the Appeals Officer found the payment claim did not satisfy the requirements of the TAMS II - YFCIS Terms and Conditions, nor the specific conditions listed on the TAMS II Approval Letter as full ownership had not been transferred prior to the payment claim. In addition, Section 8.1 of the Terms and Conditions could not be set aside *Payments made (including post payment cheques) after the submission of a payment claim are ineligible and will be rejected.*

The Appeals Officer found the farmer had not satisfied the specific condition regarding full ownership/having fully paid for the investment prior to the lodgement of the payment claim and found



the DAFM had no option but to regard the payment as ineligible for grant aid and apply the 100% penalty and reduction in accordance with the Scheme Terms and Conditions.

The appeal was disallowed.





### **Case 09: Green Low-Carbon Agri-environment Scheme (GLAS) 2**

The farmer was a participant in GLAS 2 with contract period 1 January 2016 to 31 December 2020. The options recorded on the GLAS system included 1.2 hectares of Wild Bird Cover (whole of parcel). The Department of Agriculture, Food and the Marine carried out a ground inspection during August 2020 and found an overclaim on the Wild Bird Cover action, with a found maximum eligible area of 0.86 Ha. The DAFM rejected the entire GLAS 2 application as Wild Bird Cover was the sole Tier 2 action that gained the farmer priority access to GLAS 2, and a minimum area of 1 ha was required. The farmer sought an internal review of this decision. The DAFM upheld their original decision. The farmer appealed the decision to the Agriculture Appeals Office.

The grounds of appeal included that the farmer believed they were in full compliance with the scheme, had understood they were planting more than enough area (1.2 ha) and claiming the correct area on their Basic Payment Scheme (BPS) application. They bought the correct amount of seed each year to plant 1.2 ha area and had receipt evidence, and what had occurred was a genuine mistake.

The Appeals Officer examined the GLAS 2 Terms and Conditions. The following are the relevant paragraphs:

#### *26. Responsibility of Applicant*

*26.1. It shall be the responsibility of the applicant to familiarise him/herself with the Scheme Terms and Conditions, the Specification and any amendments thereof and with the consequences for breaches of the Scheme.*

#### **GLAS 2 Specification - Wild Bird Cover - Requirements:**

*2. This action can be delivered on a full or split LPIS parcel. Where the action is on a split parcel it must be digitised out and marked on the map submitted with the GLAS application. The Wild Bird Cover must remain in the same place for the duration of the GLAS contract.*

*3. The minimum area is 1 ha where it is taken as a priority action and 0.25 ha where it is taken as a general action and maximum area for payment is 3 ha. The minimum parcel size is 0.25 of a hectare.*



The Appeals Officer also had to comply with the EU legislation in determining the appeal. The Appeals Officer noted Article 35 of Commission Delegated Regulation (EU) No. 640/2014 provides for the following-

*1.The support claimed shall be refused or withdrawn in full where the eligibility criteria are not complied with.*

*2.The support claimed shall be refused or be withdrawn in full or in part where the following commitments or other obligations are not complied with:*

*(a) commitments established in the rural development programme; or*

*(b) where relevant, other obligations of the operation established by Union or national law or established in the rural development programme, in particular public procurement, State aid and other obligatory standards and requirements.*

*3.. When deciding on the rate of refusal or withdrawal of support following the non-compliance with the commitments or other obligations referred to in paragraph 2, the Member State shall take account of the severity, extent, duration and reoccurrence of the non-compliance related to conditions for support referred to in paragraph 2....*

The Appeals Officer also noted the content of Article 63 of (EU) No 1306/2013 of the European Parliament and of the Council regards undue payments and administrative penalties and noted that administrative penalties are required to be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found.

The Appeals Officer found that the farmer had entered into a 5-year GLAS 2 contract with the DAFM to fulfil certain commitments/actions for the duration of the scheme. Based on the evidence before them, the Appeals Officer was satisfied the farmer had made a genuine error regarding the size of area sown with Wild Bird Cover, unfortunately, there was no evidence on the day of the inspection that they had 1 ha of Wild Bird Cover.

The Appeals Officer accepted that the Wild Bird Cover action had promoted the application to Tier 2 status and while not all Tier 2 applications were guaranteed entry to GLAS 2, the Tier 2 status would have greatly enhanced entry prospects had the scheme been oversubscribed. The GLAS 2 Terms and Conditions set out the eligibility criteria for the scheme and did not include a requirement regarding Wild Bird Cover or priority Tier 2 actions.



On examination of all the available documentation referenced above, the Appeals Officer could not find that the Wild Bird Cover was an eligibility criterion, but rather a commitment. The Appeals Officer, having regard to Article 35 (2) and 35 (3) of Regulation 640/2014, was satisfied there was provision for non-compliance with the support claimed to be refused or withdrawn in full or in part, and that when deciding upon the rate of refusal or withdrawal of support in respect of non-compliance that account be taken of severity, extent, duration, and reoccurrence. On this basis the Appeals Officer found that the DAFM was correct to reject the Wild Bird Cover action from the GLAS contract as the minimum 1 ha required within the action was not met and was correct to seek recoupment of monies paid for this action. However, taking into consideration the provisions of Article 63 of Regulation (EU) No 1306/2013 and Article 35 of Commission Delegated Regulation (EU) No 640/2014, the Appeals Officer determined that the GLAS 2 contract should otherwise remain in place for the remainder of the GLAS contract on the other actions and there should be no recoupment of monies for these actions.

The appeal was partially allowed.



### Case 10: Basic Payment Scheme (BPS) 2020 – land eligibility

The farmer was a participant in the 2020 BPS. The Appellant was informed by the Department of Agriculture, Food and the Marine (DAFM) that land included in their 2020 BPS application had been identified as having been burned outside the permitted timeframes, and therefore this land was not eligible for a BPS payment. The farmer sought an internal DAFM review of the decision and while an over-declaration penalty was removed the decision to deem the land ineligible was upheld.

The farmer appealed the decision, on the grounds of *Force Majeure*, in so far as the fire was outside of the farmer's control, having been started by third parties, spread onto their holding from outside, as confirmed by An Garda Síochána, the County Council's Chief Fire Officer and Coillte, even after all reasonable measures to prevent the fires spread had been taken.

The Appeals Officer noted the 2020 BPS Terms and Conditions set out that land cannot be burnt between 01 March and 31 August in any given year, and that burnt lands are not eligible for the purpose of payment under the BPS 2020, in accordance with articles Article 4 (1)(c), Article 32(2)(a) and Article 32(4) of Regulation 1307/2013. The land in question was burnt between 01 March and 31 August and therefore, in the ordinary course of events, would not be eligible for payment under BPS.

