

**2024 No. 30**

**LANDLORD AND TENANT, ENGLAND**

**The Agricultural Holdings (Units of Production) (England)  
Order 2024**

<i>Made</i>	- - - -	<i>9th January 2024</i>
<i>Laid before Parliament</i>		<i>11th January 2024</i>
<i>Coming into force</i>		<i>23rd February 2024</i>

The Secretary of State makes this Order in exercise of the powers conferred by paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986(a).

**Citation, commencement, extent and application**

1.—(1) This Order may be cited as the Agricultural Holdings (Units of Production) (England) Order 2024 and comes into force on 23rd February 2024.

(2) This Order extends to England and Wales but applies in relation to England only.

**Interpretation**

2. In this Order—

“the 1986 Act” means the Agricultural Holdings Act 1986;

“disadvantaged land”, except in the expression “severely disadvantaged land”, means any area shown coloured blue on the England LFA maps;

“eligible hectare” has the same meaning as in Article 32(2) of Regulation (EU) 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(b) as that Regulation had effect in relation to England on 31st December 2022;

“the England LFA maps” means the four volumes of maps entitled “Less Favoured Area Map of England 2009”, each volume being marked with the number of the volume, dated 29th January 2010, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the Intelligence Hub at the former offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London, SW1P 3JR;

“less favoured area” means any area of disadvantaged land or severely disadvantaged land;

“moorland” means all the land that is—

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(a) 1986 c. 5. See section 96(1) for the definition of “the Minister” (in relation to England).

(b) EUR 2013/1307; relevant amendments were made by S.I. 2020/91, 2021/407 and 2022/407. This Regulation was incorporated into domestic law by section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2) and was revoked on 1st January 2024, in relation to England, by Schedule 3 to the Agriculture (Delinked Payments and Consequential Provisions) (England) Regulations 2023 (S.I. 2023/1430). Entitlement to receive direct payments under the basic payment scheme established by this Regulation is assessed by reference to “eligible hectares”.

- (a) severely disadvantaged land; and
- (b) shown coloured brown in the three volumes of maps entitled “Moorland Map of England 2009”, each volume being marked with the number of the volume, dated 29th January 2010, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the Intelligence Hub at the former offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London, SW1P 3JR;

“severely disadvantaged land” means any area of land shown coloured pink on the England LFA maps.

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

**3.**—(1) Paragraphs (2) and (3) and the Schedule have effect for the purpose of the assessment of the productive capacity of a unit of agricultural land situated in England 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 1986 Act.

(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 under headings number 1, 2 or 3 in Column 1 of the table in the Schedule—

- (a) the unit of production prescribed in relation to that use of the land is the unit in the corresponding entry in Column 2 of that table; and
- (b) the amount determined, for the period of 12 months beginning with 23rd February 2024, as the net annual income from that unit of production in that period is the amount in the corresponding entry in Column 3 of that table as read with any relevant note to the Schedule.

(3) Where the land in question is capable, when farmed under competent management, of producing a net annual income and was an eligible hectare in 2022 in accordance with the entry under heading number 4 in Column 1 of the table in the Schedule, as read with any relevant note to the Schedule—

- (a) the unit of production prescribed in relation to that use of the land is the unit in the corresponding entry in Column 2 of that table; and
- (b) the amount determined, for the period of 12 months beginning with 23rd February 2024, as the net annual income from that unit of production in that period is the amount in the corresponding entry in Column 3 of that table.

### **Revocation of the Agricultural Holdings (Units of Production) (England) Order 2023**

**4.** The Agricultural Holdings (Units of Production) (England) Order 2023(a) is revoked.

### **Sunset**

**5.** Except as otherwise provided by Article 6 this Order ceases to have effect at the end of 31st August 2024.

### **Saving**

**6.** Notwithstanding Article 5 this Order continues to have effect for the purpose of determining an application to the First-tier Tribunal made under Part 4 of the 1986 Act for a direction entitling the applicant to a tenancy of an agricultural holding on the death or retirement of a tenant where, in respect of any such application, the date of death or the date of the giving of the retirement notice is a date which falls on or before 31st August 2024.

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(a) S.I. 2023/18.

