

Explanatory Memorandum to the Agricultural Holdings (Units of Production) (Wales) Order 2011

This Explanatory Memorandum has been prepared by the Rural Payments Division of the Department for Business Enterprise and Technology and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Agricultural Holdings (Units of Production) (Wales) Order 2011.

Alun Davies

Deputy Minister for Agriculture, Food, Fisheries and European Programmes

22 November 2011

1. Description

The Agricultural Holdings (Units of Production) (Wales) 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.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

There is no Order currently in place to govern the period 12 September 2011 to 11 September 2012 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.

3. Legislative background

Powers for the Welsh Ministers to make an Agricultural Holdings (Units of Production) (Wales) Order are conferred by sections 36, 50 and Paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986. These powers were originally transferred to the National Assembly for Wales by the 1999 Transfer of Functions Order (S.I. 1999/672) and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. Paragraph 4 of schedule 6 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.

The Agricultural Holdings (Units of Production) (Wales) Order 2011 revokes The Agricultural Holdings (Units of Production) (Wales) Order 2010.

This order follows the negative resolution procedure.

4. Purpose & intended effect of the legislation

This Order which is made on an annual basis, will confirm the figures on land values prepared by the Welsh Government Sustainability and Environmental Evidence Division and make them legally binding when used to advise the Agricultural Land Tribunal (ALT) in Wales on their cases relating to tenancy succession.

This Order will come into force on 21 December 2011. 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.

5. 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 Government officials who undertake the necessary calculation to advise the Tribunal on cases deemed as a "commercial unit".

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been prepared as the instrument is made annually, purely technical and is not contentious.