

Date: 11 October 2000
Time: 9.00 a.m to 12.20pm
Venue: Committee Room, National Assembly

Independent Appeals Mechanism

Purpose

1. The Agriculture Secretary announced at the ARD Committee held on 14 September that at the next meeting (11 October) he would put forward a draft consultation document regarding an Independent Appeals Procedure for Welsh farmers.
2. The Committee is asked to consider the draft consultation paper at Annex 1 before officials issue the document to the farming industry in Wales.

Summary

3. The industry has argued that a formal appeals procedure is required for disputes relating to the (mainly) Integrated Administration and Control (IACS) rules. Disputes arise where there is disagreement over the facts of a case and/or the application or interpretation of the European Regulations. Most cases involve the payment of arable and livestock subsidies covered by the European Agricultural Guarantee and Guidance Fund (EAGGF).
4. The existence of a formal appeals mechanism would not alter the requirement for farmers to comply with the EC Regulations. The National Assembly's Agriculture Department must also continue to enforce these Regulations or run an immediate risk of disallowance (refusal to reimburse expenditure) from the European Commission.
5. The consultation paper at Annex 1 proposes an appeals process containing 4 separate stages. Full details are set out at paragraphs 21 - 21.8 of the paper. The 4 stages in brief are:
 - **Stage 1** - the manager of the member of staff who took the initial decision to consider farmers' initial response to decisions with which they are unhappy.
 - **Stage 2** - if the appeal remains unresolved farmers would have their case reconsidered by the Divisional Executive Officer (DEO). If it was considered that the original decision was sound, the DEO would be responsible for issuing a standard format case paper outlining the Assembly's reasons for rejecting the farmer's appeal.
 - **Stage 3** - It is proposed that an Appeals Unit, staffed by Assembly officials be established to consider all appeals that remain unresolved after Stages 1 and 2. The unit would be independent

of the management structures surrounding the initial decision.

6. There will be no cost to the appellants for accessing the first 3 stages of the process. It is expected that the majority of appeals could be resolved within these 3 stages of appeal. But if appellants remain unsatisfied a fourth stage is proposed:

- **Stage 4** - an independent *advisory* panel of arbiters to consider both written and oral appeals and to make recommendations to the Assembly Secretary for Agriculture and Rural Development. The panel would be serviced by an Appeals Unit. Clear training and guidance would have to be provided to arbiters to ensure that their considerations and recommendations remained within the requirements and the of EC regulations. It is envisaged that the Panel might include an external chairperson (with farming industry background).

7. The consultation document invites consultees to:

- agree that there is a need for a more transparent and independent appeals mechanism
- put forward suggestions as to how an appeals process could be publicised
- agree that an appeals process should be established containing several different stages
- agree the first 3 stages are necessary before recourse to the independent panel
- consider if the proposed establishment of stage 4 meets the industry's expectations of an independent panel
- agree that charging is a reasonable way to limit frivolous appeals
- consider whether all appeals should go through the staged process or if appellants should have the option of going straight to the fourth stage if they so wish.

Timing

8. **Urgent** - *8 weeks are required for the consultation process followed by recommendations to the Agriculture Secretary with a view to have an appeals mechanism in place by the end of the IACS 2000 scheme year (May 2001).*

Background

9. There has been considerable pressure from the farming industry for the Assembly to set up an independent appeals panel for farmers. The industry are concerned that Assembly officials act as both judge and jury on the imposition of penalties upon farmers for infringement of European subsidy scheme rules. The ARD Committee have previously indicated their support for an independent appeals mechanism.

10. The IACS Red Tape Group set up by MAFF to look at regulatory burdens on farmers, have issued a report that recognised the farming industry should be consulted on the establishment of an independent appeals process, and the previous Agriculture Secretary agreed to carry out a consultation in Wales.

11. Proposals would have to satisfy the industry's concerns, maintain a reasonably consistent line with MAFF and the Scottish Executive (also meeting the Commission's policy on harmonisation), attempt to satisfy the requirements of the European Convention on Human Rights (ECHR) and establish a mechanism which is not too costly for the Assembly or potential appellants.