However, the Appeals Officer noted the provisions of Article 2 (2) of EU Regulation 1306/2013 and Article 4(1) of Regulation (EU) No 640/2014 regarding *Force Majeure/ Exceptional Circumstances*. The concept of *Force Majeure* is not limited to absolute impossibility but must be understood in the sense of unusual circumstances, outside the control of the individual concerned, the consequences of which, in spite of the exercise of all due care, could not have been avoided, except at the cost of excessive sacrifice. As cases of *Force Majeure* and *Exceptional Circumstances* are an exception to the rule, the standard of proof required is high. Incontrovertible documentary evidence is generally required. In this case, there was considerable documentary evidence from An Garda Síochána, the County Council's Chief Fire Officer and Coillte. The Appeals Officer was satisfied that *Force Majeure/ Exceptional Circumstances* could be applied in the circumstances of this case.

Having regard to Article 4(1) of Regulation (EU) No 640/2014 entitled "Force Majeure and Exceptional Circumstances", the Appeals Officer found that, as the farmer was unable to comply with the eligibility criteria / obligation in question as a result of Force Majeure/ Exceptional



Circumstances, the farmer retained the right to aid in respect of the area eligible at the time when the case of exceptional circumstances occurred.

In conclusion, the Appeals Officer allowed the appeal, and found that the farmer should receive a 2020 BPS payment in respect of the land in question that was burned.

The appeal was allowed.





### Case 11: Beef Data Genomics Programme (BDGP) – 2021 extension

The farmer applied to be included in the 2021 extension of the BDGP 2015-2020. In response to their application, the farmer was informed by the Department of Agriculture Food and the Marine (DAFM) that as they had not met the bull replacement requirements under the BDGP 2015-2020 in full, they could not be included in the 2021 extension. The BDGP required applicants using a stock bull, to have at least one stock bull on the holding on 30 June 2019 that is a genotyped 4 or 5-star bull on either the Terminal or Replacement index (on a within or across breed basis) at the time of purchase. The farmer sought an internal review of the decision from the DAFM, however the decision was upheld. The farmer appealed to the Agriculture Appeals Office and requested an oral hearing.

In the grounds of appeal, the farmer stated they did have a pure-bred bull that they believed met the requirements of the programme in their herd on 30 June 2019, that was purchased on 24 June 2019. At the oral hearing the farmer outlined that they did in fact buy a 5-star bull, but it was not suitable and was sold on. They then bought a replacement bull in good faith on 24 June 2019, that they believed had been genotyped in accordance with the Terms and Conditions of BDGP, but this was not the case. The bull was subsequently genotyped as a 5-star bull during 2020.

The DAFM responded that the BDGP payments were based on costs incurred and income foregone associated with undertaking the eligible actions underlying the programme. In relation to the bull replacement requirement, to be eligible to join the transitional year 2021, there must have been a stock bull on your holding on 30 June 2019, genotyped 4 or 5-star on either the Terminal or Replacement index (on a within or across breed basis) at the time of purchase. The bull replacement requirement was an eligibility condition. The farmer did not have an eligible stock bull on the holding on 30 June 2019 that was genotyped 4 or 5-star.

In arriving at a determination, the Appeals Officer had regard to the principles of natural justice and was required to comply with any relevant legislation and terms, conditions and guidelines of the Minister governing or relating to the scheme in question.

The relevant terms and conditions of the Beef Data Genomics Programme 2021 extension include:

- 4. Eligibility** - *To be eligible to apply to participate in the Programme, an applicant shall:*  
..... *Must have met the Stock Bull/AI requirement of Programme in 2019* .....





The Appeals Officer also noted the Terms and Conditions of the BDGP (2015-2020) required ***Stock Bull Replacements***

*For applicants using a stock bull, at least one stock bull on the holding on 30th June 2019 must have been a genotyped 4- or 5-star bull on either the Terminal or Replacement index (on a within or across breed basis) at the time of purchase. This bull should be retained on the holding and where it is replaced in the period to 30th June 2020, it must be replaced by a bull of equivalent genetic merit i.e., a genotyped 4- or 5-star bull on either the Terminal or Replacement index (on a within or across breed basis) at the time of purchase.*

*Applicants using stock bulls are strongly advised to introduce 4- or 5-star bulls at the next replacement date to avoid compliance difficulties and potential clawback of payments later in the Programme.*

The Appeals Officer accepted the farmer did purchase a stock bull on 24 June 2019, but found this bull was not genotyped until July 2020. While the Appeals Officer acknowledged the farmer may themselves have been under the impression the purchased bull met the requirements, the bull was not a genotyped 4 or 5-star bull on 30 June 2019. The ICBF data was examined by the Appeals Officer in this regard. The terms and conditions of the scheme are very specific about the requirement to have a genotyped 4- or 5-star stock bull on the 30 June 2019, and this requirement was not met in this instance. The requirement was an eligibility criterion for the BDGP 2021 extension and was not met. The Appeals Officer had no grounds on which to set aside particular requirements of the Terms and Conditions, especially an eligibility criterion, which the farmer had signed up to and had agreed to be bound by.

The appeal was disallowed.



## Case 12: 2021 Basic Payments Scheme (BPS)

The farmer submitted their 2021 BPS application in November 2021, after the closing date of 17 May 2021. The Department of Agriculture, Food and Marine, (DAFM) applied a 100% late penalty. The farmer sought an internal review from the DAFM, who reviewed the case and upheld the original decision. The decision was appealed to the Agriculture Appeals Office and an oral hearing of the appeal was requested.

The appeal was on medical grounds, and the farmer provided a letter from their GP in support with details of medical conditions and deteriorating health. The failure to submit the 2021 BPS application was due to increasingly poor health, that the farmer was no longer capable of making accurate submissions to the DAFM and had since transferred this responsibility to a family member. At the oral hearing it was elaborated that the farmer's memory was increasingly affected, and additional medical evidence was provided in support.

The DAFM side replied that as the application was received more than 25 days after the closing date this required a 100% sanction under the Governing EU Regulations, and the DAFM did not consider the matter warranted enactment of the force majeure provisions.

In arriving at a determination in this case the Appeals Officer was required to 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.

The 2021 BPS Terms and Conditions set out the key dates for 2021 and included.

*17 May 2021 (midnight) - BPS 2021 application deadline*

*9 June (midnight) 2021 - 'Late application' BPS deadline*



The 2021 BPS Terms and Conditions under the heading of Late Applications provides:

*Under EU Regulations, there is a 25-calendar day period after the 17 May closing date for the acceptance of late applications and any necessary supporting documentation. However, deductions to payments at a rate of 1% per day in respect of both BPS/Greening will apply to late applications which are received during this period (see table overleaf). Except in cases of force majeure / exceptional circumstances, applications will not be accepted after this 25-calendar day period has ended.*

The Appeals Officer considered the appeal under the force majeure provisions, including Article 2 of Regulation (EU) No 1306/2013.

