



Number 38 of 2024

Agriculture Appeals (Amendment) Act 2024



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ACTS REFERRED TO

Agriculture Appeals Act 2001 (No. 29)

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Companies Act 2014 (No. 38)

European Parliament Elections Act 1997 (No. 2)

Fisheries (Amendment) Act 1997 (No. 23)

Fisheries Acts 1959 to 2022

Local Government Act 2001 (No. 37)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c.93)

Protected Disclosures Act 2014 (No. 14)



Number 38 of 2024

AGRICULTURE APPEALS (AMENDMENT) ACT 2024

An Act to establish the Agriculture Appeals Review Panel to conduct reviews of decisions made by appeals officers under the Agriculture Appeals Act 2001; to prohibit unauthorised disclosures of information by members of the Agriculture Appeals Review Panel and the Forestry Appeals Committee; and, for those and other purposes, to amend the Agriculture Appeals Act 2001; to amend the Fisheries (Amendment) Act 1997 as regards the holding of office of Chairperson or member of the Aquaculture Licences Appeals Board; and to provide for related matters. [29th October, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation and commencement

1. (1) This Act may be cited as the Agriculture Appeals (Amendment) Act 2024.
- (2) This Act, other than *Part 3*, and the Agriculture Appeals Acts 2001 to 2020 may be cited together as the Agriculture Appeals Acts 2001 to 2024.
- (3) The Fisheries Acts 1959 to 2022 and *Part 3* may be cited together as the Fisheries Acts 1959 to 2024.
- (4) This Act shall come into operation on such day or days as the Minister for Agriculture, Food and the Marine may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definition

2. In this Act, “Act of 2001” means the Agriculture Appeals Act 2001.

PART 2

AMENDMENT OF ACT OF 2001

Amendment of section 1 of Act of 2001

3. Section 1(1) of the Act of 2001 is amended by the insertion of the following definitions:

“ ‘Deputy Director’ means the Deputy Director of Agriculture Appeals designated under section 4;

‘party’, in relation to an appeal against a decision as to entitlement under a scheme set out in Schedule 1, means the appellant or the Minister;

‘Review Panel’ means the Agriculture Appeals Review Panel established under section 4A;”.

Amendment of section 4 of Act of 2001

4. The Act of 2001 is amended by the substitution of the following section for section 4:

“4. One of the appeals officers shall be designated by the Minister to act as the deputy for the Director when the Director is not available and to perform any other function of the Director at the request of the Director.”.

Agriculture Appeals Review Panel

5. The Act of 2001 is amended by the insertion of the following section after section 4:

“4A. (1) The Minister shall establish an Agriculture Appeals Review Panel.

(2) The function of the Review Panel shall be to conduct reviews of decisions made by appeals officers referred to it in accordance with section 10A(1).

(3) Schedule 3 shall have effect in relation to the Review Panel.”.

Amendment of section 8 of Act of 2001

6. Section 8 of the Act of 2001 is amended—

(a) by the insertion of the following subsection after subsection (2):

“(2A) An oral hearing may be heard—

(a) in person, or

(b) subject to the agreement of the parties, remotely by electronic means.”,

and

(b) by the insertion of the following subsection after subsection (5):

- “(6) An appeals officer may consider and determine an appeal notwithstanding—
- (a) the failure of a party to cooperate when an appeals officer is arranging an oral hearing, or
 - (b) the failure of a party or any other person to attend an oral hearing to give evidence or be examined in relation to the appeal.”.

Amendment of section 9 of Act of 2001

7. Section 9(3) of the Act of 2001 is amended by the substitution of “10, 10A” for “10”.

Amendment of section 10 of Act of 2001

8. Section 10 of the Act of 2001 is amended—

- (a) by the insertion of the following subsection after subsection (1):

“(1A) A revision may be made under subsection (1) only if requested by a party to the appeal during the period of 6 months beginning with the date on which the decision of the appeals officer was given.”,

- (b) by the deletion of subsection (2), and

- (c) by the insertion of the following subsections after subsection (3):

“(4) An appeals officer revising a decision under this section shall send written notice of the revised decision to the parties to the appeal.

