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WELSH STATUTORY INSTRUMENTS

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**2009 No. 3232 (W.280)**

**LANDLORD AND TENANT, WALES**

**The Agricultural Holdings (Units  
of Production) (Wales) Order 2009**

<i>Made</i>	- - - -	<i>7 December 2009</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>9 December 2009</i>
<i>Coming into force</i>	- -	<i>31 December 2009</i>

The Welsh Ministers, in exercise of the powers conferred by paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986<sup>(1)</sup>, and now vested in them<sup>(2)</sup>, and by paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(3)</sup>, make the following Order:

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for the references to European Community instruments in this Order to be construed as references to those instruments as amended from time to time.

**Title, commencement and interpretation**

1.—(1) The title of this Order is the Agricultural Holdings (Units of Production) (Wales) Order 2009. This Order comes into force on 31 December 2009 and applies in relation to Wales.

(2) In this Order—

“Council Regulation 1782/2003” (“*Rheoliady Cyngor 1782/2003*”) means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending certain Regulations<sup>(4)</sup>;

“designated maps” (“*mapiau dynodedig*”) means the two volumes of maps numbered 1 and 2 each volume being marked “Volume of Maps of less favoured farming areas in Wales” and with the number of the volume dated 20 May 1999 signed by the Secretary of State for Wales

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(1) 1986 c. 5.

(2) Functions conferred under the Agricultural Holdings Act 1986 (c. 5) were transferred to the National Assembly for Wales by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were subsequently transferred to the Welsh Ministers by section 162 and paragraph 30 of Schedule 11 of the Government of Wales Act 2006 (c. 32).

(3) 1972 c. 68. Paragraph 1A was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(4) OJ No. L270, 21.10.2003, p.1, as last amended by Commission Regulation (EC) No. 674/2008 (OJ No. L189, 17.7.2008, p.5).

and deposited at the offices of the Welsh Assembly Government Agriculture Department at Cathays Park, Cardiff, CF10 3NQ;

“disadvantaged land” (“*tir dan anfantais*”) (except in the expression “severely disadvantaged land”) means any area of land shown coloured blue on the designated maps;

“eligible hectare” (“*hectar cymwys*”) has the same meaning as in Article 44(2) of Council Regulation 1782/2003;

“less favoured areas” (“*ardaloedd llai ffafriol*”) means land that is disadvantaged or severely disadvantaged;

“severely disadvantaged land” (“*tir tan anfantais ddifrifol*”) means the area of land shown coloured pink on the designated maps;

“Tir Mynydd payment” (“*taliad Tir Mynydd*”) means financial assistance paid in accordance with regulation 3 of the Rural Development Programmes (Wales) Regulations 2006<sup>(5)</sup>.

### **Assessment of productive capacity of land**

2.—(1) Paragraphs (2) and (3) of this article have effect for the purpose of the assessment of the productive capacity of a unit of agricultural land situated in Wales, in order to determine whether that unit is a commercial unit of agricultural land within the meaning of paragraph 3(1) of Schedule 6 to the Agricultural Holdings Act 1986.

(2) Where the land in question is capable, when farmed under competent management, of being used to produce any livestock, farm arable crop, outdoor horticultural crop or fruit as is mentioned in any of the entries 1 to 3 in column 1 of the Schedule to this Order, then—

- (a) the unit of production prescribed in relation to that use of the land will be the unit in the entry in column 2 of that Schedule opposite to that entry, and
- (b) the amount determined, for the period of 12 months beginning with 12 September 2009, as the net annual income from that unit of production in that period will be the amount in the entry in column 3 of that Schedule opposite to that entry as read with any relevant note to that Schedule.

(3) Where land capable, when farmed under competent management, of producing a net annual income is eligible to receive a Tir Mynydd payment (as is mentioned in entry 4 in column 1 of the Schedule to this Order), or was an eligible hectare in 2008 (as is mentioned in entry 5 of that column), then—

- (a) the unit of production prescribed in relation to that use of the land will be the unit in the entry in column 2 of that Schedule opposite to that entry, and
- (b) the amount determined, for the period of 12 months beginning with 12 September 2009, as the net annual income from that unit of production in that period will be the amount in the entry in column 3 of that Schedule opposite to that entry.

### **Revocation**

3. The Agricultural Holdings (Units of Production) (Wales) (No.2) Order 2008<sup>(6)</sup> is revoked.

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<sup>(5)</sup> S.I. 2006/3343 (W.304).

<sup>(6)</sup> S.I. 2008/3200 (W.285).

