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WELSH STATUTORY INSTRUMENTS

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**2010 No. 2825 (W.232)**

**LANDLORD AND TENANT, WALES**

**The Agricultural Holdings (Units  
of Production) (Wales) Order 2010**

<i>Made</i>	- - - -	<i>23 November 2010</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>25 November 2010</i>
<i>Coming into force</i>	- -	<i>6 January 2011</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 2010, it applies in relation to Wales, and it comes into force on 6 January 2011.

(2) In this Order—

“Council Regulation 73/2009” (“*Rheoliad y Cyngor 73/2009*”) means Council Regulation (EC) No. 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, and amending and repealing 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 L 30, 31.1.2009, p.16, last amended by Commission Regulation 360/2010 (OJ No L 106, 28.4.2010, p.1).

and deposited at the offices of the Welsh Assembly Government Rural Affairs Department 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*”) is to be construed in accordance with Article 34(2) of Council Regulation 73/2009;

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

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

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

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

2.—(1) Paragraphs (2) and (3) 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 is 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 2010, as the net annual income from that unit of production in that period is 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 2009 (as is mentioned in entry 5 of that column), then—

- (a) the unit of production prescribed in relation to that use of the land is 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 2010, as the net annual income from that unit of production in that period is the amount in the entry in column 3 of that Schedule opposite to that entry.

### **Revocation**

3. The Agricultural Holdings (Units of Production) (Wales) Order 2009<sup>(5)</sup> is revoked.

(5) S.I. 2009/3232 (W.280).

23 November 2010

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

*Status: This is the original version (as it was originally made).*

## 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	cow	384.00
Beef breeding cows:		
On land which is eligible for the purposes of a Tir Mynydd payment	cow	—100.00
On other land	cow	—113.00
Beef fattening cattle (semi-intensive)	head	—184.00 <sup>(1)</sup>
Dairy replacements	head	116.00 <sup>(2)</sup>
Ewes:		
On land which is eligible for the purposes of a Tir Mynydd payment	ewe	9.00
On other land	ewe	15.00
Store lambs (including ewe lambs sold as shearlings)	head	3.50
Pigs:		
sows and gilts in pig	sow or gilt	314.00
porker	head	11.10
cutter	head	14.00
bacon	head	16.70
Poultry:		
laying hens	bird	4.25
broilers	bird	0.35
point-of-lay pullets	bird	0.75
Christmas turkeys	bird	7.30
<b>2. Farm arable crops</b>		
Barley	hectare	58.00
Beans	hectare	23.00 <sup>(3)</sup>

(1) This is the figure for animals 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.

(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 79 of Council Regulation 73/2009.

(4) S.I. 2006/3343.(W.304).

<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>
Oilseed rape	hectare	108.00
Dried peas	hectare	186.00 <sup>(3)</sup>
Potatoes:		
first early	hectare	2743.00
maincrop (including seed)	hectare	2045.00
Sugar beet	hectare	764.00
Wheat	hectare	199.00
<b>3. Outdoor horticultural crops and fruit</b>		
Orchard fruit	hectare	2790.00
Soft fruit	hectare	6470.00
<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 <sup>(4)</sup>
<b>5. Eligible hectares</b>		
Land which was, in 2009, an eligible hectare for the purposes of Council Regulation 73/2009	severely disadvantaged land,	hectare 147.55
	excluding moorland	
	disadvantaged land	hectare 185.48
	all other land	hectare 135.20

- (1) This is the figure for animals 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.
- (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 79 of Council Regulation 73/2009.
- (4) S.I. 2006/3343.(W.304).

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## 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 2010 to 11 September 2011 inclusive for certain purposes of the Agricultural Holdings Act 1986 (“the 1986 Act”). This Order revokes the Agricultural Holdings (Units of Production) (Wales) Order 2009.

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.

This Order includes net annual income figures for land which was, in 2009, an eligible hectare for the purposes of Council Regulation (EC) No 73/2009 (OJ No L 30, 31.1.2009, p.16), which establishes the Single Payment Scheme. There are separate figures in the Schedule for severely disadvantaged land, disadvantaged land and other land. There are also separate figures for land which was set aside from production in 2009.

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