*For the purposes of the financing, management and monitoring of the CAP, "force majeure" and "exceptional circumstances" may, in particular, be recognised in the following cases: (a) ..... (b) long-term professional incapacity of beneficiary; ..... (c) ..*

The Appeals Officer found the long-term professional incapacity of beneficiary was relevant to the farmer and based on the medical evidence and the circumstances before them was satisfied the provision of force majeure were applicable, and this warranted a reversal of the Department's decision to impose a 100% sanction for late application on the farmer's 2021 BPS and other related payments.

The appeal was allowed.



### **Case 13: Transfer of Basic Payment Scheme (BPS) Entitlements to the National Reserve**

The farmer had been the subject of land eligibility checks during both the 2020 and 2021 BPS years and the eligible area was deemed to be circa. 12ha less than that claimed. Due to the number of entitlements held, approximately 10 entitlements were not claimed with an eligible hectare. The larger proportion of land deemed ineligible was because of there being no agricultural activity.

The Department of Agriculture Food and the Marine (DAFM) issued the farmer with a Notification of the removal of 10 unused entitlements to the National Reserve during January 2022, on the basis the farmer had not used 100% of their entitlements at least once out of two consecutive years (2020 & 2021 Scheme Years). An internal review was sought from the DAFM, but this was unsuccessful. The farmer appealed the decision to the Agriculture Appeals Office and requested an oral hearing.

The grounds of appeal, set out by the farmer's agricultural consultant, were that the farmer felt under serious threat from Covid-19 due to underlying medical conditions. That people died during the pandemic, were afraid to go to a doctor or hospital, and many became very isolated and avoided any contact or mixing. Also, the farmer was made aware of these health concerns by the media, and while they needed the help of casual labour to farm the lands on which the entitlements had been held, they felt the risk of employing casual labour was too high.

In reply to the appeal, the DAFM set out that the EU Regulations governing the BPS state that all entitlements allocated under the BPS are subject to a two-year usage rule. This means that each farmer must ensure that s/he uses 100% of their entitlements claimed at least once out of every two consecutive years, and any entitlement unused for two consecutive years will revert to the National Reserve and be lost permanently by the farmer. The farmer had used c 46 BPS entitlements out of c 56 BPS entitlements and c 10 BPS entitlements were deemed unused and moved to the National Reserve. The DAFM outlined it had also been open to the farmer to lease out unused BPS entitlements.

The farmer's representative outlined the medical history and concerns regarding Covid-19, family members had urged the farmer to be cautious, there were people of a similar age in the region who had died of Covid-19 related illness and there had been a sizable outbreak in the general area. There was no indication of how long term the issues with Covid-19 would be at that time.



The representative evidenced that the farmer did have the option of leasing out the BPS entitlements but had chosen not to as there was a lack of clarity as to when Covid-19 restrictions would end, and the farmer was hoping to be able to farm the lands. The DAFM submitted in reply that they understood the psychological issues of the time but that the farmer had the option to have grazed or cut the unused lands and that it was possible to do so without the need to meet other people and risk contracting Covid.

The Appeals Officer noted the content of the 2021 BPS Terms and Conditions:

- *“In order to draw down payment in respect of your BPS entitlements, you must have an “eligible hectare” to accompany each entitlement. In this context, an “eligible hectare” is land that is used for an agricultural activity...*
- *All entitlements allocated under BPS and the National Reserve are subject to a two-year usage rule. If a farmer has unused entitlements for two consecutive years, the lowest value entitlements held by that farmer revert to the National Reserve in the second year of non-usage...*
- *To avoid the loss of entitlements... the farmer should ensure he/she has sufficient land in 2021 to utilise all entitlements. Alternatively, the farmer could transfer the entitlements either permanently or temporarily for example by lease to a farmer who has enough naked hectares to support the...entitlements. The Department shall notify the farmer where entitlements have expired.*

The Appeals Officer considered the force majeure provisions of the 2021 BPS Terms and Conditions and in Article 2(2) of Regulation (EU) No 1306/2013. The Appeals Officer also had regard to Article 4 of Commission Delegated Regulation (EU) No. 640/2014.

1. *As regards direct payments, if a beneficiary has been unable to comply with the eligibility criteria or other obligations as a result of force majeure or exceptional circumstances he shall retain his right to aid in respect of the area or animals eligible at the time when the case of force majeure or the exceptional circumstance occurred...*
2. *Cases of force majeure and exceptional circumstances shall be notified in writing to the competent authority, with relevant evidence to the satisfaction of the competent authority,*





*within fifteen working days from the date on which the beneficiary or the person entitled through him, is in a position to do so.*

The Appeals Officer also had regard to *Commission notice C(88) 1696 concerning 'force majeure in European agricultural law'*. A document that outlines how the concept of *force majeure* is “not limited to absolute impossibility but must be understood in the sense of unusual circumstances, outside the control of the trader, the consequences of which, in spite of the exercise of all due care, could not have been avoided except at the cost of excessive sacrifice.” The document states that *force majeure* should be interpreted and applied restrictively and in the context of *proportionality* which is one of the general principles of European law, and that, regarding proof, incontrovertible documentary evidence must generally be required.

In this case the farmer’s underlying medical conditions were evidenced by their doctor and included that the farmer was advised to avoid larger crowds. However, the Appeals Officer considered there were other options open to the farmer than completely removing themselves from the farming of the lands. The Appeals Officer considered that it would also have been within the realm of “taking all appropriate measures (with the exception of those involving excessive sacrifice)” to make a farm management decision to lease out the BPS entitlements on a temporary basis in 2021. The Appeals Officer considered it was also open to the farmer to avail of casual labour to assist in the transport of livestock to graze the lands and fulfil the carrying out of an “agricultural activity” and could have been achieved while adhering to public health advice and maintaining social distancing in an outdoor setting.

The appeal was disallowed.





#### **Case 14: Beef Data & Genomics Programme (BDGP) 2015-2020.**

The farmer was a participant in the BDGP 2015-2020 and was informed by the Department of Agriculture, Food and the Marine (DAFM) during 2021 of non-compliance with the BDGP Stock Bull Replacement Strategy for 2019 and a penalty was applied to their 2019 payment. In addition, the farmer was deemed ineligible for the BDGP 2021 extension (a one-year rollover to the 2015-2020 programme), as they had not complied with the BDGP requirements for the full duration of the 2015 – 2020 programme. An internal review was sought from the DAFM, the outcome of which was to uphold the decision.

