

L.N. 168 of 2007

**AGRICULTURAL AND FISHING INDUSTRIES
(FINANCIAL ASSISTANCE) ACT
(CAP. 146)**

Dispute Resolution Board Regulations, 2007

IN exercise of the powers conferred by article 7 of the Agricultural and Fishing Industries (Financial Assistance) Act, the Minister for Rural Affairs and the Environment, with the concurrence of the Minister of Finance and Economic Affairs, has made the following regulations:-

- Citation. **1.** The title of these regulations is the Dispute Resolution Board Regulations, 2007.
- Interpretation. **2.** In these regulations, unless the context otherwise requires:
- "authorised officer" means any public officer assigned by law to carry out the duties conferred to the Paying Agency;
- "claimant" means the person engaged in the agricultural industry;
- S.L. 146.03 "the Dispute Resolution Board" means the Board set up in terms of regulation 13 of the Paying Agency Regulations;
- "farmer" means a person or group of persons who carry out activities in the agriculture industry;
- S.L. 146.03 "IACS Department" means the department under whose control falls the system described in Annex 2 of the Paying Agency Regulations;
- S.L. 146.03 "Paying Agency" means the Paying Agency appointed under regulation 3 of the Paying Agency Regulations.
- Establishment
of the Dispute
Resolution
Board.
S.L. 146.03 **3.** (1) There shall be set up an internal Dispute Resolution Board which shall be set up in accordance with the provisions of regulation 13 of the Paying Agency Regulations.
- (2) The objective of the Dispute Resolution Board will be that of resolving disputes between farmers, and between a farmer and the Paying Agency and, or its delegated services, in a simple, expedient and transparent manner, avoiding unnecessary expenses.
- (3) Any person whose holding is situated in Malta or Gozo may resort to these procedures to resolve agricultural and veterinary

disputes.

4. (1) Before resorting to the methods of dispute resolution the IACS Department shall carry out an evaluation of all land parcels used by the farmer. Classification of lands.

(2) These procedures will only determine the right of use, by the farmer, of the agricultural land in question. This right of use shall be legally recognised according to a list of documents to be presented as evidence by the same farmer to the IACS Department.

(3) This list will include the type of tenure, indicated by a code and by the following supporting documents:

Type of Tenure	Code	Supporting Documents to be presented
Private ownership	P	Copy of legal documents as proof of ownership
Legal tenant of Church, State or Private land	T	Last official receipt of payment for each parcel under consideration
Tenant on privately-owned land not paying lease or working land registered under someone else	L	Legal statement signed by owner/legal tenant granting applicant rights of administration of the land
Tenant of State-owned land not paying lease	S	Copy of request for registering land in his name.

(4) The farmer must register the type of land use at the LPIS Section of the IACS Department.

(5) The Registration Officer at the LPIS Section shall be authorised to verify the documents presented. The said officer must register the right of use over the agricultural land which shall be then communicated to the rightful tenant within three months by registered post.

(6) Should this right of use be contested by another farmer who declares that he is the lawful tenant, the farmers in the dispute may resort to the Dispute Resolution Board.

5. (1) The Paying Agency shall be entitled to carry out administrative checks and on-the-spot controls on every application before granting any aid. The applicant shall be bound to grant access, to the Paying Agency or its lawful representative or delegate, to the premises related to the application. Inspection of farms by Veterinary Services officials.

Cap. 437. (2) Where the on-the-spot checks reveal cases of non-compliance with the provisions of the Veterinary Services Act or any subsidiary legislation made thereunder in respect of the identification and registration of animals, a copy of the control report shall be sent without delay to the Paying Agency.

(3) Where a penalty is imposed, the farmer may contest the matter before the Dispute Resolution Board.

Dispute resolution procedure.

6. The Dispute Resolution Board shall resolve agricultural and veterinary disputes by adopting two modes of procedure, namely the conciliation procedure and the arbitration procedure.

Conciliation procedure.

7. (1) The conciliation procedure, which is the first stage in a dispute resolution procedure, may only be resorted to if the parties to the dispute agree to this mode of dispute resolution.

(2) Either of the parties to the dispute may apply for consideration of a dispute by the Conciliation Board by means of a letter addressed to the Chairman of the Conciliation Board within fifteen days from:

(a) the notification of an evaluation of land parcels used by a farmer; or

Cap. 437. (b) the notification of a penalty imposed in relation to a breach of the provisions of the Veterinary Services Act or any subsidiary legislation made thereunder in respect of the identification and registration of animals.

(3) The applicant shall attach to the application all the necessary documentation relating to the case.

(4) Upon receipt of the application, the Chairman shall notify the other party of the claim and set a time limit not exceeding fifteen days within which the other party may file his submissions and either proceed with the conciliation procedure, or refuse this mode of dispute resolution.

