

Explanatory Memorandum to the Agricultural Holdings (Units of Production) (Wales) (No 2) Order 2008

This Explanatory Memorandum has been prepared by the Rural Payments Division of the Department for Rural Affairs and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

- (i) **Description** – The Agricultural Holdings (Units of Production) Order lays down figures for agricultural incomes associated with various farming activities which are used in cases involving possible succession to an agricultural tenancy. The resultant calculations are then applied to decide whether a close relative is eligible to succeed to a tenancy. If the close relative already has a farm – and if that farm is judged (using the data in the Order) to be of a commercial size - he/she would not be eligible for automatic succession.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – There is no Order currently in place to govern the period 12 September 2008 to 11 September 2009, consequently a retrospective Order is required. This is due to the base statistics prepared by DEFRA not being available until now and consequential delays in obtaining figures for land values in Wales.
- (iii) **Legislative Background** – Powers for the Welsh Ministers to make an Agricultural Holdings (Units of Production) (Wales) Order are conferred by Paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986. This paragraph requires the Minister to prescribe such units of production relating to agricultural land as considered appropriate and for any period of 12 months specified in the Order. Functions conferred under the Agricultural Holdings Act 1986 were transferred to the National Assembly for Wales (Transfer of Functions) Order 1999. Those functions were subsequently transferred to the Welsh Ministers by section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006. This order follows the negative resolution procedure.
- (iv) **Purpose and intended effect of the legislation** – This proposed Order which is made on an annual basis, will confirm the figures on land values prepared by Welsh Assembly Government Technical Services Division and make them legally binding when used to advise the Agricultural Land Tribunal (ALT) in Wales on their cases relating to tenancy succession. Without the introduction of this Order, the Welsh Assembly Government would be unable to advise ALT on cases of tenancy succession that may relate to “commercial units”. This would lead to the ALT being unable to hear such cases in Wales.

- (v) **Implementation** – This Order will come into force on the 8 January 2009.
- (vi) **Consultation** – It was not deemed necessary to put this Order out to consultation as the instrument is made annually, is technical in nature and is not contentious. The introduction of this Order in Wales purely enables Welsh Assembly Government officials who undertake the necessary calculation to advise the Tribunal on cases deemed as a “commercial unit”.
- (vii) **Regulatory Impact Assessment** – A Regulatory Impact Assessment has not been prepared as this instrument is made annually, is purely technical and is not contentious.