A Judicial Element?

12. The paper as currently drafted differs from the Scottish Executive's proposals in that it does not explicitly provide the option of establishing a judicial body which could make decisions in law on appeal cases. MAFF's consultation paper is also likely to include the option of a judicial stage.

13. **This is a possible Stage 5** to add to our proposals. It would involve establishing a legal entity (a Tribunal) in Wales (and England) to carry out these functions or amending the powers of an existing Tribunal. The Tribunal would make a final determination on a case save that there would be the possibility of further appeal to the courts. Tribunals can be very expensive to run (some existing Tribunals have estimated running costs up to £1m) and would add an additional layer of bureaucracy to the process. Estimating costs for a possible judicial stage in Wales is problematic. At this stage we are unable to estimate the total number of appeals coming forward as a result of a publicised appeals process or the proportion of cases that could reach the advisory panel/judicial stage. A single case may take days to conclude at the judicial stage.

14. The establishment of a judicial stage would take the decision making out of the Assembly's control. But, it is arguable that the existence of a Tribunal at the end of an appeals mechanism might better satisfy ECHR requirements (paragraph 16 of the draft paper). In reality, if MAFF go down this route, it is going to be very difficult for the Assembly to have a different system from the other UK territories which might be perceived as less rigorous and also vulnerable to legal challenge.

Action in Other UK Agriculture Departments

15. The Scottish Executive (SERAD) have already completed their consultation on this issue and Scottish Ministers have indicated their intention to establish a four level system including a judicial element. Details are set out at Annex 1 para 24. Both MAFF and Department for Agriculture and Rural Development in Northern Ireland (DARD) are proposing to consult soon on their own proposals. The Republic of Ireland, and other EU countries already have an appeals mechanism containing different degrees of independence.

Compliance

16. Compliance aspects are covered by section 33 of the Government of Wales Act 1998. Powers under section 33 have been delegated to the Assembly Secretary.

Cross Cutting Themes

17. An Assembly wide Code of Practice on complaints has recently been introduced which provides for a panel to be chaired by someone independent of the Assembly. Although the complaints panel will investigate alleged actions or failures on the part of Assembly, or standards of service provided, it will not review the substance of decisions taken by the Assembly. Assembly officials will be responsible for directing farmers to the most suitable route for their specific circumstances.

18. Welsh farmers will continue to be able to approach the Welsh Administration Ombudsman directly over cases of perceived maladministration.

Action For ARD Committee

19. To debate the consultation document at Annex 1 prior to its issue to the farming industry in Wales. Committee members may wish to discuss the establishment of a 5th (judicial) stage - and whether they would prefer to see it included for consultation now or added to the process later should it become necessary in the light of further discussions with MAFF and the other UK territories.

Contact Point

Gareth Jones, CAP M Division

Annex 1

DRAFT

ESTABLISHING A EUROPEAN SUBSIDIES APPEALS MECHANISM FOR FARMERS IN WALES: A CONSULTATION DOCUMENT

INTRODUCTION

What is this paper about?

1. This consultation paper invites comments from the farming industry on proposals for an improved and independent appeals mechanism in Wales, principally under the Integrated Administration and Control System (IACS). Its purpose would be to enhance our existing processes to consider appeals against decisions specifically and solely concerning the disbursement of funds from the European Agricultural Guarantee and Guidance Fund (EAGGF, sometimes referred to under its French acronym FEOGA).

2. The National Assembly for Wales will aim to have most elements of the new appeals mechanism in place by the end of 2000, but establishing a panel to address the IACS 2000 scheme year may prove to be a more practical target. Comments are invited by 30 November 2000 and can be sent separately or on the enclosed reply sheet to:

Julia Richards
Common Agriculture Policy Management Division
Agriculture Department
National Assembly for Wales
Cathays Park
Cardiff
CF10 3NQ

3. Please note that it may not be possible to consider responses that arrive after the above deadline.

4. We generally make public responses to our consultation papers. If you do not want your response to be made public, please tell us in your reply. If you want to see other responses, they will be available from the National Assembly for Wales library.