The farmer appealed to the Agriculture Appeals Office and sought an oral hearing. The grounds of appeal included the use of AI and monitoring of cows. In one instance, a cow inseminated did not come back into heat within the 3 weeks after and was moved to other lands as part of their herd management. The cow came into heat on the next cycle and a bull from neighbouring lands broke in and served the cow. The farmer stated that after removing the bull, fences were repaired, and identification details of the bull were sought from the neighbour for the purpose of updating records. The farmer was otherwise very satisfied with their participation in the BDGP.

In response the DAFM stated that for applicants using a stock bull, at least one stock bull on the holding on 30th June 2019 must have been a genotyped 4 or 5-star bull on either the Terminal or Replacement index (on a within or across breed basis) at the time of purchase. Where using Artificial Insemination (AI) then at least 80% of the AI used must have been from 4 or 5-star bulls on either the Terminal or Replacement index (on a within or across breed basis). Where using both stock bull and AI, the farmer must be compliant on both. The DAFM detailed the financial penalty applicable for non-compliance with the Stock Bull Replacement strategy and that the farmer was not eligible for the 2021 BDGP extension. The DAFM clarified there were eighteen calves born on the holding in 2019, of which seventeen calves were born to AI, and there was a reoccurrence in 2020 with a single calf born to a stock bull. The explained that the individual calves born in 2019 and 2020 were sired by different bulls from different farmers as this neighbouring land was rented by two different farmers on two separate years. Their management practice was to ensure any cows going to that land were already inseminated and had not come back in heat. The farmer submitted they were aware one of the bulls was a 4 or 5-star bull. However, the DAFM replied that the animal must be in the applicant's herd, and this was not the case.



The Appeals Officer reviewed AI records, and the period from AI cover to calf birth and had regard to fact the stock bulls in both instances were never part of the farmer's herd. There was no conflict in the evidence, and it was given that all other calves were produced in full compliance with the BDGP requirements in both years. The Appeals Officer was satisfied the BDGP 2015-2020 Terms and Conditions clearly outline that herdowners using stock bulls, must have a genotyped 4 or 5-star bull on either the Terminal or Replacement index on their holding on 30 June 2019. However, in this case found the evidence confirmed the farmer only ever intended to use AI throughout the period 2015 to 2020. No stock bull was kept or intended to be kept, and that the occurrence of one calf bred to a stock-bull in 2019 and another in 2020 was because of a bull encroaching onto the farmer's lands from different neighbouring herds in each year, to cows evidenced as already served by AI and managed as in-calf cows/heifers might be.

The appeal was allowed.



### **Case 15: Cross Compliance – Nitrates affecting the Basic Payment Scheme 2020 and other payment schemes.**

The farmer joined the Basic Payment Scheme (BPS) in 2019 and received a letter from the Department of Agriculture, Food and Marine (DAFM) in November 2020 informing of a breach of the *European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2017, (Nitrates Regulation)*, because the total amount of Nitrogen from livestock manure applied on the holding during 2019 exceeded the allowed limit of 170 kg per hectare. A sanction of 3% on 2020 payments under the Direct Payment Schemes and Rural Development Programme measures, where applicable, was applied.

The farmer held two herd numbers, one of which was for their farm and the other to facilitate the quarantining of cattle for export on a leased premise. The farmer sought a review of the decision on the grounds that none of the animals in the second herd number were ever on their farm holding and that the manure produced in the leased premises was the responsibility of the lessor, was spread on the lessor's land and not on the farmer's holding. An internal review was sought and the DAFM upheld the original decision to apply a 3% sanction.

The decision was appealed, and the grounds of appeal included provision of a letter from the lessor of the export premises stating that all the manure from the leased shed was applied to their land. Further details provided by the DAFM in reply to the appeal stated there was no BPS application associated with the second herd number, therefore all the organic nitrogen produced in both herd numbers was associated with the first herd number and the farmer's own farm. The DAFM outlined that the total N value for the holding could have been reduced below the 170 kg per hectare limit by submitting a Record 3, for exported manure, before the 31 December 2019.

The farmer held a contract for the export of cattle, of which the DAFM was aware, and was the reason for the second herd number, as quarantined cattle could not be associated with the farm herd number. The farmer submitted to have been unaware of the requirement for the Record 3 to be submitted and was not informed of same when allocated the second herd number. The farmer submitted that the only manure applied to their land included in the BPS claim was that from the cattle associated with the farm herd number, and therefore the aim of the Nitrates regulations was achieved as the amount



applied on this farm was less than 170 kgs. The farmer submitted they made an honest error and did not intentionally breach the Nitrates Regulations.

In deciding the appeal, the Appeals Officer reviewed the information provided to applicants for the 2019 BPS regarding the Nitrates Regulation.

### ***BPS Terms and Conditions and Help sheet 2019***

#### *Page 7 – General Information*

These Terms and Conditions booklet should be read in conjunction with the “Explanatory Handbook for Cross Compliance Requirements” (August 2016)

#### *Page 20*

For the purposes of the Nitrates Regulations, the land declared by you on your Basic Payment Scheme application will be used to calculate compliance with the Nitrates Regulation. The Explanatory Handbook for Good Agricultural Practices for the Protection of Water Regulations provides ‘Help sheets’ to check compliance with this regulation.

### ***Explanatory handbook for cross compliance (issued to all BPS applicants in 2016)***

#### *Page 12* Managing the spreading of fertilisers.

The application limit of 170kg N/Ha/yr. from livestock manure is calculated as: The Total Nitrogen produced by all livestock ... divided by the eligible area (in hectares) of the holding.

#### *Page 15/16:* Records

As part of Cross Compliance, you have to keep nitrates records. You must keep the records for each calendar year, and they must be finalised by 31st March of the following year.

### **The records you must keep are:**

- Completed record of movement of organic fertiliser form (Record 3) must be submitted to Nitrates Section, Department of Agriculture, Food and the Marine, on or before 31 December each year in respect of all exports of livestock manure ....*which occurs during the year, otherwise the export will not be considered valid.*



***S.I. No. 605 of 2017 EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR PROTECTION OF WATERS) REGULATIONS 2017***

“holding” means an agricultural production unit and, in relation to an occupier, means all the agricultural production units managed by that occupier.

23. (1) Records shall be maintained for each holding which shall indicate— (g) livestock manure and other organic fertilisers moved on to or off the holding including quantities, type, dates and details of exporters and importers, as the case may be, in a format specified by the Minister for Agriculture, Food and the Marine,

**NITRATES EXPLANATORY HANDBOOK** *for Good Agricultural Practice for the Protection of Waters Regulations 2018 (made available on the Department website as a guide to farmers in relation to SI 605/2017)*

**Section 5 Keeping records** - You must keep the following records.

Completed record of movement of organic fertiliser form in the format specified (**Record 3**, page 31) must be submitted to Nitrates Section, Department of Agriculture, Food and ....

