

Agricultural Development Scheme

APPEALS

Farmers will have the right to appeal against decisions made by the Department's officers in relation to specific parts of the Agricultural Development Scheme. Appeals will be in two stages: a Stage 1 Internal Department Review and a Stage 2 External Review by an Appeals Committee. The latter is open to applicants who consider that the Stage 1 review has not sufficiently addressed their concerns.

Appeals must be received by DEFA within 60 days of the date of the original decision letter.

Purpose of the Appeals process

The process is designed to enable farmers, who feel that the Department has made an incorrect decision in relation to the matters listed below, to have access to a fair and independent appeals procedure. The procedure includes reviewing decisions and checking that they were made objectively and in keeping with legislation.

Decisions which can be subject to an appeal

You can appeal against the following decisions made by the Department's officers in relation to the Agricultural Development Scheme:

- Outcome of Cross Compliance inspections and subsequent imposition of penalties.
- Outcome of Works Approval applications;
- Imposition of penalties following the late return of Agricultural Development Scheme application forms including declarations of eligible farmed areas.
- Imposition of penalties due to making a false declaration on census and/or Agricultural Development Scheme application forms.

What do I have to do to appeal against a decision?

Applications must be made **within 60 days of the date of the original Department decision letter** in relation to the four categories listed above.

Please note that an appeal can only be considered if it is submitted on the appropriate form and has all the required information with it. If the appeal is to be handled by your agent or an employee of your company, you must have notified the Department in advance of their authority to act on your behalf.



Appeal forms (Stages 1 and 2) and the Business Registration form (which includes the 'authority to act') can be downloaded from the DEFA website.

Receipt of completed forms will be acknowledged within 10 days.



What is the procedure for dealing with appeals?

There will be two stages to the procedure:

Stage 1 Internal review by the Department

The Appeals Office will compile details of the case, taking account of policy, scheme and agricultural matters. Staff not involved with the original application or notification decision will be asked to review the information and arrive at a conclusion within 30 working days of the appeal having been received in the Department. A decision will not be changed if it is found that all facts were taken into account, relevant criteria have been correctly applied, calculations are arithmetically correct and all Scheme requirements applied.

Stage 2 External review by Appeals Committee

If you feel that the outcome of the Stage 1 review has not sufficiently addressed your concerns, you have 60 days from the receipt of the Stage 1 decision letter to request an external review by the Appeals Committee. A Stage 2 appeals form should be completed.

Applicants can either apply in writing or ask to attend the Appeals Committee meeting:

Written review – the appeal form and all other relevant paperwork will be considered by the Appeals Committee within 60 days from the date of receipt of the Stage 2 appeal form. They will produce a report that includes a recommendation which is sent to the Minister for Agriculture within 90 days from the date of receipt of the Stage 2 appeal form. The applicant will receive all the paperwork to be considered by the Committee in advance of the meeting but will not attend it in person.

Oral review - The applicant will receive all the paperwork to be considered by the Committee in advance of the meeting. They will attend part of the meeting and be able to present their case and respond to questions. Applicants can be accompanied and can appoint someone to represent them. Once the presentation and questions have been completed, the applicant and any representatives will leave and the Appeals Committee panel will consider the matter.

An appeal hearing will be arranged within 60 days from the date of receipt of the Stage 2 appeal form. The Appeals Committee will be chaired by a member other than the Department's representative.

The Appeals Committee will submit a report that includes a recommendation which is sent to the Minister for DEFA. The Minister can ask for further investigations to be carried out and will make the final decision. The Department will provide written notification of the Minister's decision within 28 days of the date when the report is produced.

In order to ensure a consistent approach to all appeals, the Appeals Committee will produce a decision note following the Minister's decision on each Stage 2 appeal and this will be posted to the Agricultural Development Scheme website.

Agricultural Development Scheme Appeals Committee

When a Stage 2 Appeal is required, the Department will select people from the list of members of the Committee, matching the expertise of the members to the subject of the appeal being heard. Three members will be invited to form the Committee for that case: an industry representative, a Department representative who has not been involved in either the original decision or the Stage 1 appeal and a person selected for their independence and their professional knowledge of the subject area. This might include someone from off-island. A list of those willing to sit on the panel will be published on the Agricultural Development Scheme website together with a note of their area of expertise.

The Committee dealing with appeals must:

- a) work within the law and parameters of the Scheme;
- b) not award compensation; and
- c) make objective and evidenced recommendations in line with the Scheme specifications.

Costs

There will be no charge for a Stage 1 appeal but, **a charge of £300 will be made for Stage 2 appeals.** Cheques should be made payable to the Isle of Man Government. The charge will be refunded if the appeal is successful.

Appeal Timescales

Action	Time Limit
Appellant to submit completed Stage 1 appeal form to DEFA	within 60 days of original DEFA decision letter
DEFA internal Stage 1 review and notify conclusion to appellant	within 30 days of Stage 1 appeal being received by DEFA
Appellant to submit completed Stage 2 appeal form to DEFA along with payment of £300	within 60 days of original Stage 1 DEFA decision letter
DEFA to notify Appellant and Committee of date of Stage 2 Appeal Hearing and provide all relevant paperwork	5 days before the Stage 2 Appeal Hearing
DEFA to hold Stage 2 Appeal Hearing – oral or written review	within 60 days of receipt of Stage 2 appeal being received by DEFA
DEFA to send Stage 2 committee's report and recommendations to the Minister	within 90 days of receipt of Stage 2 appeal being received by DEFA
DEFA Minister to review and make decision	within 28 days of receipt of Stage 2 report
DEFA to notify Appellant of Stage 2 appeal outcome	within 28 working days of the Minister making their decision
DEFA to anonymously summarise appeal outcome and decision on the DEFA website	within 28 working days of the Minister making their decision

