
WELSH STATUTORY INSTRUMENTS

2001 No. 2537 (W.212)

AGRICULTURE, WALES

The Agricultural Subsidies (Appeals) (Wales) Regulations 2001

Made - - - - - *10th July 2001*

Coming into force - - - - - *1st August 2001*

The National Assembly for Wales in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972(1) and of all other powers enabling it in that behalf, makes the following Regulations:

Name, commencement and application

1.—(1) These Regulations are called the Agricultural Subsidies (Appeals) (Wales) Regulations 2001 and come into force on 1st August 2001.

(2) These Regulations apply to agricultural holdings, all or part of which are situated in Wales, and claims for payment pursuant to the Integrated Administration and Control System for which are made to the National Assembly for Wales.

Interpretation

2.—(1) In these Regulations —

“Commission Regulation 3887/92” (*“Rheoliad y Comisiwn 3887/92”*) means Commission Regulation (EEC) No. 3887/92(2) laying down rules for applying the integrated administration and control system for certain Community aid schemes as amended by Commission Regulation (EC) No. 229/95(3), Commission Regulation (EC) No. 1648/95(4), Commission Regulation (EC) No. 2015/95(5), Commission Regulation (EC) No. 613/97(6), Commission Regulation (EC) No. 1678/98(7), Commission Regulation (EC) No. 2801/1999(8) and Commission Regulation (EC) No. 2721/2000(9),

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- (1) 1972 c. 68. The National Assembly was designated for the purposes of Section 2(2) by the European Communities (Designation) (No.3) Order 1999 (S.I.1999/2788).
- (2) O.J. L391, 31.12.1992, p.36.
- (3) O.J. L27, 4.2.1995, p.3.
- (4) O.J. L156, 7.7.1995, p.27.
- (5) O.J. L197, 22.8.1995, p.2.
- (6) O.J. L94, 9.4.1999, p.1.
- (7) O.J. L212, 30.7.1998, p.23.
- (8) O.J. L340, 31.12.1999, p.29.
- (9) O.J. L314, 14.12.2000, p.8.

“Council Regulation 3508/92” (“*Rheoliad y Cyngor 3508/92*”) means Council Regulation (EEC) No. 3508/92(10) establishing an integrated administration and control system for certain Community aid schemes as amended by Council Regulation (EC) No. 3235/1994(11), Council Regulation (EC) No. 3072/1995(12), Council Regulation (EC) No. 1577/96(13), Council Regulation (EC) No. 2466/96(14), Commission Regulation (EC) No. 613/97(15), Council Regulation (EC) No. 1593/2000(16) and Commission Regulation 495/2001 (17);

“holding” (“*daliad*”) has the same meaning as in Council Regulation No. 3508/92;

“IACS scheme” (“*cynllun IACS*”) means one of the Community Integrated Administration and Control System schemes set out in Article 1.1 of Council Regulation 3508/92; and

“IACS year” (“*blwyddyn IACS*”) means a period of 12 months commencing on 16th May and “IACS year 2001” means such a period commencing on 16th May 2001.

(2) Any reference in these Regulations to a person to whom a decision is directed, an applicant for review or a person appealing to the National Assembly includes a reference to any successor, executor, trustee in bankruptcy, receiver or liquidator of such a person or applicant.

Application

3. These Regulations apply to decisions of the National Assembly of the kind referred to in regulation 4 below in relation to holdings which are administered by the National Assembly for the purposes of the Integrated Administration and Control System Regulations 1993(18).

Decisions amenable to review and appeal

4. The following decisions may be reviewed and appealed in accordance with the following provisions of these Regulations —

- (a) a decision, under or in accordance with Commission Regulation 3887/92 (including anything done in accordance with Article 11.1 of the Regulation), by the National Assembly to refuse, reduce or recover (in whole or in part) payment under any of the schemes specified in the Schedule for the IACS year 2001 or any IACS year thereafter and including payments made under the Tir Mynydd Scheme in 2001; and
- (b) a decision by the National Assembly in relation to sheep and cattle quotas for the purposes of the common agricultural policy, but only in respect of subsidy claims for IACS year 2001 or any IACS year thereafter and not in respect of any earlier years.

Review of decisions – Stage 1

5.—(1) A person to whom a decision referred to in regulation 4 above is directed, may apply, no later than 30 days following the date of the letter informing that person of the decision to be reviewed, to the National Assembly for a review of that decision.

(2) An application for review must be in writing in the form specified by the National Assembly and set out —

- (a) the name and address of the applicant, and the basis upon which review is sought;

(10) O.J. L355, 5.12.1992, p.1.

(11) O.J. L338, 28.12.1994, p.16.

(12) O.J. L329, 30.12.1995, p.18.

(13) O.J. L206, 16.8.1996, p.4.

(14) O.J. L335, 24.12.1996, p.1.

(15) O.J. L94, 9.4.1997, p.1.