(5) A revised decision under this section shall, subject to sections 10A and 11, be final and conclusive.

(6) A reference in section 10A or 11 to a revised decision under this section includes a reference to a decision of an appeals officer not to revise a decision.”.

Revised decisions by Review Panel

9. The Act of 2001 is amended by the insertion of the following section after section 10:

“10A. (1) The Review Panel may conduct a review of—

- (a) a decision of an appeals officer under section 7(4), or
- (b) a revised decision of an appeals officer under section 10, and may revise the decision concerned.

(2) A revision under subsection (1) may be made only if—

- (a) it appears to the Review Panel that the decision was erroneous by reason of a mistake of law or fact, and

- (b) the revision is requested by a party to the appeal during the period of 6 months beginning with the date on which the decision was given.
- (3) A revised decision under this section shall take effect from such date as the Review Panel determines having regard to the circumstances of the case.
- (4) A revised decision under this section shall, subject to section 11, be final and conclusive.”.

Amendment of section 11 of Act of 2001

10. The Act of 2001 is amended by the substitution of the following section for section 11:

- “**11.** (1) A party to an appeal may appeal any of the following decisions to the High Court on a question of law:
- (a) a decision of an appeals officer under section 7(4);
 - (b) a revised decision of an appeals officer under section 10;
 - (c) a revised decision of the Review Panel under section 10A, including a decision of the Review Panel not to revise a decision.
- (2) In an appeal under subsection (1)(a) or (b), the Director shall be the respondent.
- (3) In an appeal under subsection (1)(c), the Review Panel shall be the respondent.”.

Amendment of section 14 of Act of 2001

11. Section 14 of the Act of 2001 is amended—

- (a) in subsection (1), after “appeals officers” by the insertion of “and the Review Panel”, and
- (b) in subsection (3), after “appeals officers” by the insertion of “and the Review Panel”.

Prohibition on unauthorised disclosure of confidential information

12. The Act of 2001 is amended by the insertion of the following section after section 14F:

- “**14G.** (1) A person shall not disclose confidential information obtained in connection with acting as—
- (a) chairperson, deputy chairperson or ordinary member of the Review Panel, or
 - (b) chairperson, deputy chairperson or other member of the Forestry Appeals Committee.
- (2) Subsection (1) does not apply to the following:

- (a) a disclosure authorised by the Director or Deputy Director made by a person referred to in subsection (1)(a);
 - (b) a communication reasonably made in connection with the performance of a function under this Act;
 - (c) a disclosure made by a person to any member of An Garda Síochána of information that, in the person’s opinion, may relate to the commission of an offence (under this Act or otherwise);
 - (d) a disclosure made in compliance with a requirement of this Act or otherwise required by law;
 - (e) a disclosure made by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995;
 - (f) a protected disclosure (within the meaning of the Protected Disclosures Act 2014).
- (3) A person who contravenes subsection (1) shall be guilty of an offence.
- (4) A person who is guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or to both, or
 - (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years, or to both.
- (5) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under subsection (3) may be instituted at any time within three years from the date on which the offence was alleged to have been committed.
- (6) In this section, ‘confidential information’ includes—
- (a) any information that would appear to a reasonable person to be of a confidential nature, and
 - (b) in the case of information obtained in connection with acting as a person referred to in subsection (1)(a), any information designated as confidential (generally or specially) by the Director.”.

