

The Common Agricultural Policy Non-IACS Support Schemes Appeal Procedure

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Remember

This appeal procedure only deals with decisions made on or after 1 April 2004.

1. Introduction

This booklet explains how to appeal against a decision taken by the Rural Payments Agency (RPA) in respect of schemes administered by RPA on a UK basis (this excludes IACS schemes).

RPA administers the appeals procedure:

- in England for the Secretary of State;
- in Northern Ireland for the Department of Agriculture and Rural Development;
- in Scotland for the Scottish Ministers; and
- in Wales for the National Assembly of Wales.

Recommendations on the appeals will be made to those respective authorities. The procedure has two stages: the first stage is a review of your case by the RPA's Customer Relations Unit (CRU). The second stage, if you are not satisfied with the outcome of the first stage, is a consideration of your case by an independent panel which will make a recommendation to the appropriate UK Agriculture Ministers who will, in turn, decide whether to uphold or reject your appeal. You may contest this decision through the courts, which for an appellant based in Scotland would include an approach to the Scottish Land Court.

You can contact the RPA's CRU as follows:

- write to the
Customer Relations Unit
Rural Payments Agency
PO Box 69
Reading RG1 3YD
- Telephone 0118 953 1282
- Fax 0118 953 1467
- E-mail customerrelations@rpa.gsi.gov.uk

2. What Schemes are covered?

All schemes administered by RPA on an UK basis are covered as listed at Annex A.

3. What decisions are covered?

This appeals procedure only deals with decisions made on or after 1 April 2004. The appeals procedure may be applied to any administrative decision taken by RPA that affects your entitlement to, or liability for, payments or your ability to participate in a particular scheme. The appeal procedure does not cover appeals in relation to:

- the rules of the schemes themselves or the rates at which aid is fixed by the Community;

- criminal penalties imposed by courts of law; and
- civil cases where levy liability has been confirmed by the courts.

The CRU can provide further information and tell you what to do if you want to appeal against a decision made under a different scheme, by a different administration, in relation to service standards. You should consult a solicitor if you wish to appeal against a penalty imposed by a court of law. This will be at your own expense.

Scheme legislation can be very detailed, particularly on those schemes that operate across the EC, to ensure that Member States treat similar cases in the same way. Although the legislation can be very detailed, it is not necessarily always clear how it should be applied to the particular circumstances of a particular case.

The scheme guidance leaflets explain how RPA applies the scheme legislation. If a decision by RPA was made correctly according to the legislation, the appeal procedure cannot overturn this decision. However, it can check that the legislation has been correctly applied in your particular circumstances.

4. First stage: How to appeal against a decision?

If you are unhappy about a decision that RPA has taken, please get in touch with the office that sent the letter. They should provide you with a fuller explanation of the decision over the phone, by e-mail or by letter. If you are still not satisfied and wish to take the matter further, you should get in touch with the CRU within 60 days and tell them you wish to appeal. This must be within six months of the initial notification of the decision.

You must lodge your appeal in writing (by post, fax or e-mail), preferably by completing form AP1 (included with this booklet, available through the RPA website www.rpa.gov.uk or from the CRU) although you may do so by letter or e-mail if you wish. An acknowledgement will be sent to you by return. If you do not receive an acknowledgement within five working days, please contact the CRU to make sure that your appeal has been received.

The flow chart at Annex B shows the appeal procedure in schematic form.

5. How your case is considered

RPA officials who were not involved in the original decision will review your case. To do this, the CRU will ask the manager(s) of the RPA team who dealt with your case to explain the following:

- what they did; and
- how they arrived at their decision(s).

6. The response

If it becomes clear that a simple mistake was made in dealing with the matter, the mistake will be corrected and you will be told.