(16) O.J. L182, 21.7.2000, p.4.

(17) O.J. L72, 14.03.2001, p.6.

(18) S.I. 1993/1317 as amended by S.I. 1994/1134, S.I. 1997/1148, S.I. 1999/1820 and S.I. 2000/2573.

- (b) the subsidy scheme in relation to which the review is sought and the IACS year to which the decision referred;
- (c) the decision that is to be reviewed and its date;
- (d) full details of the grounds upon which review is sought; and
- (e) the change sought to the decision.

(3) An application under this regulation is to be treated as made if it is received by the National Assembly at the Divisional Office at which the original decision was taken.

6.—(1) When an application is made under regulation 5 above, the head of the National Assembly's Divisional Office shall review the decision that is specified in it.

(2) In reviewing a decision the head of the Divisional Office may —

- (a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the original decision);
- (b) invite the applicant to provide such further information relevant to the review as the applicant considers appropriate; and
- (c) give the applicant an opportunity to make representations in writing.

7.—(1) Following a review of a decision in accordance with regulation 6 above the head of the Divisional Office of the National Assembly may —

- (a) confirm the decision;
- (b) amend or alter the decision in any respect which it is considered appropriate; or
- (c) revoke the decision in its entirety and substitute a new decision.

(2) The head of the Divisional Office must give the decision under paragraph (1) above in writing, setting out the facts upon which the decision is based and the reasons for the decision.

(3) The National Assembly must, in the case of a decision which does not provide the remedy specified by the applicant in accordance with regulation 5(2)(e) above, offer the applicant an opportunity to have its decision under this regulation reviewed by its Agricultural Subsidies Appeals Unit.

Review of decisions – Stage 2

8.—(1) A person to whom a decision reviewed in accordance with regulation 7 above is directed, may apply, no later than 30 days following the date of the letter informing the applicant of the decision, to the Agricultural Subsidies Appeals Unit of the National Assembly for a further review of that decision.

(2) An application for further review must be in writing and specify —

- (a) the name and address of the applicant, and the basis upon which further review is sought;
- (b) the subsidy scheme in relation to which the review is sought and the IACS year to which the decision referred;
- (c) the decision of the head of the Divisional Office that is to be reviewed and its date;
- (d) full details of the grounds upon which further review is sought; and
- (e) the change sought to the decision.

(3) An application under this regulation is to be treated as made if, it is received by the National Assembly at its offices at Cathays Park, Cardiff, CF10 3NQ marked “for the attention of the Agricultural Subsidies Appeals Unit”.

9.—(1) When an application is made under regulation 8 above, the Agricultural Subsidies Appeals Unit of the National Assembly shall review the decision which is specified in it.

(2) In reviewing a decision the Appeals Unit may —

- (a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the original decision or the first stage of the review);
- (b) invite the applicant to provide such further information relevant to the review as the applicant considers appropriate; and
- (c) give the applicant an opportunity to make representations in writing.

10.—(1) Following a review of a decision in accordance with regulation 9 above the Agricultural Subsidies Appeals Unit of the National Assembly may —

- (a) confirm the decision;
- (b) amend or alter the decision in any respect which it is considered appropriate; or
- (c) revoke the decision in its entirety and substitute a new decision.

(2) The Appeals Unit must give the decision under paragraph (1) above in writing, setting out the facts upon which the decision is based and the reasons for the decision.

(3) The National Assembly must, in the case of a decision which does not provide the remedy specified by the applicant in accordance with regulation 8(2)(e) above, offer the applicant an opportunity to appeal against the reviewed decision to persons appointed by it.

Stage 3 – Appeals to appointed persons

11.—(1) An applicant to whom regulation 10(3) above applies may, not later than 30 days following the date of the letter informing him or her of the decision under regulation 10 above, apply in writing to the National Assembly to have that decision reviewed by persons appointed by it.

(2) When the decision to be reviewed is a decision of a kind referred to in regulation 10(1)(b) or (c) the applicant may supplement the original application under regulation 8(2) above as the nature of that decision may require.

(3) An application under this regulation is to be treated as made if it is received by the National Assembly at its offices at Cathays Park, Cardiff, CF10 3NQ marked “for the attention of the Agricultural Subsidies Appeals Secretariat” and is accompanied by the fee of:

- (a) £100 in the case of an appeal in which the applicant seeks an oral hearing; and
- (b) £50 in the case of an appeal which the applicant is content to have considered without an oral hearing.

12.—(1) When an application is made under regulation 11, the National Assembly shall appoint such persons as it considers appropriate to review the decision and provide those persons with a copy of —

- (a) the application;
- (b) the decision under regulation 10 above; and
- (c) any document or note of evidence produced or taken in relation to an earlier review.

