



## **Committee for Agriculture and Rural Development**

# **OFFICIAL REPORT (Hansard)**

**The Agriculture (Hardship Payment) Scheme  
(Northern Ireland) 2013: DARD Briefing**

**21 May 2013**

# NORTHERN IRELAND ASSEMBLY

## Committee for Agriculture and Rural Development

### The Agriculture (Hardship Payment) Scheme (Northern Ireland) 2013: DARD Briefing

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#### **Members present for all or part of the proceedings:**

Mr Paul Frew (Chairperson)  
Mr Joe Byrne (Deputy Chairperson)  
Mr Thomas Buchanan  
Mr Trevor Clarke  
Mrs Jo-Anne Dobson  
Mr William Irwin  
Mr Declan McAleer  
Mr Oliver McMullan  
Mr Ian Milne  
Mr Robin Swann

#### **Witnesses:**

Mr Michael Hatch	Department of Agriculture and Rural Development
Mrs Colette McMaster	Department of Agriculture and Rural Development
Mr Peter Toner	Department of Agriculture and Rural Development

**The Chairperson:** I welcome Colette McMaster, a grade 5; Michael Hatch, the senior principal veterinary officer; and Peter Toner, a grade 7, to the Committee. Thank you very much for your attendance. Colette, you are being worked hard today at the Committee. Are you leading off with a presentation for us?

**Mrs Colette McMaster (Department of Agriculture and Rural Development):** Yes.

**The Chairperson:** Thank you.

**Mrs McMaster:** Thank you for the opportunity to update you on the hardship scheme proposals and to present the proposed hardship payment scheme legislation, about which you have already had discussions with the Minister. I am joined today by Peter Toner, the head of farm policy branch, and Michael Hatch, the senior principal veterinary officer, who has been involved with the collection and disposal scheme. After my short introduction, Peter will take you through the draft legislation.

Following the snowstorm of 22 to 24 March, the Department of Agriculture and Rural Development (DARD) assisted farmers in providing fodder for their livestock. That first phase of DARD's assistance to farmers cut off by the snow began on 25 March. The next priority was to address the impact that the snowfall had on farmers. On 28 March, the Minister secured the agreement of the Executive for hardship funding to assist livestock farmers who were worst affected by the snowstorm. That funding has two elements. The first was to meet the cost to farmers of the collection and disposal of fallen

animals arising from the snowstorm. As you know from your discussions with the Minister on 16 May, the Department is now paying for the costs of the collection and disposal of the fallen stock that died as a direct result of the storm.

The second element is the hardship payment scheme, which will aim to mitigate the costs of the livestock losses that have been sustained by farmers arising from the snowstorm. As you are aware, the Minister secured the agreement of the Executive to the hardship payment scheme on 16 May.

The proposed hardship payment is a legislative scheme that is based on information about the extent and nature of livestock losses gathered through the collection and disposal scheme. The draft legislation is for consideration by the Committee today. Farmers who lost livestock arising from the snowstorm and who have had the fallen livestock collected by approved renderers during the relevant period will be eligible for the hardship payment scheme. Payments are intended to mitigate the cost of livestock losses and to assist farmers towards the re-establishment of farm livestock; they are not intended to be compensation for full losses sustained, and will not relate to the pedigree status of an animal.

Payments will be at a flat rate, based on an average replacement cost, which will be attributed to livestock predominantly on the basis of the age of the animal. Those rates are set out in draft legislation, which Peter will speak about shortly. Payments will be under the EU de minimis rules and capped at a maximum of €7,500 per farmer, including the collection and disposal costs of fallen animals. Under the de minimis state aid provisions, payments will be cumulative with any other de minimis payments within a three-year period.

Department of Agriculture and Rural Development officials have discussed the proposals for the hardship payment scheme with the Ulster Farmers' Union, the Northern Ireland Agricultural Producers' Association, the National Sheep Association and the British Wool Marketing Board, and we have considered their views. Subject to the Committee's consideration, we plan to introduce the legislation without delay. Eligible farmers will receive letters of offer from DARD in early June advising of their hardship entitlement and how to claim. We encourage all farmers to respond promptly to those letters. On that basis, we expect to complete the scheme by the end of June. I will hand over to Peter, who will briefly outline the draft legislation.