Why are we consulting?

5. There has been continued pressure from the industry for an independent appeals panel which is transparent, with some if not all independent members, to consider appeals by Welsh farmers against subsidy penalties imposed upon them under EU guidelines. In addition, the Assembly's Agriculture and Rural Development Committee has made plain its desire for the Assembly to introduce such a mechanism and the recent report from the IACS Red Tape Group set up by MAFF to look at regulatory burdens in the area of IACS considered possible options for an independent appeals mechanism. It acknowledged that "while there was little latitude for flexibility, the industry should be consulted on setting up an independent appeals process".

Background

6. The current Integrated Administration and Control System (IACS) was introduced by EU Regulation in 1993 at the same time as the McSharry CAP reform. This reform involved a considerable switch away from indirect support, through intervention in the market, to direct support in the form of subsidies paid to farmers. IACS is essentially an anti-fraud and expenditure control mechanism which lays down rules with which applicants to related schemes must comply. The following are the main European Subsidy Schemes. Those asterixed are not administered by the National Assembly for Wales and would not fall within the scope of proposals in this paper.

Arable Area Payments Scheme (APPS)
Beef Special Premium Scheme (BSPS)

Suckler Cow Premium Scheme (SCPS)
Extensification Payment (EPS)
Hill Livestock Compensatory Allowances (HLCA)
Tir Mynydd (replacement for HLCA - details still to be finalised)
Sheep Annual Premium Scheme (SAPS)
Slaughter Premium Scheme and/or Veal Calf Slaughter Premium (SPS)*
Aid for Grain Legumes (GLS)*
Fibre Flax Subsidy*
Hemp subsidy*
Hops Income Aid*

1998-99 expenditure in Wales on the main schemes is shown at Annex A.

7. The IACS legislation includes a range of penalties which must be applied for infringements for non-compliance with scheme requirements. The rules are extremely strict and for the most part leave little discretion to Member States. The way in which the National Assembly administers the Schemes is checked by auditors from the European Commission and by the European Court of Auditors (ECA). Failure to check claims thoroughly or to carry out a mandatory percentage of inspections or apply penalties in line with the rules would leave the Assembly open to disallowance by the Commission, ie a refusal to reimburse a proportion of scheme expenditure.

The penalties

8. There are two types of administrative penalty:

Percentage reductions in payment: these arise from inaccurate declarations of areas or livestock numbers or from the late submission of claims. The reductions in payments are progressive, based upon the degree of over-declaration of areas or numbers or extent of lateness of claim submission. In all cases there is a cut-off beyond which subsidy is lost altogether.

Exclusion from the scheme(s): where an inaccurate declaration relating to land or livestock is adjudged to be the result of serious negligence, the mandatory penalty is exclusion of the producer from the scheme (ie non payment of claims) for the year in question. Where the infringement is found to result from intent to defraud, the producer is excluded from the relevant scheme(s) for the following year as well.

9. There are, in addition, a large number of cases where applicants seek to contest a reduction in their subsidy payments. Examples are: where a claimant is unable to correct a mistake in his application because it does not fall within the Commission's guidelines on 'obvious errors'; where a request for reduction in livestock numbers to be considered as 'force majeure' is refused; where a livestock claim is reduced because it is not supported by the right amount or correct type of quota; or where inadequate or

inaccurate herd or flock records are found at inspection. Overgrazing provisions are also an integral part of some of the livestock schemes. Disputes sometimes arise as to the extent of penalties applied as a result of the amount of overgrazing on forage land.

10. There are EU guidelines on these and while these guidelines have been clarified somewhat over the years, they are prescriptive and there is little scope for discretion by the implementing authority. In some cases, even though we may be convinced that errors are genuine or that there have been extenuating circumstances, we are not able to accept them as falling within the requirements specified in the IACS or Scheme Regulations or in the guidelines and penalties have to be applied.