For other cases, the CRU should normally let you know the outcome of the review in writing within 60 days of the receipt of your appeal. Results may include:

- accepting that your case was mishandled, issuing an apology, and changing internal procedures to ensure the problem does not occur again;
- concluding that there has been a misunderstanding, explaining how this arose, and suggesting how you may wish to take things forward; in such cases CRU may also recommend changes to internal procedures or to the text of guidance leaflets;
- deciding that you should be paid more money, and arranging for it to be paid;
- upholding the decision reached by RPA staff (in which case you will be sent a Case Summary setting out the facts of your case, any relevant legal reasoning, and the reasons why your appeal has been rejected).

7. Second stage: Introducing the Appeals Panel

If you are dissatisfied with the CRU's first stage decision, you should write back to them within 60 days of the date of the decision, telling them you wish to proceed to the second stage of the appeal procedure. You must lodge your second stage appeal in writing (by post, fax or e-mail). It will help the processing of your appeal if you lodge it using form AP2 (available from the CRU or from the RPA website). Your second stage appeal must:

- explain why you disagree with the CRU's first stage decision;
- set out any points on which you disagree with the case summary;

- include any new information which you want to be considered;
- say whether you will want to present your case orally (you can change your mind later);
- enclose a cheque, payable to the Rural Payments Agency for £100. The sum will be returned to you if your appeal is fully or partly successful.

If you fax or e-mail your appeal, you will need to send your cheque separately by post ensuring that it is clearly identified as payment for the appeal. An acknowledgement will be sent to you by return. If you do not receive an acknowledgement within five working days, please contact the CRU to make sure that your form or letter and payment has been received.

8. Provision of new information

If you provide new information or raise new arguments, the CRU will first conduct a further internal review. This is for two reasons: first, the new information you provide may cause the CRU to overturn the earlier decision without the need for the case to go to the Panel; the second reason is to ensure that, if the case does go to the Panel, a new case summary can be agreed with you. This second review should take no longer than 30 days. The 60 day period for the Panel to consider your case will not start to run until the second review has been completed. You will be notified of the outcome of the second review. If the case is to proceed to the second stage and a revised case summary is required, you will be sent a copy and asked to agree it, or record any points of disagreement, before it is sent to the Panel.

9. How the Appeals Panel works

A report consisting of your notice of appeal, the agreed case summary (or case summary and the record of your disagreement with it) together with relevant legislation and guidance notes will be sent to the Appeals Panel. The Panel comprises three independent members, drawn from a wider list appointed by Ministers following the normal public appointment procedures¹. A member of the CRU will act as secretary to the Panel, but will not be part of it and will not take part in reaching the Panel's conclusions.

The Panel will consider your appeal in the light of the documents before it and may ask for further information from you or the RPA or for legal advice.

¹ External panel members will be appointed in accordance with the Code of Practice on Public Appointments, which ensures that the process is fair, open and transparent.

10. Option to make an oral presentation

If you have asked to make an oral presentation, we will try to arrange for the Panel to meet in your region, although this might not always be possible. If appropriate, you can ask for the oral part of the appeal to be conducted in Welsh or Gaelic. The CRU will contact you about two weeks before the meeting to confirm that you still wish to make a presentation and, if so, to let you know the arrangements. Your expenses are not refundable.

You will be asked to present your case orally to the Panel to supplement the information you have sent in writing. The Panel will question any RPA staff separately. You will be able to make a short presentation. We suggest this should last between fifteen and thirty minutes - let us know beforehand if you will need longer. After your presentation the Panel may ask you questions.

You may bring a friend or adviser with you to the meeting for support. You may also be represented at the meeting if you so wish. However, the Panel is not a court of law, we hope that the proceedings will be straightforward and that you can speak on your own behalf. If you do decide that you need someone to represent or accompany you, it will be at your own expense.

11. Costs

Please note that this is an informal procedure and that if at any stage you wish to obtain legal or other expert advice you do so at your own expense. RPA will not be able to refund such expenses even if your appeal succeeds.

12. Panel's recommendation to Ministers

The Panel will review your case based on the written evidence and any oral presentations and make its decision. This will be addressed as a recommendation to the appropriate UK Agriculture Minister. Although these Ministers may have been involved in the original decision, it is very unlikely they will have seen any papers about your appeal.