**Mr Peter Toner (Department of Agriculture and Rural Development):** Thanks, Colette. Again, thank you for the opportunity to present on the proposed hardship payment scheme legislation. The Agriculture (Hardship Payment) Scheme (Northern Ireland) 2013 has been made under powers conferred by sections 1(1) and 2 of the Agriculture (Temporary Assistance) Act (Northern Ireland) 1954 and with the approval of the Minister of Finance and Personnel. The rule will be laid before the Assembly under the negative resolution procedure, and it is intended that it will come into operation on 24 May. The urgency of the issue means that we are breaking the 21-day rule, and the Examiner of Statutory Rules has been informed accordingly.

As Colette said, the hardship payment scheme is the second element of the hardship funding agreed by the Executive on 28 March; the first element being the payment by the Department of collection and disposal costs. Under the hardship payment scheme, farmers who had fallen stock collected and disposed of during the relevant period by approved renderers will be eligible for the hardship funding. Hardship payments that have been evidenced and verified with reference to the collection and disposal data will be at a flat rate based on an average replacement cost, predominantly on the basis of the age of the animal, which will be attributed to the relevant livestock. The relevant flat rate values have been provided by DARD economists based on market information for the categories of animal specified. The rates are set out in the draft legislation. The average flat rate for a lamb is £30 and for a sheep £110. A wider range of flat rates is included for cattle, depending on age, whether the animal has progeny, and whether beef or dairy.

As the scheme is provided for under the state aid de minimis rules, payments will be capped at the de minimis limit of €7,500 or approximately £6,300; that includes the collection and disposal costs of the fallen animals. In order to apply for payments, farmers will be issued with a pre-populated application form indicating losses and payment entitlement for return with an appropriate signature. The form will include a declaration to the effect that the livestock died as a direct result of the snowstorm and also that the farmer does not have insurance for the livestock losses. It is envisaged that the letters of offer containing the application and claim form will issue to farmers by the end of May for return within two weeks to enable payments by the end of June.

In order to make hardship payments as soon as possible, no formal written consultation has taken place on the legislation. However, the Department has met stakeholders, as Colette said, including the Ulster Farmers' Union, the Northern Ireland Agricultural Producers' Association, the National Sheep Association and the British Wool Marketing Board, and has considered their views in developing the policy. No similar legislation has been developed in GB or the Republic of Ireland, although, in GB, funding was made available for fallen stock costs.

The equality implications of the proposed regulations have been assessed, and it is considered that they will not result in any equality differentials among section 75 groups. A regular impact assessment is not necessary because, by definition, de minimis hardship payments to producers will result in no or negligible costs to the industry and will not distort competition. We are content that the legislation meets DARD's commitment to better regulation by achieving policy outcomes without unnecessary or disproportionate burdens. As you are aware, the Executive have agreed to make hardship funding available. It is estimated that the total budget requirement will be about £3 million, to include £0.3 million for the cost of collection and disposal.

In conclusion, your agreement to the introduction of the emergency legislation today is sought so that it can be introduced as indicated and payments made without delay.

**Mrs McMaster:** We are now happy to take any questions that you may have.

**The Chairperson:** Robin indicated that he has to go, so we will take his question first.

**Mr Swann:** Thanks, Chair, and thanks to the officials for the presentation. I would like a wee bit more detail on statutory rule 4(c). It refers to a person who:

*"has had that economic loss verified by an inspection and report of an authorised officer."*

What do you see that containing?

**Mr Toner:** The evidence base for the scheme is the collection and disposal data that was gathered and verified by the Department's veterinary service.

**Mr Michael Hatch (Department of Agriculture and Rural Development):** The vast majority of collections were supervised by an animal health and welfare inspector.

**Mr Swann:** What about those that were not?

**Mr Hatch:** An assessment was made by a vet on the merits of each case. On some occasions, it involved a visit; on others, it has been about dealing with the two rendering companies.

**Mr Swann:** So, there will be no more inspections.

**Mrs McMaster:** No; anybody who will now get a letter from us has already had the data evidenced and verified.

**Mr Swann:** OK. Statutory rule 10 is the powers of the authorised officers. Why is it necessary for an authorised officer to be able to inspect any land to which an application relates, as per statutory rule 10(1)(a)?

**Mr Toner:** That is a generic provision that would probably go into any such legislation; it does not relate specifically to this scheme.

**Mr Irwin:** One of the biggest losses was 436 animals. I understand that the cost of collection is being taken out of each payment. In Great Britain, they covered fallen stock. In GB, was it attributed to each individual farmer, or was it covered on a wider basis?

**Mr Toner:** I am not sure what European legislative provision GB used. If it used the de minimis provision, it would have to have been attributed to an individual farmer.