9th January 2024

Department for Environment, Food and Rural Affairs

## SCHEDULE

Article 3(1)

### Prescribed units of production and determination of net annual income

<i>Column 1</i>		<i>Column 2</i>	<i>Column 3</i>
<i>Farming use</i>		<i>Unit of production</i>	<i>Net annual income from unit of production (£)</i>
<b>1. Livestock</b>			
Dairy cows		Cow	967.00
Beef breeding cows:	on land in a less favoured area	Cow	5.00
	on other land	Cow	-28.00
Beef fattening cattle (semi-intensive)		Head	-24.00 <sup>(1)</sup>
Dairy replacements		Head	154.00 <sup>(1)</sup>
Ewes:	on land in a less favoured area	Ewe	-15.00
	on other land	Ewe	10.00
Store lambs (including ewe-lambs sold as shearlings)		Head	12.00
Pigs:	sows and gilts in pig	Sow or gilt	265.00
	porker	Head	9.90
	cutter	Head	13.00
	bacon	Head	15.60
Poultry:	laying hens	Bird	4.60
	broilers	Bird	0.30
	point of lay pullets	Bird	0.90
Christmas turkeys		Bird	14.90
<b>2. Farm arable crops</b>			
Barley		Hectare	334.00
Beans		Hectare	181.00
Oilseed rape		Hectare	164.00
Dried peas		Hectare	200.00
Potatoes:	first early	Hectare	2650.00
	maincrop (including seed)	Hectare	3060.00
Sugar beet		Hectare	620.00
Wheat		Hectare	540.00
<b>3. Outdoor horticultural crops and fruit</b>			
Orchard fruit		Hectare	4460.00
Soft fruit		Hectare	17870.00
<b>4. Eligible hectare</b>			
Land which was, in 2022, an eligible hectare <sup>(2)</sup> :	moorland	Hectare	-13.40
	severely disadvantaged land, excluding moorland	Hectare	117.40
	disadvantaged land	Hectare	13.90
	all other land	Hectare	-66.20

<sup>(1)</sup> This is the figure for animals (irrespective of age) which are 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.

<sup>(2)</sup> The figure given in Column 3, for a hectare of the type of land described in Column 1, is the rate applicable to that unit of production under the basic payment scheme (the “BPS rate”) for the relevant farming use in 2022 adjusted to take off 20% to account for the operation of Article 11A of Regulation 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, as that Regulation had effect in relation to England on 31st December 2022 (20% being the minimum reduction that all payments received by claimants under the basic payment scheme will be subject to by virtue of that Article), average rents and 2% for cross compliance. Article 11A was inserted by S.I. 2021/407 and substituted by S.I. 2022/407. The BPS rates are those confirmed on 20th September 2022 at <https://www.gov.uk/government/news/basic-payment-scheme-2022-entitlement-rates>. Hard copies can be obtained from the Rural Payments Agency, P.O. Box 69, Reading, RG1 3YD.

## **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 England as required by paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986 (c. 5) (“the 1986 Act”) and sets out the amount which is to be regarded as the net annual income from each such unit for the period of 12 months beginning with 23rd February 2024 for certain purposes.

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 (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 (as defined in paragraph 3 of Schedule 6 to the 1986 Act).

Article 3 provides that, in determining this annual income figure, whenever a particular farming use mentioned in Column 1 of the table in 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 of that table will form the basis of that assessment.

Article 3 also includes net annual income figures for land which was, in 2022, an eligible hectare within the meaning of Article 32(2) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (EUR 2013/1307).

Article 4 revokes the Agricultural Holdings (Units of Production) (England) Order 2023 (S.I. 2023/18) which is superseded by this Order.

Article 5 provides that this Order ceases to have effect at the end of 31st August 2024. This is in line with the commencement of the repeal of Schedule 6 to the 1986 Act (contained in Schedule 3 to the Agriculture Act 2020 (c. 21)) on the day appointed by regulation 2(b) of the Agriculture Act 2020 (Commencement No.1 and Transitional Provision) (England) Regulations 2021 (S.I. 2021/597).

Article 6 provides that this Order will continue to have effect on and after 1st September 2024, for the purpose of determining an application to the First-tier Tribunal made under Part 4 of the 1986 Act for a direction entitling the applicant to a tenancy of an agricultural holding on the death or retirement of a tenant where the date of the death or the date of the giving of the retirement notice was on or before 31st August 2024.

Maps showing less favoured areas and the moorland lines in England (the “England LFA Maps” and the “Moorland Map of England 2009” as referred to in article 2) can be accessed online at <https://environment.data.gov.uk/dataset/8dc2b71d-8cf5-427f-8af9-41a9dbba495a>. Alternatively, a .pdf copy can be accessed online at [https://magic.defra.gov.uk/StaticMaps/Less%20Favoured%20Areas%20\(England\).pdf](https://magic.defra.gov.uk/StaticMaps/Less%20Favoured%20Areas%20(England).pdf).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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