The Appeals Officer also reviewed the ER1 completed to secure the second herd number and was satisfied there was no obligation on the RVO to inform the farmer about their Nitrates obligations as a scheme applicant. The Appeals Officer found the DAFM had provided a large amount of information to farmers regarding the implementation of the Nitrates Directive and the associated statutory instruments and on this basis the DAFM made efforts to ensure farmers were informed of the requirement to complete the Record 3 in relation to the export of manure.

In applying for the 2019 BPS, the farmer declared they were aware of the conditions attaching to the Schemes for which application was made, as set out in the 2019 Terms and Conditions, which clarified that it should be read in conjunction with the Cross Compliance Handbook which has a specific section relating to the records to be kept and in relation to Record 3 that it is to be forwarded to the Department before the end of the relevant year.





For the purposes of the Nitrate's calculations, the Appeals Officer found that manure produced in the leased shed, which comprised part of the farmer's holding through lease, can only be assigned to the lessor where a Record 3 is completed and submitted. As this was not done, the manure produced in the second herd number could not be excluded from the calculation of the nitrogen associated with the farmer's holding and the land in their BPS application.

The Appeals Officer fully accepted the quarantined cattle in the second herd number were never on the farmer's land farm, and the evidence was that the manure from the second herd number spread on it and also that he did not intentionally breach the Nitrates Regulations. However, as the farmer did not complete and send a Record 3 to the DAFM, the non-compliance was correctly calculated.

The Appeals Officer also considered whether it was appropriate to reduce the sanction to 1% as provided for in the Page 40 of the 2019 BPS Terms and Conditions (Cross Compliance Penalties) "*If a farmer is found to be in breach of Cross Compliance through negligence, a penalty of 3% will normally apply but this can be reduced to 1% or increased to 5% depending on the extent, severity, and permanence of the non-compliance.*" The Appeals Officer calculated that the 170kg threshold was exceeded by 18% and found this exceedance was too large to justify a reduction of the sanction to 1%.

The appeal was disallowed.





## **6. SUGGESTIONS FOR CONSIDERATION BY THE DEPARTMENT**

### **6.1 General**

Scheme Terms and Conditions need to be clear and unambiguous and should have clear definitions and eligibility requirements.

In multiannual schemes the Department should consider issuing bulletins to scheme participants as to what must be achieved in the scheme year ahead.

### **6.2 Targeted Agricultural Modernisation Schemes**

The way in which applicants pay for an asset that is claimed for can vary. It might be helpful if the Department considered enhancing applicants' awareness that the asset must have been paid for in full, from their own bank account, and that full ownership and possession of the asset must have passed to the applicant before the payment claim for grant aid is submitted. This can be addressed for example by asking these as direct questions at payment claim stage such as identifying the bank account(s) used for the payment and the names on the account(s) and inputting the date of payment(s) from the bank account(s), as well as highlighting the requirements on the letter of grant approval.

Where the Department applies a sanction leading to a nil grant payment, the claim should be fully assessed to otherwise ascertain the validity of the claim and inform the farmer of all possible sanctions. The assessment so done would give full information on the overall merits of any subsequent appeal.

Sanctions should be definitive when set out for in the Terms and Conditions, avoiding terminology such as 'may' when specifying the rate or level of sanction.

The Department should always specify, having regard to the Terms and Condition breached and/or the scheme Penalty Schedule, the basis for the sanction applied. For example, where full ownership of an item has not been transferred to the applicant prior to the payment claim and there will be no grant aid paid, any such sanction should be specified at the Penalty Schedule.



Related to the imposition of penalties for TAMS, the Department should consider highlighting in decision letters that the investment ceiling is reduced by the amount of the claim.

### **6.3 Inspections**

Inspection reports on land eligibility should include any detail of the evidence found on land in respect of “no agricultural activity” findings, for example, to include descriptions in respect of the vegetation, access, evidence of and/or checks for animal tracks etc with reference to geo-tagged photographs and maps where applicable. The report should clearly address all the tenets of agricultural activity. This would assist assessment during an appeal.

### **6.4 Department Decision Letters**

It is important the Department decision and review letters clearly identify the specific scheme name, the relevant year, refer to the Term and Condition, including the date of those Terms and Conditions, and set out the penalty applied and bear in mind the requirement for decision makers to give reasons for decisions.

Control reports should always specify the exact noncompliance found and leave no possibility of confusion or misunderstanding, for example clearly indicate the location and any relevant area or lengths. Where the breach is identified on a map, the map should be provided to the farmer.

Department decision letters commonly refer to the internal Department review process as an appeal, this raises unnecessary confusion amongst farmers with some believing they have made a statutory appeal.

### **6.5 Areas of Natural Constraints Scheme**

As it is unlikely that active farmers with qualifying land would intentionally wish to exclude themselves from the Areas of Natural Constraints Scheme, it may be helpful if the Department gave consideration to assessing if automatic notification could be issued to farmers previously in the scheme who declared eligible disadvantaged land, advising them that they have excluded themselves from the Areas of Natural Constraints Scheme and what they need to do if this is an error and they wish to participate in the Scheme.



## **6.6 Farm Partnerships / Limited Companies**

A farm partnership is not a legal entity and is instead a partnership of individuals who are legal entities. The Department might consider inserting a clarification in relevant Scheme Terms and Conditions on this.

A limited company is a legal entity. Farmers who decide to establish limited companies should be made aware of the requirements to transfer entitlements and any multiannual scheme contracts to the new legal entity / legal person.

## **6.7 During the Period of Appeal and Multiannual Schemes**

During the period of an appeal, the Department should have regard to assessing compliance in the normal manner especially where multi-annual commitments arise.

## **6.8 Cross Compliance Cross-Reporting from other Authorities**

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

## **6.9 Force Majeure / Exceptional Circumstances**

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

## **6.10 Retrospective Livestock Reference periods**

The Department should clearly set out the way herd restrictions are accommodated within the Terms and Conditions so as to leave the applicant informed at the time of application. Also, in the event of a change of head of a holding or the transfer of a holding the Terms and Conditions should set out what arises for the current farmer.



## **7. SUGGESTIONS FOR CONSIDERATION BY SCHEME APPLICANTS**

### **7.1 Scheme Rules**

It is important that applicants familiarise themselves with the Terms and Conditions and Guidelines of Schemes before submitting their claims. There are many changes regards schemes for 2023 and information meetings should have been availed of. Farmers should make themselves aware of the information borne of the Department's website under the 'New CAP Strategic Plan' tab.