Amendment of section 15 of Act of 2001

- 13.** Section 15 of the Act of 2001 is amended by the insertion of the following subsections after subsection (2):

- “(3) Without prejudice to the generality of any other provision of this Act, the Minister may make regulations to provide for all or any of the following:
- (a) the procedure and practice in relation to oral hearings under section 8, and any other hearing under this Act (including, in particular, provisions enabling the management of hearings whether

- as to number and conduct of witnesses or representatives or otherwise);
- (b) the form and manner of provision of a statement of grounds for a request for a review to be conducted by the Review Panel;
 - (c) the form and manner of provision of documents and evidence to the Review Panel;
 - (d) the form and manner of making of requests by the Review Panel for information from a party or the appeals officer who made the decision which is the subject of a review by the Review Panel;
 - (e) procedures for reviews to be consolidated and heard together;
 - (f) procedures for the separation of reviews;
 - (g) procedures for the withdrawal of reviews;
 - (h) any other consequential or supplementary matters.
- (4) The powers to make rules under sections 14B and 14C are subject to regulations made under this section.”.

Amendment of Act of 2001 – insertion of Schedule 3

- 14.** The Act of 2001 is amended by the insertion of the following Schedule after Schedule 2:

“SCHEDULE 3
AGRICULTURE APPEALS REVIEW PANEL

Part 1

GOVERNANCE

Composition

1. The Review Panel shall consist of the following members—
 - (a) a chairperson,
 - (b) at least 5 ordinary members, and
 - (c) the Director, or the Deputy Director if designated by the Director.

Appointment

2. (1) The chairperson and ordinary members shall be appointed by the Minister.
- (2) The Minister—

- (a) shall appoint only persons who, in the Minister's opinion, have experience relevant to the functions of the Review Panel, and
 - (b) shall include, among the persons appointed under clause (a), at least 2 persons with practical knowledge or experience of farming.
- (3) The Minister shall aim, subject to subparagraph (2)(a), to ensure an equitable balance between men and women in the composition of the Review Panel.
- (4) The following persons shall not be eligible for appointment to the Review Panel:
- (a) an officer of the Minister;
 - (b) a member of either House of the Oireachtas;
 - (c) a person entitled under the rules of procedure of the European Parliament to sit in that Parliament;
 - (d) a member of a local authority (within the meaning of the Local Government Act 2001).

Deputy chairpersons

3. The Minister may designate one or more ordinary members to perform the functions of a deputy chairperson of the Review Panel.

Tenure

4. The chairperson shall hold office for the period of 3 years beginning with the date of appointment.
5. An ordinary member shall hold office for the period of 3 years beginning with the date of appointment.
6. (1) The chairperson or an ordinary member whose term of office expires is eligible for reappointment.
- (2) A person who is reappointed to the Review Panel in accordance with subparagraph (1) shall not hold office for periods the aggregate of which exceeds 6 years.

Resignation

7. (1) The chairperson or an ordinary member may resign from office by giving at least 30 days notice in writing to the Minister.
- (2) The period referred to in subparagraph (1) begins with the date on which the Minister receives the notice.
- (3) Notwithstanding subparagraph (1), the chairperson or an ordinary member who becomes incapable of performing the functions of office, through ill-health or otherwise, may resign with immediate

effect from the date on which the Minister receives the notice.

Dismissal from office or cessation of term of office

8. (1) The Minister may remove the chairperson or an ordinary member from office if the Minister is of the opinion that—
- (a) the chairperson or member has become incapable, through ill-health or otherwise, of effectively performing the functions of office,
 - (b) the chairperson or member has committed stated misbehaviour,
 - (c) it is necessary to remove the chairperson or member to enable the Review Panel to perform its functions effectively,
 - (d) the chairperson or member has a conflict of interest of such significance that he or she should cease to hold office, or
 - (e) the chairperson or member is otherwise unfit to hold the office or unable to discharge his or her functions.
- (2) The chairperson or an ordinary member shall be disqualified from holding and shall cease to hold office as chairperson or ordinary member if he or she—
- (a) subject to subparagraph (3), is adjudicated bankrupt,
 - (b) makes a composition or arrangement with creditors,
 - (c) is sentenced by a court of competent jurisdiction to a term of imprisonment,
 - (d) is convicted of any indictable offence in relation to a company, or any other body corporate, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,
 - (e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,
 - (f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
 - (g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act, or a disqualification outside the State which corresponds to such a disqualification order.
- (3) A person shall be disqualified from holding office as chairperson

