

Explanatory Memorandum to the Agricultural Holdings (Units of Production) (Wales) (No.3) Order 2015

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Group, and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation 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) (No.3) Order 2015.

Rebeca Evans
Deputy Minister for Farming and Food.
2 December 2015

1. Description

The Agricultural Holdings (Units of Production) (Wales) (No. 3) Order sets out figures for agricultural incomes which are associated with various farming activities and are used in cases relating to succession to an agricultural tenancy and in determining whether or not the land in question is a 'commercial unit of agricultural land'. 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 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 a requirement under the Agricultural Holdings Act 1986 for the Welsh Ministers by Order to prescribe such units of production relating to agricultural land as is considered appropriate, for a twelve month period as specified in the Order. The current Order in force is the Agricultural Holdings (Units of Production) (Wales) (No. 2) Order 2015. The current Order amends a discrepancy that was discovered in respect of certain figures contained in the schedule to the Agricultural Holdings (Units of Production) (Wales) Order 2015. The Agricultural Holdings (Units of Production) (Wales) (No. 2) Order 2015 relates to the period from 12 September 2014 to 11 September 2015. The Agricultural Holdings (Units of Production) (Wales) (No. 3) Order 2015 will cover the period 12 September 2015 to 11 September 2016.

It is advised that 2015 (No. 2) Order continue to be in force, as this will allow the Tribunal to continue to calculate the requisite figures for the cases that have been on hold – due to the (re-)making of 2015 Order – that fall within the period covered by the 2015 (No. 2), 12 September 2014 to 11 September 2015. We understand that there are a number of cases that are being progressed at this time. The (No. 3) Order 2015 will therefore be in force alongside the (No. 2) Order, and this will provide the Tribunal with the power to process the cases that fall within the 12 September 2015 to 11 September 2016 period.

As the base statistics, which are prepared by Defra and used in the calculation of land values in Wales, are not available to the Welsh Government until August each year, a retrospective Order is required. Until the new Order comes into force any cases which progress to the Agricultural Tribunal during this period would need to be put on hold until the Order is made. The Counsel General has given his consent to the retrospective provision in this order.

You will note a drop in monies from 2015. This can be attributed to the exchange rate being 7% lower than it was in 2014 and the strengthening of the pound pre Oct 2014. The implementation of the EU's Financial Discipline

Mechanism at 1.3% and the 1.6% cut in the UK CAP budget are also attributing factors.

As the Basic Payment Scheme replaced the Single Farm Scheme from 1 January 2015, this Order has been updated (in contrast to previous years) to reference the criteria for eligible hectares under the Basic Payment Scheme replacing the criteria for eligible hectares under the Single Payment Scheme. It is noted that, as the figures for payments under the Basic Payment Scheme are not available at the time of laying this instrument, the latest figures under the Single Payment Scheme have been used as the best estimate for future income. This means the latest available information at the time of laying the 2015 UPO has been used.

3. Legislative background

Powers for the Welsh Ministers to make an Agricultural Holdings (Units of Production) (Wales) (No. 3) Order 2015 are conferred by Paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986. Paragraph 4 of Schedule 6 requires the Welsh Ministers to make an Order, prescribing such units of production relating to agricultural land as considered appropriate and for any period of 12 months specified within the Order. 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.

This Order follows the negative resolution procedure.

4. Purpose and intended effect of the legislation

This Order is made on an annual basis and sets out figures on land values prepared by the Welsh Government's Land, Nature and Forestry Division (LNF). They are used by the Agricultural Land Tribunal (ALT) in Wales when calculating the amount which is to be regarded as the net annual income from land relating to tenancy succession.

This Order will come into force in December 2015. Without the introduction of this Order, the ALT will not have the figures which it is required to use in order to determine 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, is purely technical and is not contentious. There has been no impact on the statutory provisions outlined in the Government of Wales Act 2006 (c32) sections 77-79 or the statutory partners, sections 72-75 of the 2006 Act.