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

### **7.2 Cross Compliance / Conditionality**

From 2023 Conditionality encompasses the Good Agricultural and Environmental Condition (GAEC) requirements and Statutory Management Requirements (SMRs) that were previous under Cross Compliance. Applicants should familiarise themselves with the requirements of GAEC especially regards soil, water and landscape features, as well as all SMRs and regularly check that there is no breach of the GAEC or SMR requirements.

All farmers must be compliance with the legal requirements of the Nitrates Regulations. Farmers should always be aware of storage requirements for their herd size and ensure that they meet the requirements in full. This is especially important where herd size is increasing. Nitrates Derogation farmers should be always aware of the specific requirements on them in lieu of the higher organic nitrogen limit afforded them.

Farmers should be aware of the changes in Organic Nitrogen values applicable to livestock, including the banding of dairy cows, and ensure they are farming within the applicable limits subject to these revised rates.

### **7.3 All Schemes**

*Sole trader, Registered Farm Partnership, Limited Company, or other entity:* Change of entity can have significant implications for multiannual contracts and for Basic Payment Scheme



entitlements and should always be clarified with the relevant sections of the Department prior to any changes being undertaken.

Where a farmer uses an agent to lodge an application, a printed database version of the submitted application should be sought by the farmer prior to the closing date as a receipt of the submission of the application.

#### **7.4 Areas of Natural Constraints**

Applicants should familiarise themselves with the stocking density requirements, even in the event of herd restrictions.

All applicants should be aware of new livestock unit values in place from the start of 2023, livestock unit value have reduced for certain categories of animals.

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

#### **7.4 Basic Payment Entitlements / BISS Payment Entitlement**

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

#### **7.5 Appeal submission – Department decision letter:**

When submitting an appeal, farmers must always use the Notice of Appeal Form which is published at [www.agriappeals.gov.ie](http://www.agriappeals.gov.ie) and include a copy of the Department decision which is the subject of their appeal. The grounds of appeal must also be provided. This will assist in expediting the appeal and in determining if the appeal is valid.

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



Later in 2023 there will be an online portal for the submission of an appeal, this will be accessible on [www.agriappeals.gov.ie](http://www.agriappeals.gov.ie) and will require the uploading of the decision being appealed against.





## 8. EXAMPLES OF REOCCURRING COMPLIANCE ISSUES FOR FARMERS

### General Issues

- Late tagging and/or registration of animals.
- Not ensuring animal movement compliance returns are made.
- Animal identification issues, including not keeping animals fully tagged.
- Not completing remedial animal identification and/or registration actions within the period required by the Department following inspection.
- Not ensuring logon access to agfood.ie is up to date, or ensuring sufficient internet access exists to complete online registrations / applications with the *Department*.

### Suckler Herds

- Not maintaining or achieving sufficient animals which are genotyped 4 or 5 stars on the replacement index in each year of their programme contract.

### Areas of Natural Constraints (ANC)

- Application not made.
- Minimum stocking density not maintained and/or 28 consecutive weeks of minimum stocking period not met (note there are changes in ANC stocking requirements for 2023)

### Organic Farming Scheme (OFS)

- The applicant is fully responsible for maintaining their organic licence and status, the Appeals Officer has no statutory role regards the awarding or withdrawal of an organic licence.
- OFS participants must remain aware that withdrawal of the organic licence by the Department or by the Organic Certifying Body, OR allowing their organic licence to lapse, within the term of an OFS contract shall mean termination from the Scheme and recoupment of all aid paid.



### Targeted Agricultural Modernisation Schemes (TAMS)

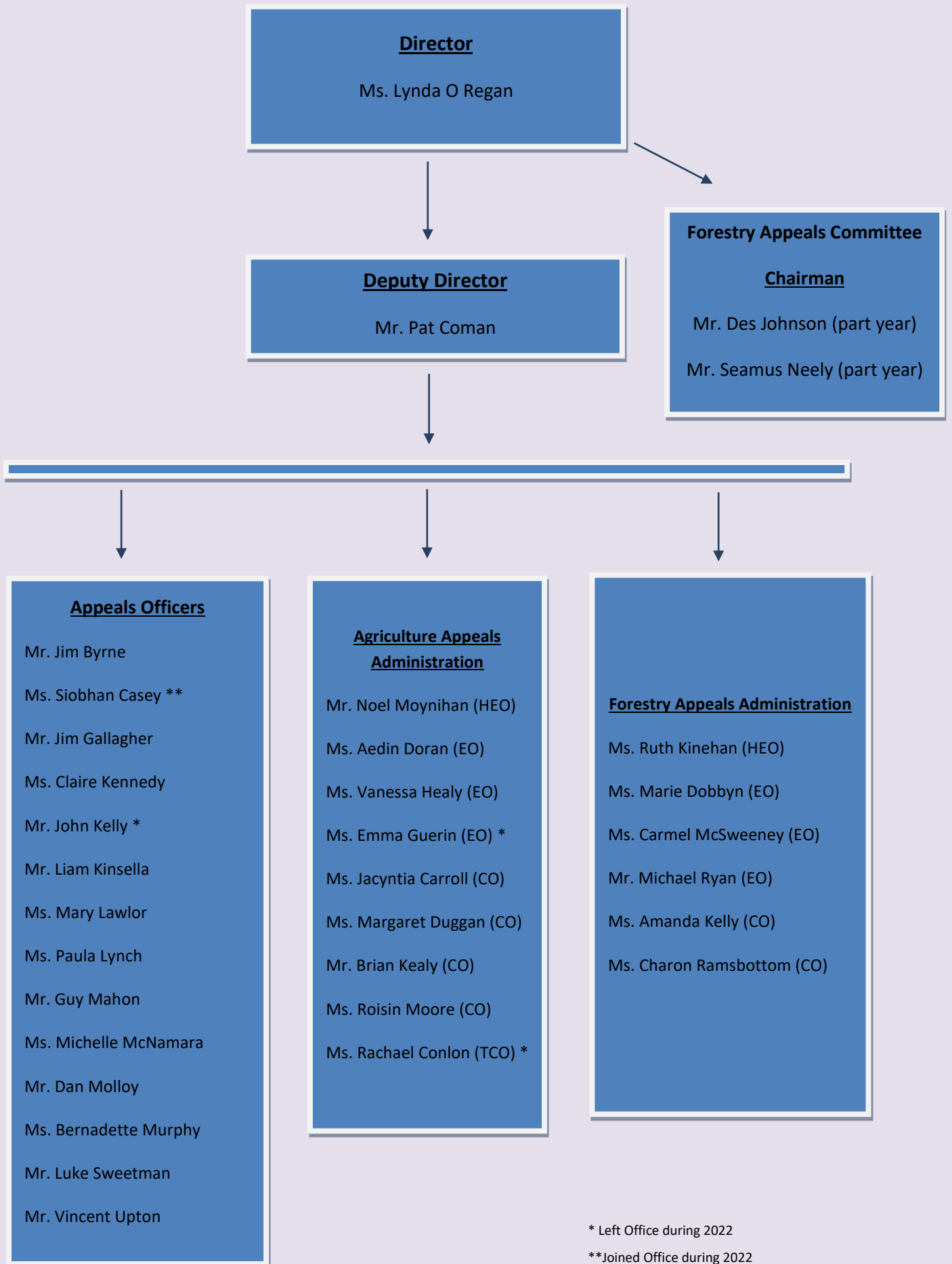
- An applicant should only submit a payment claim after the actual payment is made by them from their own bank account. Applicants should always be aware that claim inspections/validations may in addition to invoices look at bank statements, cheque/electronic payments etc to ensure that the TAMS payment claim was only submitted after the item was fully paid for and is in their ownership and possession. Applicants should also be aware post-dated cheques, after the date of a payment claim, are not considered eligible payment.