**Mr Irwin:** That is interesting, because I thought that it did not, although I am not certain about that. How soon will farmers receive their hardship payment?

**Mr Toner:** The intention is to have the letters out by the end of May and returned within two weeks, with a view to making payments by the end of June.

**Mr Irwin:** As a farmer myself, I have some knowledge of valuations. The value of any beef cattle under three months will be £200 per animal, and the value of any dairy cattle under three months will be £45 per animal. However, the valuations are equal for beef and dairy cattle aged between three and six months and six and 12 months, which seems very strange.

**Mrs McMaster:** The flat rates are based on market prices. Our economists did that calculation based on their research into market prices and the information that is available for groups of animals. We are also trying to reflect the average cost of replacing the animals when the event occurred; they had that in mind as well.

**Mr Irwin:** It just looks strange that a dairy calf is valued at £45 when it is between nought and three months but at £380 —the same as beef animals — when it is between three and six months. Unless that is a misprint, it seems very low.

**Mrs McMaster:** It is not a misprint.

**Mr Irwin:** It seems very low.

**Mrs McMaster:** That is what we have reflected in the legislation. It is based on the flat rates that the economists advised on.

**Mr Irwin:** I hope that they know something about farming.

**Mr Clarke:** I will follow on from William Irwin. Peter, you said that it depended on what scheme Great Britain used and that we did it under de minimis rules. What other way could we have done it?

**Mr Toner:** What I am saying is that I do not know what legislative provision they used across the water. If they did use the de minimis route, they would have to have related it to the individual farmer.

**Mr Clarke:** I appreciate that. However, that indicates that there is another route by which it could have been done. Look at the farmer who lost 436 animals. If you apply the minimum amount for each animal under the de minimis provision, he will get only £6,000, which is a negligible amount of money given his loss. However, your first answer to William indicated that this could have been done in another form. You did not say that you could do it only under de minimis rules, which made me believe that there is another way in which this could have been done. That is what I am trying to tease out from you.

**Mr Toner:** Several state aid options were considered. However, the preferred option was the state aid de minimis route, as it allowed for early hardship payments to be made and it addressed most of the losses suffered as a consequence of the snowstorm. There is a block exemption state aid provision, where losses are more than 30% of the annual turnover of a farm. However, that limits funding to 40% of loss and a significant amount of information is required to be gathered to make the state aid application. Although that option was considered, it was not the preferred one.

**Mr Clarke:** It would be interesting to see how you arrived at using this system. Did you run models of numbers to see which one would work out the cheapest? How have you arrived at using this particular scheme? We all welcome the fact that there is a scheme. However, while I am not saying that someone who lost a very small number of animals will do OK, they will do better than the person who lost a larger number of animals, who will do poorly. The person who suffered the bigger loss will not do as well as the person who suffered the smaller loss. Did you work out the difference between the costs and compare them? Is that why you picked this scheme?

**Mrs McMaster:** This was being done for the purpose of a hardship payment to mitigate the losses that people sustained in the snowstorm. One of the key things was to try to get payments out as quickly as possible. One of the benefits of a de minimis scheme is that, in any other approach, we would need to

go through a process and seek state aid approval, and so on; that is key. We talked to stakeholders, and they certainly value our getting the payments out as early as possible.

We have been clear from the beginning that this is not compensation; people will not have to be fully compensated for their losses. This is intended to be a hardship payment towards that loss. The vast majority of people are in the CAP. It is only a small number who —

**Mr Toner:** Ninety-four per cent of farmers eligible for funding can be addressed under the state aid de minimis rules.

**Mr Clarke:** They will not be cut out of the £6,000 compensation?

**Mr Toner:** No; they are within that.

**Mr Clarke:** Would it be possible for you to give us a copy of your calculations in deciding on this scheme and the comparison between this scheme and the other systems that you looked at?

I had an opportunity earlier to ask about the Department's losses. You said that the biggest loss to a farmer was 436 animals. Can you tell us how many animals the Department lost?

**Mrs McMaster:** I do not have figures for what the Department lost. As regards the other information that you asked for, various state aid options were available.

**Mr Clarke:** Could we have that information and the figures for what the Department itself lost? That day, there were 180 sheep not accounted for. It would be interesting to see what the current figure is.

**The Chairperson:** This has always been about getting the payment out as quickly as possible so that the farmers can get on with their business and, in many cases, their lives. We welcome the legislation. We would have liked it earlier. However, we understand that you have to work with the de minimis rules and that you will be under scrutiny from not only the Committee but the dreaded auditors and, therefore, that it has taken some time to work out this scheme. I understand that. However, I hope that we can get the letters issued as soon as possible and that the letters are as simple as possible so that they can be turned around and sent back as quickly as possible so that the money will be allocated.