- or ordinary member under subparagraph (2)(a) only for so long as he or she has not obtained a certificate of discharge from the bankruptcy.
- (4) Where the Minister proposes to remove a person from office as chairperson or ordinary member under subparagraph (1), the Minister shall, by notice in writing, inform the person of his or her proposal.
- (5) A notice under subparagraph (4) shall include a statement—
- (a) of the reasons for the proposed removal,
 - (b) that the person concerned may make representations to the Minister, in such form and manner as may be specified by the Minister, as to why he or she should not be removed from office and such representations shall be made before the expiration of—
 - (i) a period of 30 working days from the date of the notification, or
 - (ii) such other longer period as the Minister may, having regard to the requirements of natural justice, specify in the notice,
- and
- (c) that where no representations are received within the period referred to in clause (b)(i) or (ii), as the case may be, the Minister may, without further notice to the person concerned, remove the person from office as chairperson or ordinary member.
- (6) In considering whether to remove a person from office as chairperson or ordinary member under subparagraph (1), the Minister shall take into account—
- (a) any representations made by the person concerned under clause (b) of subparagraph (5) within the period referred to in subclause (i) or (ii), as the case may be, of that clause, and
 - (b) any other matter the Minister considers relevant for the purpose of his or her decision.
- (7) Where, having taken into account the matters referred to in subparagraph (6), the Minister decides not to remove the person from office as chairperson or ordinary member, the Minister shall cause notice to be given in writing to the person of the decision.
- (8) Where, having taken into account the matters referred to in subparagraph (6), the Minister decides that the person should be removed from office as chairperson or ordinary member, the Minister shall, by notice in writing to the person, inform him or

her of—

- (a) the decision and the reasons for that decision, and
- (b) the date on which the decision takes effect.

9. Where the chairperson or an ordinary member is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
- (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament, or
- (d) elected or co-opted as a member of a local authority (within the meaning of the Local Government Act 2001),

he or she shall thereupon cease to be the chairperson or ordinary member, as the case may be.

Casual vacancies

- 10. (1) This paragraph applies where the chairperson or an ordinary member dies, resigns, ceases to be qualified for office or is removed from office.
- (2) The Minister may appoint a person to be the chairperson or an ordinary member to fill the vacancy in the same manner as the chairperson or member who occasioned the vacancy was appointed.
- (3) Subject to paragraphs 6, 7, 8 and 9, a person appointed under this paragraph shall hold office for the remainder of the term of office of the chairperson or member giving rise to the vacancy.

Terms and conditions of office

- 11. The chairperson and an ordinary member shall hold office upon such terms and conditions as may be determined by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform (subject to the provisions of this Act).

Remuneration and Allowances

- 12. The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, pay to the chairperson and ordinary members such remuneration as the Minister may determine.
- 13. The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, pay to the chairperson and ordinary members such allowances in respect of

expenses (if any) incurred by them as the Minister may determine.

Part 2

PROCEEDINGS

Meetings

14. (1) The Review Panel shall hold any meetings necessary for the performance of its functions.
- (2) Meetings may be held in person or remotely by electronic means (or partly in person and partly remotely).
- (3) The chairperson shall fix the date, time and place (or method) of meetings of the Review Panel.
- (4) The quorum for meetings of the Review Panel shall be—
 - (a) the chairperson or a deputy chairperson,
 - (b) at least one other ordinary member, and
 - (c) the Director or Deputy Director.
- (5) If a meeting includes the chairperson and one or more than one deputy chairperson, any deputy chairperson who sits is to be treated as an ordinary member for the purposes of subparagraph (4)(b).