## **Appendices**

Appendix A	Agriculture Appeals Office Organisation Chart
Appendix B	Agriculture Appeals Act, 2001,
Appendix C	S.I. No. 193/2002, Agriculture Appeals Regulations 2002
Appendix D	Reference to other relevant legislation, including amendments to the Agriculture Appeals Act 2001.

**Appendix A**



\* Left Office during 2022

\*\*Joined Office during 2022

## Appendix B



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

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#### Acts Referred to.

Diseases of Animals Acts, 1966 to 2001

National Beef Assurance Scheme Act, 2000, No. 2

Ombudsman Act, 1980, No. 26





Number 29 of 2001

AGRICULTURE APPEALS ACT, 2001

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

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

“appeals officer” means an appeals officer appointed under section 2;

“Civil Service” means the Civil Service of the Government and the Civil Service of the State;

“Director” means Director of Agriculture Appeals;

“functions” includes powers, duties and obligations;

“Minister” means Minister for Agriculture, Food and Rural Development;

“prescribed” means prescribed by regulations made by the Minister.

(2) In this Act—

(a) a reference to a section or Schedule is a reference to a section of or Schedule to this Act, unless it is indicated that reference to some other enactment is intended,

(b) a reference to a subsection or paragraph is a reference to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended,

(c) a reference to an enactment includes a reference to that enactment as amended or extended by or under any subsequent enactment including this Act, and

(d) a reference to a statutory instrument shall be construed as a reference to that instrument as amended, adapted or extended by any subsequent statutory instrument.

Appointment of appeals officers.

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

Director of Agriculture Appeals

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

Deputy Director of Agriculture Appeals.

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

Functions of appeals officers.

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

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

#### Independence of appeals officers.

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

#### Right of appeal.

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

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

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

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

#### Oral hearings.

8.—(1) An appeals officer shall, if so requested by the appellant, hold an oral hearing for the purpose of an appeal referred to him or her under this Act.

(2) An oral hearing under this section shall be held in private.

(3) An appellant may represent himself or herself or be represented by another person at the oral hearing of his or her appeal.

(4) Where an appellant is represented by another person at the oral hearing of his or her appeal, the appeals officer hearing the appeal may examine the appellant, if the appeals officer considers it necessary.

(5) An appeals officer, on the hearing of any matter referred to him or her under this Act, shall have the power to take evidence on oath or affirmation and for that purpose may administer oaths or affirmations to persons attending as witnesses at such hearing.

#### Decisions.

9.—(1) The decision of an appeals officer and the reasons for making that decision shall be notified in writing to the appellant.

(2) A document purporting to be a decision made under this Act by an appeals officer and to be signed by him or her shall be prima facie evidence of the making of the decision without proof of the signature of such officer or his or her official capacity.

(3) The decision of an appeals officer on any question referred to him or her under section 7(1) shall, subject to sections 10 and 11, be final and conclusive.

#### Revised Decisions by Director and appeals officers.

10.—(1) An appeals officer may, at any time revise any decision of an appeals officer, if it appears to him or her that the decision was erroneous in the light of new evidence or of new facts brought to his or her notice since the date on which it was given, or if it appears to him or her that there has been any relevant change of circumstances since the decision was given.

(2) The Director may, at any time, revise any decision of an appeals officer, if it appears to him or her that the decision was erroneous by reason of some mistake having been made in relation to the law or the facts.

(3) A revised decision given under this section shall take effect from such date as the appeals officer concerned determines or considers appropriate having regard to the circumstances of the case.

#### Appeals to High Court.

11.—Any person dissatisfied with—

(a) the decision of an appeals officer, or

(b) the revised decision of the Director,

may appeal that decision or revised decision, as the case may be, to the High Court on any question of law.

Representations under National Beef Assurance Scheme Act, 2000. *(repealed by Schedule 1 Animal Health and Welfare Act 2013)*

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. *(repealed by Schedule 1 Animal Health and Welfare Act 2013)*

13.—(1) Where representations are made to the Minister under Article 8(1) of the Diseases of Animals Acts, 1966 to 2001 (Approval and Registration of Dealers and Dealers' Premises) Order, 2001 (S.I. No. 79 of 2001), the Minister shall, upon receipt of such representations refer them, as soon as may be, to the Director for advice.

(2) The Director shall, within 28 days of receipt of such representations, consider them and advise the Minister.

(3) The Minister shall have regard to any advice given to him or her under this section before revoking or suspending a registration or refusing to register a person or premises under the aforesaid Article 8.

## Annual reports

14.—(1) As soon as may be after the end of each year, but not later than 6 months thereafter, the Director shall make a report to the Minister of his or her activities and the activities of the appeals officers under this Act during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(2) A report under subsection (1) shall be in such form and shall include information in regard to such matters (if any) other than those referred to in that subsection as the Minister may direct.

(3) The Director shall, whenever so requested by the Minister, furnish to him or her information in relation to such matters as he or she may specify concerning his or her activities or the activities of appeals officers under this Act.

## Regulations.

15.—(1) The Minister may make regulations for the purpose of enabling this Act to have full effect.

(2) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed.

## Laying of regulations before Houses of Oireachtas.

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

## Expenses of Minister.

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

## Amendment of First Schedule to Ombudsman Act, 1980.



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

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

Short title.