One thing that has worried me in light of the fodder scheme is that both schemes are de minimis. Peter said that 94% of the farming community will be able to be paid under the de minimis rules. In yesterday's debate in the House, the Minister assured me that no farmer will be penalised. However, if you have been hardest hit in the snow crisis and then avail yourself of the hardship fund, you may well be one of the farmers who is hardest hit by the fodder shortage. If that is the case and you have a figure in the hardship fund that reaches up close to the de minimis target or bigger and you avail yourself of the fodder scheme, you may be penalised or restricted or refused. Can you reassure us that that will not be the case? The Minister did that last night, but she could not and did not go into the detail of how that would actually operate. I know that we are getting a presentation from officials who are sitting behind you on the fodder transport scheme, but can you answer that? Is it best placed to be answered in the next evidence session? It needs to be answered because it is something that I am worried about. I am not saying that it would hold up the legislation — this needs to be out — but it is a blind spot at present.

**Mrs McMaster:** Colleagues who come after us will probably be able to clarify the arrangements for the fodder scheme.

**The Chairperson:** They are nodding their heads vigorously, so they must have the answer.

**Mrs McMaster:** That is OK. Like you, we are keen not to hold up the issue of letters from this scheme, so, once the legislation has been agreed, we will want to go ahead with the letters.

**Mr Irwin:** I, for one, would like the valuations. I would not want the economist who did those evaluations to do my books. It seems very strange to me that from nought to three months, the payment for loss of beef cattle is £200 an animal and £45 for the loss of dairy cattle. It should be the other way around almost. At three months old, the two animals are worth the same value and, at 12

months old, they are worth the same value. From day one, there is a big disparity in the value of those two animals. There is something wrong there. I would like that checked and verified if possible.

**Mr Clarke:** Where I see the disparity is if a farmer is taking a cow to market knowing that, at nought to three months, it is worth £45 and, all of sudden, one day after three months, it is £300. Who in their right mind would take calves to market in the first three months? It will not take much to feed a calf to three months and a day to make it worth nearly eight times the value.

**Mr Irwin:** It seems very strange.

**The Chairperson:** There seems to be a disparity in that one age section on the dairy side.

**Mr Irwin:** Yes. Moreover, the payment of £30 a lamb is not excessive either to the poor farmer. That is perhaps something that the economist has done, but I thought that there should have been some degree of latitude in relation to those lambs. Only two months later, they would have been worth double that price. There is no absolutely no consideration given to the potential worth in valuating those lambs. I know that we have to take the circumstances into account, but absolutely no account is taken of their potential worth in a few months' time, and there should have been. Do you understand?

**Mrs McMaster:** Yes. It is a hardship payment to go towards that; it does not represent full loss.

**Mr Irwin:** I understand that. We are not talking about that. There is a disparity between the valuations of beef and dairy cattle that seems totally out of kilter.

**Mr Clarke:** I think when this gets into the public domain, everybody will be going to market to buy calves at nought to three months, because the Department says they are worth £45, and bringing them back a few weeks later to get £300.

**Mr Irwin:** It is £380.

**Mr Clarke:** I think the economists have definitely opened up a new market here.

**Mrs McMaster:** Again, the figure is based on the actual sales information they have obtained for cattle sold through livestock auctions.

**Mr Irwin:** I think that they have not obtained their information right. They have checked it wrongly. I think there is something wrong with this one.

**Mr McMullan:** The price is too little, or —

**Mr Irwin:** Too little; much too little.

**Mr McMullan:** Would it not be too much, between three and six months?

**Mr Irwin:** £45? If that is a dairy animal, it is actually worth more than a beef animal, or could be — dairy-bred females and males. Anyway, we are where we are.

**Mr Hatch:** I was just going to make the point that the numbers in those categories are very low.

**Mr Irwin:** I would agree with you, probably.

**Mr Hatch:** With the sheep, it was nearly all baby lambs and ewes that died. There were very few — in fact, hardly any — that were six or seven months old, for example. On the cattle front, there were a lot of calves — over 450 — at nought to three months. Again, baby calves —

**Mr Clarke:** In dairy or in beef?

**Mr Hatch:** I do not have that breakdown, but if you are talking about three to six months, there were about 46. So, a lot of small calves perished; 10 times as many between nought to three months as there were between three and six months.

