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**AN BILLE UM ACHOMHAIRC TALMHAÍOCHTA, 2001**  
**AGRICULTURE APPEALS BILL, 2001**

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*Mar a tionscnaíodh*  
*As initiated*

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**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. Conferral of additional functions.
8. Right of appeal.
9. Oral hearings.
10. Decisions.
11. Revised Decisions by Director and appeals officers.
12. Appeals to High Court.
13. Representations under National Beef Assurance Scheme Act, 2000.
14. Annual reports.
15. Regulations.
16. Laying of orders and regulations before Houses of Oireachtas.
17. Expenses of Minister.
18. Amendment of First Schedule to Ombudsman Act, 1980.
19. Short title.

[No. 2 of 2001]

## SCHEDULE

### SCHEMES

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#### ACTS REFERRED TO

National Beef Assurance Scheme Act, 2000	2000, No. 2
Ombudsman Act, 1980	1980, No. 26



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AN BILLE UM ACHOMHAIRC TALMHAÍOCHTA, 2001  
AGRICULTURE APPEALS BILL, 2001

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# BILL

*entitled*

5 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  
10 IN RELATION TO CERTAIN SCHEMES AND TO PRO-  
VIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

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

15 “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.

20 (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,

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

30 (c) a reference to an enactment includes a reference to that  
enactment as amended or extended by or under any sub-  
sequent enactment including this Act.

Appointment of appeals officers.	<b>2.</b> —The Minister may appoint such and so many of his or her officers as he or she thinks appropriate to be appeals officers for the purposes of this Act and every person so appointed shall hold office during the pleasure of the Minister.	
Director of Agriculture Appeals.	<b>3.</b> —One of the appeals officers shall be designated by the Minister 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”.	5
Deputy Director of Agriculture Appeals.	<b>4.</b> —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.	<b>5.</b> —(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 <i>Schedule</i> .  (2) The Minister may, from time to time, amend by regulations the <i>Schedule</i> so as to add to or delete from the <i>Schedule</i> any scheme or part of a scheme.	10 15
Independence of appeals officers.	<b>6.</b> —Appeals officers shall, subject to this Act, be independent in the performance of their functions.	
Conferral of additional functions.	<b>7.</b> —(1) The Minister may by order confer on the Director or appeals officers such additional functions connected with appeals under this Act as he or she considers appropriate.  (2) The Minister may by order amend or revoke an order under this section (including an order under this subsection).	20
Right of appeal.	<b>8.</b> —(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 <i>Schedule</i> , 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 in this regard issued by the Minister.	25 30 35
Oral hearings.	<b>9.</b> —(1) An appeals officer may 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 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 and for that purpose may administer oaths to persons attending as witnesses at such hearing.	40

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

5 (2) The Minister may issue guidelines to appeals officers with respect to the time within which a decision of an appeals officer should be notified to an appellant.

(3) 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.

10 (4) The decision of an appeals officer on any question referred to him or her under *section 8(1)* shall, subject to *sections 11* and *12*, be final and conclusive.

15 **11.**—(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.

20 (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.

25 (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.

**12.**—Any person dissatisfied with—

Appeals to High Court.

(a) the decision of an appeals officer, or

(b) the revised decision of the Director,

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

**13.**—(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.

35 (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.

40 **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. Annual reports.

(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 may specify concerning his or her activities or the activities of appeals officers under this Act. 5

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. 10

Laying of orders and regulations before Houses of Oireachtas.

**16.—**Every order or 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 order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to anything previously done thereunder. 15

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. 20

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*”. 25

Short title.

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

## SCHEMES

- Beef Cow Scheme in Less Severely Handicapped Areas and Coastal Areas with Specific Handicaps
- 5 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
- 10 EU Extensification Premium Scheme
- EU Slaughter Premium Scheme
- EU Special Beef Premium Scheme
- EU Suckler Cow Premium Scheme
- Farm Improvement Programme (FIP)
- 15 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)
- 20 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)
- Rural Environment Protection Scheme (REPS)
- 25 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)
- 30 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 for the Control of Farm Pollution (CFP)
- 35 Scheme of Investment Aid in Alternative Enterprises (Housing and Handling Facilities) (AES)
- Sheep Headage Scheme in all Disadvantaged Areas