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*Number 29 of 2001*

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**AGRICULTURE APPEALS ACT, 2001**

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

SCHEDULE

SCHEMES



ACTS REFERRED TO

Diseases of Animals Acts, 1966 to 2001

National Beef Assurance Scheme Act, 2000

Ombudsman Act, 1980

2000, No. 2

1980, No. 26



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*Number 29 of 2001*

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**AGRICULTURE APPEALS ACT, 2001**

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

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

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

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

“Director” means Director of Agriculture Appeals;

“functions” includes powers, duties and obligations;

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

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

(2) In this Act—

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

S.1 (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

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appeal may examine the appellant, if the appeals officer considers it necessary. S.8

(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.

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

(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.

**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. Revised Decisions by Director and appeals officers.

(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.

**11.—**Any person dissatisfied with—

- (a) the decision of an appeals officer, or
- (b) the revised decision of the Director,

Appeals to High Court.

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

**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. Representations under National Beef Assurance Scheme Act, 2000.

(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.

**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. Representations by certain animal and poultry dealers.

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S.13 (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

Section 5.

SCHEMES

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