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

## **SCHEDULE 1 (As amended by S.I. No. 743 of 2022)**

### **Schemes**

Agri-Climate Rural Environment Scheme (ACRES)

Agri-Climate Rural Environment Training Scheme

Afforestation Grant and Premium Scheme

Agri-Environment Options Scheme (AEOS)

Agri-Environment Pilot Project

Agri-Environment Training Scheme (AETS)

Animal Welfare, Recording and Breeding Scheme for Suckler Herds (AWRBS)

Areas of Natural Constraints (ANC)

Areas of Specific Constraint (Island Farming) scheme

Basic Income Support for Sustainability (BISS)

Basic Payment Scheme (BPS)

Beef Data Programme (BDP)

Beef Environmental Efficiency Pilot (BEEP)

Beef Environmental Efficiency Pilot - Suckler (BEEP-S)

Beef Exceptional Aid Measure (BEAM)

Beef Finisher Payment (BFP)

Beef Genomics Scheme (BGS)

Beef Data and Genomics Programme (BDGP)

Bio Energy Scheme

Burren Programme

Calf Investment Scheme (CIS)

Complementary Income Support for Young Farmers (CIS-YF)

Complementary Redistributive Income Support for Sustainability (CRISS)

Dairy-Beef Calf Programme

Dairy Beef Welfare Scheme

Dairy Efficiency Programme

Depopulation Scheme

Disadvantaged Areas Scheme (DAS) excluding Land Parcel Identification System Review 2013

(LPIS Review 2013)

Eco-Scheme

Farm Improvement Scheme (FIS)

Fodder Support Scheme (FSS)

Forest Environment Protections Scheme (FEPS)

Forest Genetic Resources Reproductive Material: Seed Stand & Seed Orchard Scheme

Forest Roads Scheme

Grant-Aid Scheme for Marts to facilitate their operation as Central Points of

Recording (CPRS)

Green, Low-Carbon, Agri-Environment Scheme (GLAS)

Greening Payment

Grassland Sheep Scheme (GSS)

Hardship Grant Scheme

Horticulture Exceptional Payment Scheme (HEPS)

Income Supplement – TB Compensation Scheme

Innovative Forest Technology Scheme – Central Tyre Inflation

Installation Aid Scheme (IAS)

Knowledge Transfer Programme (KT)

Native Woodland Conservation Scheme

Native Woodland Scheme

Neighbourwood Scheme

Nitrates Derogation Scheme

Non-valuation aspects of the On-Farm Valuation Scheme for TB and Brucellosis Reactors

Organic Farming Scheme

Organic Farming Scheme 3

Organic Processing Investment Grant Scheme

Prevention and Restoration of Damage to Forests: Reconstitution of Woodland Scheme (Windblow)

Protein Aid Scheme

Reconstitution of Woodland Scheme

Reconstitution Scheme (Chalara Ash Dieback) 2014-2020

Results-based, Agri-Environment Pilot Project (REAP)

Rural Environment Protection Scheme (REPS) 4 [368]

Scheme of Early Retirement from Farming

Scheme of Grant-Aid for the Development of the Organic Sector

Scheme of Grant-Aid for Improvements in Animal Welfare Standards (Sow Housing)

Scheme of Investment Aid for Farm Waste Management (FWM)

Scheme of Investment Aid for the Development of the Commercial Horticulture Sector (excluding decisions in relation to applications for approval for inclusion in the scheme – 1st stage)

Scheme of Investment Aid for the Improvement of Dairy Hygiene Standards (DHS)

Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)

Scheme of Investment Aid for Demonstration On-Farm Waste Processing Facilities

Sheep Improvement Scheme

Sheep Welfare Scheme

Single Payment Scheme, excluding Article 37(2), 40 and 42 of Chapter 2 of Council Regulation (EC) No 1782/2003 and Land Parcel Identification System Review 2013 (LPIS Review 2013)

1 OJ L270, 21.10.2003, p.1

Sow Housing (Animal Welfare) Scheme

Straw Incorporation Measure (SIM)

Suckler carbon Efficiency Programme

Support for Collaborative Farming Grant Scheme

Targeted Agricultural Modernisation Scheme (TAMS), including – (RDP 2007-2013)

- (a) The Dairy Equipment Scheme
- (b) The Poultry Welfare Scheme
- (c) The Sheep Fencing/Mobile Handling Equipment Scheme
- (d) The Sow Housing Welfare Scheme
- (e) The Rainwater Harvesting Scheme, and
- (f) The Farm Safety Scheme

Targeted Agricultural Modernisation Scheme II (TAMS II) RDP 2014–2020)

- (a) The Animal Welfare, Safety and Nutrient Storage Scheme
- (b) The Dairy Equipment Scheme
- (c) The Low-Emission Slurry Spreading (LESS) Equipment Scheme
- (d) The Organic Capital Investment Scheme
- (e) The Pig and Poultry Investment Scheme
- (f) The Young Farmers Capital Investment Scheme, and
- (g) Tillage Capital Investment Scheme

The Scheme of EU aid for producer organisations in the fruit and vegetable sector

The Scheme of Investment Aid for the Seed Potato Sector

Tillage incentive Scheme

Traditional Farm Building Grant Scheme 2017 and 2018

Upland Sheep Payment Scheme

Weather Related Crop Loss Support Measure

Woodland Improvement Scheme

Young Farmers' Installation Scheme

Young Farmers Scheme.''.

## Appendix C



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 statement showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and

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 – 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, allow the amendment of any notice of appeal, statement, or particulars at any stage of the proceedings, and 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

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Minister for Agriculture, Food and Rural Development

## **Appendix D**

### **Amendments to the Agriculture Appeals Act 2001:**

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

31 of 2014. Forestry Act 2014, amending the Agriculture Appeals Act 2001

15 of 2013. Animal Health and Welfare Act 2013, amending the Agriculture Appeals Act 2001

15 of 2020. Forestry (Miscellaneous Provisions) Act 2020, amending the Agriculture Appeals Act 2001

### **Statutory Instruments made under the Agriculture Appeals act 2001:**

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

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

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

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

S.I. No. 169 of 2008 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2008

S.I. No. 106 of 2012 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2012

S.I. No. 10 of 2014 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2014

S.I. No. 276 of 2015 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2015

S.I. No. 638 of 2016 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2016

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

S.I. No. 164 of 2018 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2018

S.I. No. 68 of 2018 Forestry Appeals Committee Regulations, 2018

S.I. No. 556 of 2019 Agriculture Appeals Act (Amendment of Schedule) Regulations 2019

S.I. No. 415 of 2020 Agriculture Appeals Act (Amendment of Schedule) Regulations 2020

S.I. No. 368 of 2021 Agriculture Appeals Act (Amendment of Schedule) Regulations 2021

S.I. No. 418 of 2020 Forestry Appeals Committee Regulations, 2020

S.I. No. 383 of 2022 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2022

S.I. No. 743 of 2022 Agriculture Appeals Act 2001 (Amendment of Schedule) Regulations 2022

Copies of all legislation are available on the Irish Statute Book website [www.irishstatutebook.ie](http://www.irishstatutebook.ie).