(5) The conciliation meetings will be composed of a Chairman and two members. The Chairman of the Conciliation Board will be the Director of Agriculture or the Director for Veterinary Services, as the case may be, according to the nature of the dispute.

(6) The Director of Agriculture or the Director for Veterinary Services, as the case may be, shall nominate the two other members of the Conciliation Board.

(7) Each Conciliation Board will keep a register, in which the Secretary of the Conciliation Board shall keep evidence related to the dispute in question.

(8) Contestations to decisions taken by the Conciliation Board may only be considered within fifteen days from its decisions.

(9) If no agreement is reached, either party may resort to arbitration.

8. (1) The Arbitration Board shall be composed of a panel of not more than four persons appointed by the Minister. Arbitration procedure.

(2) Each panel shall be composed of a Chairperson and two other members.

(3) The Chairperson shall be a person holding the warrant to practice as an advocate or who has at least three years experience in the agricultural and veterinary sector according to the nature of the dispute to be decided.

(4) The other two members sitting on the Arbitration Board shall have at least one year experience in the agricultural or veterinary sector according to the nature of the dispute to be decided.

(5) The Minister may, from time to time and according to the dispute in question, change the composition of the panel as referred to in sub-regulation (1).

(6) The Chairperson and members of the Arbitration Board shall be bound by the rules of natural justice, and shall abstain from hearing any dispute if, in their judgement, it is considered that this may lead to a conflict of interest.

9. (1) A complaint filed with the Dispute Resolutions Board shall be made in writing in the form of a letter explaining clearly the grounds for the complaint by not later than: Procedure to be followed.

(a) fifteen working days from the date of notification of a penalty on the aggrieved party, in the case where the parties have not agreed to go through the conciliation procedure; or

(b) fifteen working days from the date of the decision of the Conciliation Board.

(2) Any person wishing to file a complaint against the imposition of a penalty may do so by filing a letter to that effect addressed to the Chairman, stating the name and address of the person

filing the letter and reference to the inspection giving rise to the dispute together with a short summary of the facts. The claimant shall also attach to the letter all the documentation which is relevant to the dispute in question. Such letter shall be signed and filed by the claimant personally or by an advocate or legal procurator acting on behalf of such party.

(3) In the case where the parties have already been through the conciliation procedure, the applicant shall also attach a copy of all the documentation which had been filed with the Conciliation Board.

(4) Upon receipt of the letter, the Dispute Resolution Board shall immediately notify either the officials who had been involved in the evaluation or inspection or the other party against whom the complaint is filed, as the case may be.

(5) The Dispute Resolution Board shall set a time limit, not exceeding fifteen working days, within which the other party may submit a copy of all the documentation which it may have at hand regarding the dispute.

(6) The parties to the dispute may appear before the Dispute Resolution Board either on their own or assisted by their legal counsel.

(7) The Dispute Resolution Board shall hold its sittings in public unless, having regard to the matter before it, it deems it fit and proper to conduct the proceedings or any part thereof behind closed doors. In any such case, the decision of the Dispute Resolution Board shall always be delivered in public.

(8) The Dispute Resolution Board shall deal with the disputes before it with the utmost urgency and shall give its decision without delay.

(9) Upon the hearing of a complaint, the Dispute Resolution Board shall have the power:

(a) to confirm, reverse or vary the decision of the Conciliation Board or of the Arbitration Board, as the case may be, and to give the appropriate orders for the effective implementation of any penalty;

(b) to require the production of any document or other information;

(c) to order the payment of costs and expenses related to the complaint by any party to the dispute.

(10) The Dispute Resolution Board shall also have the power to summon additional witnesses and to appoint any expert or experts as it may deem necessary for the determination of the dispute before it.

(11) The Secretary to the Dispute Resolution Board shall keep records of the proceedings; these records shall be sent to the parties at the conclusion of the proceedings.

10. (1) The decisions by the Dispute Resolution Board shall be reached by a majority of the members and shall be final. Where there is no majority, the final decision shall vest in the Chairman of the Dispute Resolution Board.

Decisions of the
Dispute
Resolution
Board.

(2) The decision of the Dispute Resolution Board shall be given in writing and shall be final and binding on the parties. There shall be no appeal from a decision of the Dispute Resolution Board except on points of law, which appeal may be lodged not later than fifteen days from the date of the delivery of the decision of the Dispute Resolution Board.

(3) Where no such appeal is filed, the decision shall have immediate effect.

(4) Every decision shall be signed by all the members of the Dispute Resolution Board and shall contain the date on which, and the place where, the award will have been given.

(5) Each party to the dispute shall be given a copy of the decision of the Dispute Resolution Board signed by the members thereof.

(6) The Dispute Resolution Board shall, by not later than ninety days from the date when the decision is signed, present the said decision for registration by the Malta Arbitration Centre.
