

REGULATORY APPRAISAL

LANDLORD AND TENANT, WALES

THE AGRICULTURAL HOLDINGS (UNITS OF PRODUCTION) (WALES) ORDER 2006

Purpose and intended effect of the measure

1. The Order prescribes units of production for the assessment of the productive capacity of agricultural land situated in Wales and sets out the amount, which is to be regarded as the net annual income from each such unit for the years 12 September 2004 to 11 September 2005 and 12 September 2005 to 11 September 2006 inclusive, so that the Agricultural Land Tribunal (ALT) can determine whether the land is “a commercial unit”. The values in the Order are applied to the estimated cropping and stocking capabilities of the applicant’s land. If the aggregated value of net annual income for the land exceeds the average annual earnings of two full-time adult agricultural workers, the applicant is deemed to occupy “a commercial unit” and thus will not qualify for succession because s/he will be deemed to be already provided with adequate land for their farming business.
2. This will enable the Agricultural Land Tribunal (Wales) to determine applications by close relatives of a deceased or retiring tenant to succeed to the tenancy. There are various eligibility tests, which must be satisfied. These include being defined a “close relative” and not being in possession of “a commercial unit” of agricultural land.
3. The figures in the Units of Production Orders are calculated and updated each year by the Department for Environment, Food and Rural Affairs’ (Defra) Economics Division from data derived from various sources and represents the average net annual income which, on average, might be expected from the main types of crop and livestock in England and Wales. Of an average of 20 cases for succession received annually, only around 4 cases (20%) actually required a detailed Units of Production assessment with only around 2 cases required to be heard at a tribunal,. Such assessments are undertaken by the Technical Services Division within the Department for Environment, Planning and Countryside of the Welsh Assembly Government.
4. The Order replaces The Agricultural Holdings (Units of Production) (Wales) Order 2004.

Risk Assessment

5. If the Order was not made the Agricultural Land Tribunal (Wales) would be unable to listen to and adjudicate on agricultural tenancy operate succession cases, this may lead to legal action against the Assembly.

Options

Option 1: Do Nothing

6. Should this Order not be introduced the work of the Agricultural Land Tribunal (Wales) in cases of contested succession to agricultural tenancy would be abated due to lack of updated assessment of productive capacity of land. This could lead to legal action being brought against the Assembly.

Option 2: Make the Legislation

7. This Order prescribes units of production for the assessment of the productive capacity of agricultural land situated in Wales. This will enable the Agricultural Land Tribunal (Wales) to determine applications by close relatives of a deceased or retiring tenant to succeed to the tenancy.

Benefits

8. Relatives wishing to succeed a deceased relative to an agricultural tenancy and landlords will benefit from the introduction of the Order as the Order will allow the Agricultural Land Tribunal to listen and adjudicate on succession cases. At present neither party is able to plan as current cases are in limbo awaiting the introduction of this Order.

Costs

9. There will be financial implications for the Assembly as a result of implementing these Regulations as the Assembly funds the Agricultural Land Tribunal. However, these costs will be accommodated within planned administration cost budgets of the Agricultural Land Tribunal based at Llandrindod Wells. All the costs are for individual Succession to Tenancy hearings, these are estimated to be between £200- £400 per hearing. There will be no financial implications for any other enforcement body or to the industry.

Competitive Assessment

10. There are no issues of competition associated with this Instrument.

Consultation

With Stakeholders

11. No formal consultation has been undertaken in relation to this Order, as it is technical in nature and is narrowly applied, although the Chair of the Agricultural Land Tribunal is aware of the proposed Order and welcomes its introduction.

With Subject Committee

12. This Order was notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation on 24 May 2006 (EPC(2)-08-06 (p.3) Annex 1, item no.4). The Order was not identified for detailed scrutiny.

Review

13. Although no review of the impact of this Order will take place, a review of the content will take place this summer with a view to updating the figures using the

data that will be applied for the period 12 September 2004 to 11 September 2005 and 12 September 2005 to 11 September 2006 inclusive.

Summary

14. This Order will prescribe units of production for the assessment of the productive capacity of agricultural land situated in Wales allowing Agricultural Land Tribunals in Wales to operate effectively.