**Mr Irwin:** If you look at the valuation at three months, it is £380, and the valuation —

**Mr Hatch:** Yes, I accept that, but the numbers you are talking about are relatively small.

**Mr Irwin:** Yes, but it just looks strange that it is valued that way to me.

**The Chairperson:** Unfair.

**Mr Irwin:** Absolutely.

**The Chairperson:** I know that this was clarified on Thursday evening, but the question came up regarding an animal that was just under, or maybe a couple of days over, three months. There is obviously a big difference there, but is this being graded and recorded on APHIS — animal and public health information system? Is that right? Just to be sure, is it through the records on APHIS?

**Mrs McMaster:** Yes. Where we can, we are using APHIS. For cattle, we are able to use the APHIS information to provide a validation of the age information that we have.

**The Chairperson:** With regard to the cost of the carcass collection scheme, was it down to age or weight?

**Mr Hatch:** It was categorised by age, and we essentially just used what the rendering companies had categorised them as already. We did not introduce any additional ages as regards the collection, and we tried to match the renderers' records.

**Mr Byrne:** I am sorry; I had to go out for a question, so I am not into the details. When will the first cheque be issued to farmers? What is the total quantum at the moment? Is it still £2·6 million, as we were told by the Minister? I just want to register the frustration and anger of farmers, because this is going to be too little, too late. That is my fear.

**Mrs McMaster:** I suppose when the first payments will be made —

**Mr Byrne:** When will the first cheque go out?

**Mrs McMaster:** Subject to the legislation being approved —

**Mr Byrne:** What is holding it up?

**Mrs McMaster:** Sorry?

**Mr Byrne:** What is holding the legislation up?

**The Chairperson:** It is here.

**Mrs McMaster:** Subject to the Committee approving the legislation, it will be made tomorrow. That is the date we are aiming for. The scheme will be brought into operation on 24 May, and we will then be able, on the basis that the legislation and rates are agreed, to pre-populate the letters that will be issued to farmers. Those letters will be going out at the end of the month and will be received by farmers by early June.

We are asking farmers to return the letters within two weeks, but as soon as possible. We are encouraging farmers to return them as soon as they can, and then we will be sending payments out. As soon as we start getting the signed letters back from farmers, we will be able to start processing payments in June. We hope to have all payments made, on that basis, by the end of June. We will not be holding back payments. We will be able to start the process, but it is subject to things going through as we are proposing.

**The Chairperson:** The power is in our hands, Joe.

**Mr Byrne:** Thanks, Chairman, but I do not want us to be the fall guys.

**The Chairperson:** No, absolutely.

**Mr Byrne:** We should have had the legislation six weeks ago.

**The Chairperson:** Are there any further questions? Just one thing, out of interest, with regard to the force majeure ruling, and farmers being able to apply for that — how many farmers took up that opportunity? Do we know?

**Mrs McMaster:** I actually do not have that information, but that is something that perhaps we can —

**The Chairperson:** We would like that information. I think it would give us an indication of how that worked. Are there any further questions, members? It just remains for me to thank Colette, Peter and Michael for the briefing that they have given us on this legislation. I certainly will — I am sorry, Trevor; do you want in?

**Mr Clarke:** Chairman, I accept now we have agreed that. I agree with Joe; we do not want to hold this up, but could we ask the Assembly's Research and Information Service (RaISe) to do a bit of research on the value of animals? The values here are absolutely — there is something not right here. We are not going to stand in the way of this; we have signed off, and we have put our hand up. We are accepting this piece of legislation. However, I think that this still needs to be done. This is what the Department is presenting to us; that a calf up to three months old is worth £45, which jumps up to £380 after that. It just does not make sense. I think we need to ask RaISe to do a wee bit of work on this.

**The Chairperson:** I am happy with that. Can I seek agreement that members are content with the merits of the policy?

*Members indicated assent.*

**The Chairperson:** We will ask RaISe to scrutinise the detail. Are members happy, as Trevor has suggested?

*Members indicated assent.*

**The Chairperson:** Is that the only question to be put?

**The Committee Clerk:** It is not the SR, it is only the SL1.

**The Chairperson:** It is the SL1, so that is it agreed.

**Mrs McMaster:** Is the SL1 agreed to go ahead to make the legislation?

**The Chairperson:** Yes, that is it. We have agreed that members are content with the merits of the policy and that the SL1 can progress. OK?

*Members indicated assent.*

**The Chairperson:** Thank you.