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WELSH STATUTORY INSTRUMENTS

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**2021 No. 363 (W. 111)**

**LANDLORD AND TENANT, WALES**

**The Agricultural Holdings (Units  
of Production) (Wales) Order 2021**

<i>Made</i>	- - - -	<i>19 March 2021</i>
<i>Laid before Senedd Cymru</i>		<i>22 March 2021</i>
<i>Coming into force</i>	- -	<i>12 April 2021</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> make the following Order.

**Title, application, commencement and interpretation**

1.—(1) The title of this Order is the Agricultural Holdings (Units of Production) (Wales) Order 2021, it applies in relation to Wales and comes into force on 12 April 2021.

(2) In this Order—

“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 1991 and signed by the Secretary of State for Wales and deposited at the offices of the Welsh Government, 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 32(2) of Regulation 1307/2013;

“less favoured area” (“*ardal lai ffafriol*”) means any area of disadvantaged land or severely disadvantaged land;

“Regulation 1307/2013” (“*Rheoliad 1307/2013*”) means Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct

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(1) 1986 c. 5; section 96(1) of that Act defines “the Minister”.

(2) Functions conferred under the Agricultural Holdings Act 1986 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 are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

payments to farmers under support schemes within the framework of the common agricultural policy<sup>(3)</sup>, as it has effect in EU law;

“severely disadvantaged land” (“*tir dan anfantaais ddifrifol*”) means any area of land shown coloured pink on the designated maps.

### **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 corresponding entry in column 2, and
- (b) the amount determined, for the period of 12 months beginning with 12 September 2019, as the net annual income from that unit of production in that period is the amount in the corresponding entry in column 3, as read with any relevant note to that Schedule.

(3) Where land capable, when farmed under competent management, of producing a net annual income was an eligible hectare in 2018 in accordance with entry 4 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 corresponding entry in column 2, and
- (b) the amount determined, for the period of 12 months beginning with 12 September 2019, as the net annual income from that unit of production in that period is the amount in the corresponding entry in column 3.

19 March 2021

*Lesley Griffiths*  
Minister for Environment, Energy and Rural  
Affairs, one of the Welsh Ministers

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(3) OJ No L 347, 20.12.2013, p. 608 as last amended by Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020 (OJ No L 437, 28.12.2020, p. 1); and corrected by Corrigendum, OJ No L 130, 19.5.2016, p. 8.

## SCHEDULE

Article 2

## 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	622
Beef breeding cows:	on land in a less favoured area	cow
	on other land	cow
Beef fattening cattle (semi-intensive)	head	-122 <sup>(1)</sup>
Dairy replacements	head	108 <sup>(1)</sup>
Ewes:	on land in a less favoured area	ewe
	on other land	ewe
Store lambs (including ewe lambs sold as shearlings)	head	4
Pigs:	sows and gilts in pig	sow or gilt
	porker	head
	cutter	head
	bacon	head
Poultry:	laying hens	bird
	broilers	bird
	point-of-lay pullets	bird
Christmas turkeys	bird	7.90
<b>2. Farm arable crops</b>		
Barley	hectare	107
Beans	hectare	185
Oilseed rape	hectare	34
Dried peas	hectare	50
Potatoes:	first early	hectare
	maincrop (including seed)	hectare
Sugar beet	hectare	330
Wheat	hectare	150

(1) 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.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<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>3. Outdoor horticultural crops and fruit</b>			
Orchard fruit	hectare	2,130	
Soft fruit	hectare	7,960	
<b>4. Eligible hectares</b>			
Land which was in 2018, an eligible hectare for the purposes of Regulation 1307/2013	severely disadvantaged land	hectare	128.68
	disadvantaged land	hectare	94.59
	all other land	hectare	39.30

(1) 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.

## 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 2019 to 11 September 2020 for certain purposes of the Agricultural Holdings Act 1986 (“the 1986 Act”).

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 of 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 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 the assessment.

This Order includes net annual income figures for land which was, in 2018, an eligible hectare within the meaning of Article 32(2) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (OJ No L 347, 20.12.2013,

p. 608), as it has effect in EU law. There are separate figures in the Schedule for disadvantaged land and severely disadvantaged land, land in a less favoured area and other land.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.