11. The application of these penalties can give rise to situations where our decisions are perceived as unfair and disproportionate. It is this perception of unfairness, together with the apparent lack of independence - the accusation that administrations are acting as both judge and jury - which has been the main factor that has led to calls for an appeals mechanism.

What do we do now?

12. At present applicants who wish to appeal against a decision on a claim can:

- Discuss this directly with officials in the local Divisional Office that administered the claim and ask them to reconsider their decision;
- Ask for their case to be considered at a higher level and for it to be referred to Headquarters in Cardiff;
- Appeal through their Assembly Member to the Assembly Secretary for Agriculture and Rural Development;
- Seek redress in the Courts through the process of Judicial Review.

13. Farmers argue that Divisional Offices who deal with cases in the first place are unable to bring an independent view. The same criticism has applied to cases considered by Headquarters and, sometimes, to those which have been sent to Assembly Secretaries. The judicial review process is seen as lengthy, complex and expensive and is, in any case, intended to consider points of law alone.

14. While outside the scope of this consultation paper, if farmers wish to **complain** about the way in which the Assembly has handled their case, they can in the first instance make use of the Assembly's recently introduced code of practice on complaints which involves a panel chaired by someone independent of the Assembly. Complainants can refer their case to the panel for investigation of alleged actions or failures on the part of the Assembly or standards of service provided. However, the code does not provide for review of the substance of decisions taken by the Assembly acting properly within its legal powers. In cases of alleged maladministration a farmer can continue to ask the Welsh

Administration Ombudsman (WAO) to consider the matter. Should the Ombudsman find in favour of the farmer the case is seen by the Assembly's Agriculture and Rural Development Committee and remedial action taken as appropriate. However, the WAO will not normally look at a complaint if the complainant has not gone through the appropriate bodies' own complaints procedure.

15. There are likely to be instances where there is a fine dividing line between cases to be considered by the Assembly complaints panel and those which are more properly the remit of appeals proposals which follow in this paper. Officials in the National Assembly will need to advise farmers which route is more suitable for their particular circumstances, but guidance will be available about the categories of cases to be considered via the complaints or the appeals route.

The European Convention on Human Rights (ECHR)

16. The Government of Wales Act 1998, section 107 provides that the Assembly has no power to do anything that is incompatible with any of the Convention Rights. While the provenance of the current appeal procedures has not been tested in the Courts, existing arrangements for appeals may not fully satisfy the requirements of Article 6 of the ECHR. This states "in determination of his civil rights and obligations or of any external charge against him, everyone is entitled to a fair and public hearing within reasonable time by an independent and impartial tribunal established by law". Whatever new arrangements are established, they will need to be consistent with the requirements of the ECHR.

Do you agree that there is a need for a better and more independent appeals mechanism?

POSSIBLE WAYS FORWARD

Better guidance

17. One of the criticisms the National Assembly faces is that it has not been sufficiently clear to farmers or their representatives how they should appeal against decisions taken. The introduction of an enhanced system of appeals will make it particularly important for us to have in place a clear explanation of how farmers can access the system and how they should go about bringing their case to appeal.

18. We therefore propose to produce clear guidance which will automatically be included in all scheme literature and with any correspondence which might lead to an appeal. Information will be available on the National Assembly's website and Divisional and local offices will display posters in their front offices explaining the appeals process.

Do you have any other ideas about how we might publicise our new appeals process so that farmers are in no doubt how they can bring their cases to appeal?

Possible Staged Approach to Appeals

19. The National Assembly for Wales Agriculture Department wishes to establish an open, fair and transparent appeals process which ensures that farmers can have their cases heard at the appropriate level. It is difficult to assess how many decisions any new appeals procedure might properly be able to consider. The best that can be done is to provide an indication of the number of claims that have been subject to some form of adjustment and infer that a proportion of those claimants might wish to pursue an appeal. This is however a rather simplistic approach and ignores the fact that, in many cases, the reduction in a claim payment arising from an error has been accepted by the claimant as appropriate because it has been seen as a valid penalty.