(2) The persons appointed under this regulation shall review the decision and may —

- (a) consider any document or other evidence produced by the applicant or the National Assembly (whether or not that document or evidence was available at the time of taking the decision under regulation 10 above);

- (b) invite the applicant and the National Assembly to provide such further information relevant to the review as the persons appointed consider appropriate; and
 - (c) give the applicant and the National Assembly an opportunity to give evidence and to make written or oral representations depending on the form of appeal requested by the applicant and for which the appropriate fee has been paid.
- (3) Following their review of the matter the persons appointed shall report to the National Assembly —
- (a) their findings of fact on the matter; and
 - (b) their recommendations as to the determination of the application having regard to the law applicable to the facts.
- (4) Having considered the matters reported to them under paragraph (3) above the National Assembly may —
- (a) confirm its decision;
 - (b) amend or alter its decision in any respect which it considers appropriate; or
 - (c) revoke its decision in its entirety and substitute a new decision.
- (5) In coming to its decision in accordance with paragraph (4) above the National Assembly must have regard to the findings and recommendations reported to it by the persons appointed under this regulation but is not bound to follow all or any part of such recommendations.
- (6) The National Assembly must give its decision under this regulation in writing and when it does not adopt the recommendations reported to it shall set out —
- (a) the relevant facts upon which its decision is based;
 - (b) the reasons for the decision;
 - (c) its reasons for not following in whole or in part the recommendations of the persons appointed; and
 - (d) the effect of its decisions on the payment or non payment of subsidy.
- (7) If the National Assembly decides in accordance with paragraph (4)(b) or (c) above, the fee referred to in regulation 11(3) above must be refunded to the applicant.
- (8) The National Assembly may make such payment, by way of fee or reimbursement of expenses, to any person appointed under paragraph (1) above, as appears to it to be appropriate.

Notification of Decisions

13.—(1) A decision under regulations 6, 9 and 12 above must be notified to the applicant as soon as practicable after it is made by using recorded delivery post to the address shown in the application for review.

(2) In the case of a decision under regulation 12, the findings and recommendations of the persons appointed shall be notified along with the decision.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(19).

10th July 2001

John Marek
The Deputy Presiding Officer of the National
Assembly

THE SCHEDULE

Regulation 4

Sheep Annual Premium Scheme (SAPS)
Sheep Annual Premium Scheme Less Favoured Area (LFA) Supplement
Beef Special Premium Scheme (BSPS)
Suckler Cow Premium Scheme (SCPS)
Extensification Payments Scheme (EPS)
Arable Area Aid Payment Scheme (AAPS)
Tir Mynydd Scheme

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations have effect in relation to holdings (whether wholly situated in Wales or partly in Wales and partly elsewhere in the United Kingdom), which are administered by the National Assembly for the purposes of the Integrated Administration and Control System Regulations 1993. They introduce for the first time legal rights to seek a review of certain decisions of the National Assembly in relation to certain agricultural subsidies and quotas and to appeal such decisions after review. They apply from the IACS year 2001 and also to Tir Mynydd payments made in 2001.

The kinds of decisions which can be reviewed and appealed are set out in regulation 4. They are decisions to refuse, reduce or recover in whole or in part payments under the schemes specified in the Schedule and decisions in relation to livestock quotas for common agricultural policy purposes.

The procedure for review is by application made no later than 30 days following the date of the letter informing the applicant of the decision to be reviewed (regulation 5).

Stage 1

The review in first instance will be conducted by the head of the National Assembly Divisional Office where the initial decision was made. Certain powers are given in relation to such reviews, and following a review the decision must be given in a specified form. (regulations 5-7).

Stage 2

An applicant who is not satisfied with the outcome of the review by the head of the Divisional Office may apply for a further review by the Agricultural Subsidies Appeals Unit of the National Assembly. The process is similar to that at Stage 1 and is set out in regulations 8-10.

Stage 3

An applicant who is still dissatisfied may apply to the National Assembly to have the decision reviewed by a panel of persons appointed by the National Assembly (regulation 11(1)).

A fee of £100 is payable in respect of such an application to be heard orally, and £50 if the application is to be considered on paper only (regulation 11(3)).

The National Assembly may appoint persons to conduct this stage of the review (regulation 12(1)). Persons appointed under regulation 12 must review the decision of the Agricultural Subsidies Appeals Unit and have power to consider additional information or to invite representations from the applicant and the National Assembly (regulation 12(2)).

Following their review of the decision the persons appointed by the National Assembly must report their findings of fact and recommendations to the National Assembly (regulation 12(3)).

The National Assembly is required to make a decision having regard to the findings and recommendations reported to it by the persons appointed (regulation 12(4) and (5)).

The National Assembly is required to give its decision in writing and to give full details of the facts and reasons for the decision (regulation 12(6)).

When the National Assembly decides that an applicant has been successful in whole or in part in the review it must refund the fee paid (regulation 12(7)).

The National Assembly may make payments to persons appointed by it under regulation 12(1) (regulation 12(8)).

Decisions must be notified in accordance with regulation 13.