The Panel will aim to send its recommendation to the Ministers, together with the report and any legal advice, within 60 days of the CRU receiving your request for a review by the Panel (subject to the need to consider any new evidence submitted with the second stage appeal). Ministers will then have unlimited time in which to decide whether or not to accept the recommendation, although we hope it will normally take no more than a few days.

13. You will be told the decision as soon as possible

The CRU will tell you of the Minister's decision by recorded delivery letter and will enclose:

- the case summary, if it has been altered during the appeal;
- the recommendations of the Panel, together with its reasons.

14. Can I contest the Minister's decision?

Once the Panel has considered your case, and Ministers have reached their decision in the light of the Panel's recommendations, the appeal procedure is complete.

If you are not satisfied with the Minister's decision you may take the matter further. You should take legal advice if you wish to challenge the Minister's decision through the courts; or if you accept that the decision has been correctly applied but feel that there has been maladministration in handling your case you may pursue the matter through the Ombudsman.

For appellants based in Scotland, you have the option of appealing the Minister's decision to the Scottish Land Court. This appeal must be made within 60 days of the date of the letter notifying you of the Minister's decision. Details of the process are available in the IACS Appeals Procedure guidance, AP(EL), issued by the Scottish Executive. This may be obtained from the CRU or online from www.scotland.gov.uk/agri.

Annex A

List of schemes included in the Common Agricultural Policy Non-IACS Support Schemes Appeal Procedure

Agrimonetary Compensation linked to any of the following schemes

Dairy

Butter for Manufacture
Butter for Non-Profit Making Organisations
Casein Production Subsidy
Control of Casein in Cheese Making
Concentrated Butter for Direct Consumption
School Milk Scheme
Skimmed Milk Powder for Animal Feed
Milk Quotas Scheme

External Trade

Bananas
Beef and Veal
Beef Import Tariff Quota
Cereals
Eggs
Ethyl Alcohol
Fish
Floriculture (live plants and flowers)
Fruit and Vegetables
Milk / Milk Products
Oils / Fats
Oilseeds / Seeds
Pigmeat
Poultrymeat
Processed Goods
Rice
Sheepmeat / Goatmeat
Sugar, Isoglucose and Insulin Syrup
Tobacco
Whisky Refunds
Wine

Fish

Fish Carry-Over Aid
Fish Flat-Rate Aid
Fish Flat-Rate Premium
Fish Private Storage Aid
Fish Withdrawals Compensation

Fruit and Vegetables

Apple Consumption Aid
Citrus Processing Aid
End Use Control of Certain Fruit and Vegetables
Fresh Fruit and Vegetables Withdrawals
Fruit and Vegetable Operational Programme
Fruit and Vegetable Producer Organisation
Recognition
Grape Juice Aid
Aid for concentrated Grape Must