20. For an appeals body to consider the total number of cases where a penalty or claim reduction has been applied would represent an enormous and very costly task both for the Assembly and for the industry. It would also seem to go beyond what is at the heart of the industry's concerns which is to have a system that is cost effective and easy to operate, discourages frivolous use and fills a perceived gap in the current system. There needs therefore to be some way of considering appeals at various levels in a fair and transparent way.

Do you agree that an appeals process should be established containing several different stages through which farmers should have to go?

Proposed Stages

21. The National Assembly accepts that retaining the status quo would not meet the industry's concerns. Appeals are currently considered at more senior levels than the original decision taken and officials in MAFF and the Scottish Executive and, occasionally, in the European Commission are consulted, but the following proposals are clearer and include an element of independence which the industry has been seeking.

STAGE 1 APPEALS

21.1 At this first stage, farmers would respond to decisions with which they were unhappy by contacting the manager of the individual member of staff who had taken the original decision. We would ensure that farmers had details of whom they should contact.

STAGE 2 APPEALS - DEO

21.2 If farmers remained unhappy with the responses from stage 1 they would have recourse to the Divisional Executive Officer (DEO) at the local Divisional Office. Any appeal turned down at this stage would result in the DEO responding with a standard format written case paper outlining the Assembly's reasons for its rejection of the appeal. It would then be up to the appellant and/or their representative to consider whether to take

the appeal to stage 3.

STAGE 3 APPEALS - APPEALS UNIT

21.3 We propose to establish a single all-Wales Appeals Unit to consider all stage 3 appeals. This unit would be independent of the management structures where original decisions had been taken and it would consider case papers produced by DEOs as well as any information provided by appellants. The Appeals Unit could also call for further information from Divisional Offices and hold face-to-face discussions with appellants as necessary.

21.4 This would be a new Unit, staffed by National Assembly officials, specifically established for the purposes of enhancing our appeals process. Staff would be properly trained to deal with all schemes and the complex legislation attached to each. It is hoped that the vast majority of cases could be dealt with in these 3 stages of appeal. There would be no cost to appellants for accessing any of these stages.

Do you agree that these 3 stages are necessary to filter cases before recourse to stage 4, the independent panel?

STAGE 4 APPEALS - INDEPENDENT PANEL

21.5 This stage would provide a much greater degree of independence but it would be more costly and time consuming. It would require the setting up of an advisory panel of arbiters to hear appeals and make recommendations to the Assembly Secretary for Agriculture and Rural Development. The final decision would be taken by the Assembly Secretary in light of the facts of the case and the recommendations of the panel.

21.6 The panel would be serviced by the Appeals Unit (see stage 3), but there would be an additional cost of maintaining a panel of independent arbiters. Furthermore, there would be on-going running costs in servicing and maintaining such a panel eg training, travel and subsistence and costs associated with hearings. The cost of each case would be dependent on the number of hours/days work required and the number of cases that could be heard in a single sitting.

21.7 Clear training and guidance would need to be provided to arbiters to ensure that their considerations and recommendations remained within the requirements and spirit of EU Regulations. To be effective, an appeals system, however constituted, would have to operate within tightly defined parameters. It would also have to have a clear understanding of its latitude to make a recommendation within the terms of the Regulations: *the existence of an appeals procedure cannot release the industry from complying with the legal requirements of the schemes nor the Assembly from ensuring*

that this was the case since this would immediately place the Assembly at risk of disallowance.

21.8 We would envisage that the panel would make recommendations regarding disputes about the substance of decisions taken by officials but it could not challenge the European Regulations. Panel membership might include an external chairperson (with farming industry background), an external lay member, a practising farmer, a lawyer and a senior Assembly official. Assembly officials and lawyers may also need to attend hearings, though we envisage that some cases might be heard on an ad-hoc basis via correspondence. Farmers could have the right to either a written or oral procedure though we would expect to develop a standard appellant's case paper which would have to be used to outline the appeal in each case. The independent panel would also have access to the Assembly's (DEO's) case paper (see stage 2 above) and could call for further evidence as required.

Does the proposed establishment of this stage 4 process meet the industry's expectations of an independent panel?