Decisions

15. (1) Decisions of the Review Panel shall be determined by a majority of the votes of the members present.
- (2) In the case of an equal division of votes, the chairperson shall have a second or casting vote.
16. The Review Panel shall send written notice of each decision and the reasons for it to—
 - (a) the parties to the appeal,
 - (b) the Director, and
 - (c) the appeals officer who made the decision which was the subject of a review by the Review Panel.

Divisions

17. (1) The Review Panel may sit in divisions.
- (2) A deputy chairperson may chair a division.
- (3) A division of the Review Panel shall consist of—

- (a) the chairperson or a deputy chairperson,
 - (b) at least one other ordinary member, and
 - (c) the Director or Deputy Director.
- (4) If a division includes the chairperson and one or more than one deputy chairperson, any deputy chairperson who sits is to be treated as an ordinary member for the purposes of subparagraph (3)(b).

Correspondence with parties

18. The Review Panel may communicate with the parties in whatever manner it thinks appropriate.
19. The Review Panel may require—
- (a) a party, and
 - (b) the appeals officer who made the decision which is the subject of the review,
- to provide it with any information it thinks necessary.

Independence

20. The Review Panel shall be independent in the performance of its functions.

Conflicts of interest

21. (1) In performing their functions, the chairperson and ordinary members shall take all reasonable steps to avoid any actual or perceived conflict of interest whether in relation to a decision referred to the Review Panel or otherwise.
- (2) Where the chairperson or ordinary member believes that performing any of his or her functions as the chairperson or ordinary member would—
- (a) potentially create a conflict of interest, the chairperson or ordinary member shall recuse himself or herself from the functions or review in question and shall notify the Minister of the recusal, or
 - (b) give rise to the perception of any potential conflict of interest, the chairperson or ordinary member shall disclose that fact to the Minister in respect of the review with which the chairperson or ordinary member is dealing, and shall, having regard to any submissions received from the Minister, consider whether it is necessary to recuse himself or herself from the review in question.”.

Transitional provisions

- 15.** (1) The Act of 2001 shall have effect as amended by this Part on and after the commencement date in respect of a pre-commencement decision if immediately before the commencement date—
- (a) no request has been made for revision of the decision by an appeals officer under section 10(1) of the Act of 2001 or by the Director under section 10(2) of that Act,
 - (b) a request for revision of the decision by an appeals officer under section 10(1) of the Act of 2001 has been made but not determined, or
 - (c) a request for revision of the decision by the Director under section 10(2) of the Act of 2001 has been made but not determined (in which case the Director shall make administrative arrangements to transfer the request to the Review Panel for consideration under section 10A of that Act).
- (2) The period allowed by section 10(1A) or 10A(2)(b) of the Act of 2001 for requesting a revision shall, in the application of those provisions by virtue of *subsection (1)*, be taken to be the period of 12 months beginning with the commencement date.
- (3) In relation to any pre-commencement decision to which *subsection (1)* does not apply, the Act of 2001 shall continue to have effect as if this *Part* had not come into operation.
- (4) In this section—
- “commencement date” means the date on which *section 9* comes into operation;
- “pre-commencement decision” means a decision made before the commencement date by an appeals officer under section 7(4) or 10(1) of the Act of 2001.

PART 3**AMENDMENT OF FISHERIES (AMENDMENT) ACT 1997****Amendment of section 24 of Fisheries (Amendment) Act 1997**

- 16.** Section 24 of the Fisheries (Amendment) Act 1997 is amended—

- (a) in subsection (1), by the substitution of the following paragraph for paragraph (a):
 - “(a) the Chairperson shall hold office for such period, not exceeding five years, as shall be specified by the Government when appointing the Chairperson, and may be re-appointed for a second or subsequent term of office, and”;
- and
- (b) by the deletion of subsection (3).