

EXPLANATORY MEMORANDUM TO
THE AGRICULTURAL
HOLDINGS (UNITS OF PRODUCTION) (ENGLAND) ORDER 2007

2007 No. 2968

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Units of Production Order (UPO) sets out values for agricultural production, which are used in assessing the productive capacity of agricultural land and to determine whether it is a “commercial unit” of agricultural land. A “commercial unit” of agricultural land is defined in the Agricultural Holdings Act 1986 and means a unit of agricultural land which, if farmed under competent management, is capable of producing a net annual income which is not less than the sum of the average earnings of two full-time, male agricultural workers aged twenty or over.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Under the Agricultural Holdings Act 1986, one of the criteria for statutory succession to an agricultural tenancy is that the potential successor is not already in occupation of a commercial unit of agricultural land. This is known as the commercial unit test. Where there is a dispute about succession to a tenancy, the application can be opposed in the Agricultural Land Tribunal. In all cases, the Tribunal must be satisfied that the commercial unit test is met. Parties to a succession case, or the Tribunal itself, can ask the Secretary of State to provide a statement of net annual income (NAI) of land occupied by a succession applicant to determine whether or not the commercial unit test is satisfied. The NAI has to be determined by reference to the provisions of the current UPO, which the Secretary of State is required to make annually.

5. Extent

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The Agricultural Holdings Act 1986 provides for two generations of statutory successions, and hence succession tenancies have the potential to continue for some time to come. Under the current provisions of the Agricultural Holdings Act 1986, the UPO will need to be made annually until all such tenancies have expired.

7.2 The first annual UPO was made in 1984. Since then, subsequent Orders have updated the values shown for the different types of agricultural production. The figures are produced by Defra from data provided from various sources and represent the net annual income which, on average, might be expected from the main type of crop and livestock. As such, the annual Orders are not subject to consultation.

7.3 In previous years, the values set out in the Order, for the main type of crops and livestock, the relevant European Union subsidies for each sector. As a result of CAP Reform, subsidies have been decoupled from the production under the Single Payment Scheme. A public consultation was carried out by Defra in June 2005 on proposed changes to the UPO to take account of income from the Single Payment Scheme and other developments in agriculture. Following the consultation exercise it was agreed that income from Single Payments should be reflected in future annual UPOs. The UPO 2007 therefore includes values for income from Single Payment, as well as the usual values for different farming enterprises. As part of the consultation, it was agreed that where the net annual income from a farming enterprise represented a loss, this would be reflected in annual UPOs as a negative value, rather than showing a zero value. Accordingly, certain negative values are shown in this year's UPO.

7.4 The UPO 2006 included net annual income figures for brassicas, root vegetables and onions and fresh peas and beans. However, we do not have sufficiently robust data to calculate a net annual income figure for these crops for 2007. Therefore these crops are not included in the UPO for 2007.

8. Impact

8.1 A Full Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

9.1 Judith Marsden at the Department for Environment, Food and Rural Affairs.
Tel: 020 7238 5748 or email: judith.marsden@defra.gsi.gov.uk who can answer any queries regarding the Order.