THE COURTS

21.9 While not part of this consultation, appellants would clearly continue to be able to apply to the courts for permission to institute judicial review procedures if they remained dissatisfied with the Assembly Secretary's decision.

Costs and Charging

22. The National Assembly would want to keep to a minimum costs to the farmer of pursuing an appeal and the administration costs of introducing an independent appeals mechanism. Any appeals mechanism should be readily accessible to all farmers. Costs can, however, only be kept low if frivolous appeals are minimised. It will serve no-one's interests if the new arrangements become clogged by large numbers of cases, some of which may be seen as unsustainable. Farmers (and the National Assembly's Agriculture Department) should therefore take every opportunity to conclude the appeal at stages 1-3. No charge would be made for a case handled in-house.

23. The Scottish Executive have suggested a farmer's deposit of £100 for a hearing before an independent advisory panel. This deposit would be refundable if the panel recommended in favour of the appeal. It is possible that the National Assembly would wish to adopt a similar approach.

Do you agree that charging is a reasonable way to limit frivolous appeals?

Do you agree that all appeals should go through the staged process or should people have the option of going straight to stage 4 if they wished notwithstanding the substantial cost implications

for the Assembly?

THE SITUATION IN SCOTLAND, MAFF AND NORTHERN IRELAND

24. In Scotland, the Scottish Executive Rural Affairs Department (SERAD) has completed the consultation process and Scottish Ministers have indicated their intention to establish a three level system where appeals may be considered within the broad framework:

- i. SERAD Headquarters at Pentland House (where a panel made up of the Scheme Manager and two independent officials will consider appeals).
- ii. Advisory Panel (consisting of two independent industry representatives and a member of SERAD).
- iii. Scottish Land Court.

The full details are still being worked out.

25. MAFF and the Department for Agriculture and Rural Development (DARD) in Northern Ireland are due to consult soon on their proposals.

26. We intend to keep in close touch with the other agriculture departments to ensure we learn lessons and continue to improve our processes as a result of best practice elsewhere. However, we are committed to developing a mechanism in Wales that meets the needs of our own circumstances and the requirements of Welsh farmers.

CONCLUSIONS

27. Setting up an appeals mechanism raises a number of difficult issues. These include links with the Assembly's Code of Practice on complaints and the need for us to ensure that farmers' concerns are dealt with by the proper route. There are implications for other parts of UK Government - in the interests of harmonisation it is desirable for farmers across the UK to have access to broadly similar mechanisms for appeal. Accurate estimates of running costs are impossible until we have a clearer idea of what sort of appeals structure might be operated and how many appeals are likely to reach the various stages outlined above.

We would very much welcome your views on the specific questions in this paper and any other comments or ideas you may have in relation to this issue. Do you have any other comments?

ANNEX A

CAP Subsidy Schemes Expenditure in Wales (1998 – 1999 Scheme Year)

Scheme	Actual Spend 1998-1999
	£000
Sheep Annual Premium Scheme	99,880
Suckler Cow Premium Scheme	40,042
Beef Special Premium Scheme	32,004
Arable Area Payment Scheme	12,138
Hill Livestock Compensatory Allowance	44,702
Total	228,766

ANNEX B

PENALTIES

1. Late Receipt

Days Late	Penalties
i. 1 to 25 calendar days	i. 1% of entitlement to aid or premium for each working day by which the Area Aid Application is late and for each scheme that the application relates to (not applicable for BSPS where claims must be lodged within the relevant calendar year).
ii. Over 25 calendar days	ii. All aid or premium paid under the schemes to which the AAA relates will be lost.