Intervention Schemes

Beef
Cereals
Dairy

Land based

Aid for Dehydrated Fodder
Fibre Processing Aid
Herbage Seed Production Aid

Livestock

Beef Information Programme
Over Thirty Month Scheme
Selective Cull Scheme

Private Storage Aid Schemes

Beef
Dairy
Pigmeat
Sheepmeat / Goatmeat

Promotion

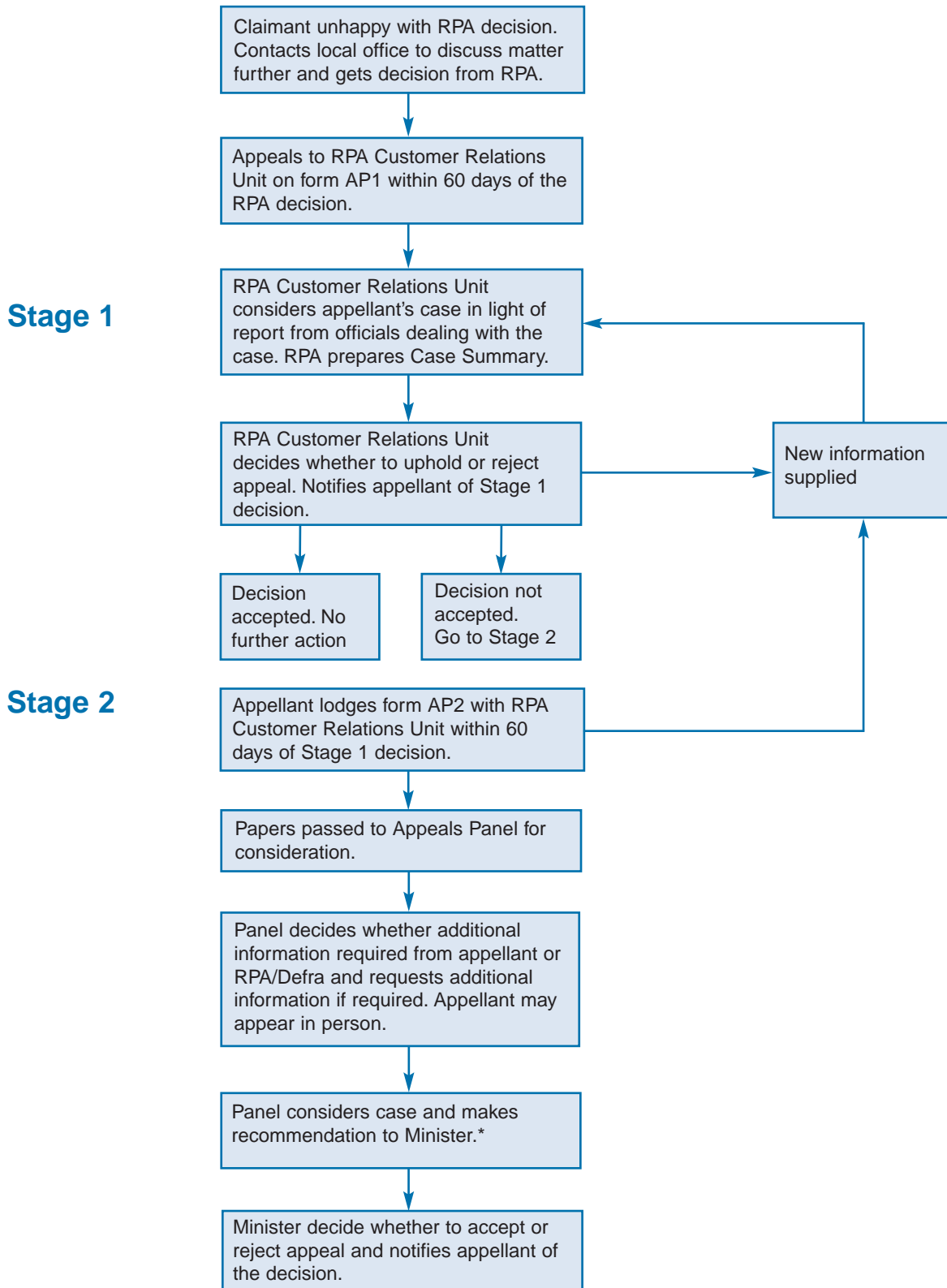
Promotions to Internal Market
Promotions to Third Countries

Sugar, Oils & Starch

Cane Sugar Refining Aid (CRS)
End use control of Certain Vegetable Oils
Isoglucose Quotas and Production Levies
Olive Oil Production Aid
Production Refund on Sugar used in the chemical industry
Starch for Prescribed End Users
Starch Refunds - Cereals
Starch Refunds - Rice
Sugar Quotas and Production Levies

Annex B

The Common Agricultural Policy Non-IACS Support Schemes Appeal Procedure



* Panel to make recommendation to the appropriate Minister within 60 days of AP2 being lodged with RPA Customer Relations Unit.

For appellants based in Scotland this procedure will be extended to include an appeal to the Scottish Land Court.