7 December 2009

*Elin Jones*  
Minister for Rural Affairs, one of the Welsh  
Ministers

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## SCHEDULE

Article 2

**PRESCRIBED UNITS OF PRODUCTION AND  
DETERMINATION OF NET ANNUAL INCOME**

<i>Column 1</i> <i>Farming use</i>	<i>Column 2</i> <i>Unit of production</i>	<i>Column 3</i> <i>Net annual income from unit of production (£)</i>
<b>1. Livestock</b>		
Dairy cows (other than Channel Islands breeds)	Cow	416.00
Beef breeding cows:		
On land which is eligible for the purposes of a Tir Mynydd payment	cow	-143.00
On other land	cow	-147.00
Beef fattening cattle (semi-intensive)	head	-48.00 <sup>(1)</sup>
Dairy replacements	head	94.00 <sup>(2)</sup>
Ewes:		
On land which is eligible for the purposes of a Tir Mynydd payment	ewe	-12.00
On other land	ewe	-10.00
Store lambs (including ewe lambs sold as shearlings)	head	3.50
Pigs:		
Sows and gilts in pig	sow or gilt	182.00
Porker	head	11.30
Cutter	head	13.70
Bacon	head	15.70
Poultry:		
Laying hens	bird	3.00
Broilers	bird	0.30
Point-of-lay pullets	bird	0.60

**NOTES TO THE SCHEDULE**

- (1) This is the figure for animals which would be kept for 12 months. In case of animals kept for less than 12 months a pro-rata adjustment of this figure is to be made.
- (2) This is the figure for animals (irrespective of age) which would be kept for 12 months. In the case of animals kept for less than 12 months a pro-rata adjustment of this figure is to be made.
- (3) This figure includes the protein crop premium provided for in Article 76 of Council Regulation 1782/2003.

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<i>Column 1</i> <i>Farming use</i>	<i>Column 2</i> <i>Unit of production</i>	<i>Column 3</i> <i>Net annual income from unit of production (£)</i>	
Christmas Turkeys	bird	6.10	
<b>2. Farm arable crops</b>			
Barley	hectare	-29.00	
Beans	hectare	-36.00 <sup>(3)</sup>	
Oilseed rape	hectare	9.00	
Dried peas:		-78.00 <sup>(3)</sup>	
Potatoes:			
	First early	hectare	2497.00
	Maincrop (including seed)	hectare	1866.00
Sugar Beet	hectare	357.00	
Wheat	hectare	42.00	
<b>3. Outdoor horticultural crops and fruit</b>			
Orchard fruit	hectare	2720.00	
Soft fruit	hectare	6830.00	
<b>4. Forage Land</b>			
On land which is eligible for the purposes of a Tir Mynydd payment	hectare	The amount of the Tir Mynydd payment required to be paid under regulation 3 of the Rural Development Programmes (Wales) Regulations 2006	

### 5. Eligible hectares

Land which was, in 2008, an eligible hectare for the purposes of Council Regulation 1782/2003, except land which was set aside from production under Article 54(3) of that Regulation:

#### NOTES TO THE SCHEDULE

- (1) This is the figure for animals which would be kept for 12 months. In case of animals kept for less than 12 months a pro-rata adjustment of this figure is to be made.
- (2) This is the figure for animals (irrespective of age) which would be kept for 12 months. In the case of animals kept for less than 12 months a pro-rata adjustment of this figure is to be made.
- (3) This figure includes the protein crop premium provided for in Article 76 of Council Regulation 1782/2003.

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<i>Column 1 Farming use</i>	<i>Column 2 Unit of production</i>	<i>Column 3 Net annual income from unit of production (£)</i>
Severely disadvantaged land	hectare	120.40
Disadvantaged land	hectare	153.43
All other land	hectare	111.87

#### NOTES TO THE SCHEDULE

- (1) This is the figure for animals which would be kept for 12 months. In case of animals kept for less than 12 months a pro-rata adjustment of this figure is to be made.
- (2) This is the figure for animals (irrespective of age) which would be kept for 12 months. In the case of animals kept for less than 12 months a pro-rata adjustment of this figure is to be made.
- (3) This figure includes the protein crop premium provided for in Article 76 of Council Regulation 1782/2003.

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This 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 year 12 September 2009 to 11 September 2010 inclusive for certain purposes of the Agricultural Holdings Act 1986 (“the 1986 Act”). This Order revokes the Agricultural Holdings (Units of Production) (Wales) (No.2) Order 2008.

An assessment of the productive capacity of agricultural land is required in determining whether or not the land in question is a “commercial unit of agricultural land” for the purposes of the succession provisions in the 1986 Act: *see* in particular sections 36(3) and 50(2). A “commercial unit of agricultural land” is a unit of agricultural land which, when farmed under competent management, is capable of producing a net annual income which is not less than the aggregate of the average annual earnings of two full-time male agricultural workers aged 20 years or over (paragraph 3 of Schedule 6 to the 1986 Act). Article 2 of this Order provides that, in determining this annual income figure, whenever a particular farming use mentioned in column 1 of the Schedule is relevant to the assessment of the productive capacity of the land in question, the units of production and the net annual income specified in columns 2 and 3 respectively will form the basis of that assessment.

The net annual income figures in column 3 of the Schedule describe the net annual income from one unit of production. In some cases the net annual income is derived from a unit which will be on the land for the full twelve-month period. In other cases the net annual income is derived from a unit which will be on the land for only part of the year, and there may be more than one production cycle in the twelve-month period. The assessment of the productive capacity of the land will take account of the total production in the course of a year.

This Order includes net annual income figures for land which was, in 2008, an eligible hectare for the purposes of Council Regulation (EC) No. 1782/2003 (O.J. No. L270, 21.10.2003, p.1), which establishes the Single Payment Scheme. There are separate figures in the Schedule for severely

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disadvantaged land, disadvantaged land and other land. There are also separate figures for land which was set aside from production in 2008.

A Regulatory Impact Assessment has not been produced for this instrument as no impact on business or the private or voluntary sector is foreseen.