2. Inaccuracies in areas

Type of inaccuracy	Penalty
i. Area found is more than area claimed/declared	i. Aid will be based on claimed/declared area.
ii. Area found is less than area claimed/declared	<p>ii. Aid will be based on the lower area. In addition the area will be further reduced as follows:</p> <p>a. If the difference found is more than 3% or 2 ha, but not more than 20% of the area found, the further reduction will be twice the difference found.</p> <p>b. If the difference found is more than 20% of the area found, no area based aid will be allowed within the crop group containing overclaim.</p>

3. Inaccuracies in livestock numbers on claimed animals

Type of inaccuracy	Penalty
i. Number of animals found is more than number claimed	i. Aid will be based on the number of animals claimed - but refer to 4 which relates to *potentially eligible animals.
ii. Number established and eligible is less than the number claimed and the application covers no more than 20 animals the aid is reduced - excepting cases of force majeure and natural circumstance - as follows:	
a. Number of animals found is 1 or 2 less than the number claimed	a. Entitlement will be based on the number found but the rate of aid will be reduced by the percentage difference based on the number declared
b. Number of animals found is 3 or 4 less than the number claimed	b. Entitlement will be based on the number found but the rate of aid will be reduced by twice the percentage difference based on the number declared
c. Difference between the number claimed and the number found is more than 4	c. No aid will be paid under the scheme concerned
iii. Number established and eligible is less than the number claimed and the application covers more than 20 animals the aid is reduced - excepting cases of force majeure and natural circumstance - as follows:	

a. Difference between the number claimed and found is not more than 5% of the number found	a. Entitlement will be based on the number found but the rate of aid will be reduced by the percentage difference based on the number found
b. Difference between the number claimed and found is more than 5% but not more than 20% of the number found	b. Entitlement will be based on the number found but the rate of aid will be reduced by twice the percentage difference based on the number found
c. Difference between the number claimed and the number found is more than 20% of the number found	c. No aid will be paid under the scheme concerned

* Potentially eligible animals are those of the same sex not subject to the current claim.

4. Discrepancies between the number of potentially eligible animals on the holding and the number set out in the records. The penalty structure is divided into three categories:

Category One - where a discrepancy between the number of potentially eligible animals on the holding and the number notified to the British Cattle Movement Service (BCMS), is discovered on any on-farm check, then penalties will be applied proportionately to all claims submitted under the Scheme (s) in the previous 12 month (effective only from 1.1.2000).

Category Two - where

(a) there is a discrepancy between the number of potentially eligible animals on the holding and the number in the herd register or the number of cattle passports on the holding; and/or

(b) potentially eligible animals are described incorrectly in the notification to the BCMS, in the herd register or on their cattle passports,

on two or more on-farm checks within a period of 24 months, penalties will be applied proportionately to all claims submitted under the Scheme(s) in the 12 months preceding the second (or later) check.

Category Three - where the difference established* during an on-farm check exceeds 20% on two occasions within a 24 month period then no premium will be paid for claims submitted in the period 12 months prior to the second check.(This supersedes the information given at 14.6 -final paragraph- of the SCPS 2000 Notes for Guidance).

5. Retrospective checks conducted at the time of an inspection

At the time a claim being inspected a check on the basis of the register by the producer that all the animals for which aid applications were submitted in the 12 months prior to the inspection have been kept throughout the retention period and that the data are the same as notified to the database.

* "Established" in this context means identified by a passport, notified to the BCMS database, recorded in the herd register, ear-tagged and found at the location notified to the local Divisional Office."

REPLY SHEET

Please return to

Mrs Julia Richards
Common Agriculture Policy Management Division
Agriculture Department
National Assembly for Wales
Cathays Park
Cardiff
CF10 3NQ

I/we have considered the options set out in the Establishing an Appeals mechanism for Farmers in Wales.

Do you agree that there is need for a better and more independent appeals mechanism?

Do you have any other ideas about how we might publicise our new appeals process so that farmers are in no doubt how they can bring their cases to appeal?

Do you agree that an appeals process should be established containing several different stages through which farmers should have to go?

Do you agree that the first 3 stages are necessary before recourse to stage 4, the independent panel?

Does the proposed establishment of this stage 4 process meet the industry's expectations of an independent panel?

Do you agree that charging is a reasonable way to limit frivolous appeals?

Do you agree that all appeals should go through the staged process or should people have the option of going straight to stage 4 if they wished?

Do you have any other comments?

From:

Name
Organisation
Address.....
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