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STATUTORY INSTRUMENTS

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**2009 No. 2762**

**LANDLORD AND TENANT, ENGLAND**

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

*Made - - - - 13th October 2009*  
*Laid before Parliament 16th October 2009*  
*Coming into force - - 7th November 2009*

<sup>F1</sup>The Secretary of State, in whom the powers conferred by paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986(1) are now vested(2), makes the following Order in exercise of those powers.

**Textual Amendments**

**F1** Instrument revoked (E.) (7.11.2010) by [The Agricultural Holdings \(Units of Production\) \(England\) Order 2010 \(S.I. 2010/2504\)](#), [art. 3](#)

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Agricultural Holdings (Units of Production) (England) Order 2009 and comes into force on 7th November 2009.

(2) In this Order—

“Council Regulation 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(3);

“eligible hectare” is to be construed in accordance with Article 44(2) of Council Regulation 1782/2003;

“the HFA Regulations” means the Hill Farm Allowance Regulations 2009(4);

“moorland” means all the land that is—

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

(2) In relation to England, the functions previously vested in the Minister of Agriculture, Fisheries and Food are vested in the Secretary of State – see article 5(1) of, and paragraph 27 of Schedule 1 to, the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 ([S.I. 2002/794](#)).

(3) OJ No L 270, 21.10.2003, p 1; repealed by Council Regulation [\(EC\) No 73/2009](#) (OJ No L 30, 31.1.2009, p 16).

(4) [S.I. 2009/138](#).

- (a) severely disadvantaged land, and
- (b) shown coloured pink in the three volumes of maps entitled “Moorland Map of England 2006” each volume being marked with the number of the volume, dated 7th October 2007, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the offices of the Department for Environment, Food and Rural Affairs, Ergon House, Horseferry Road, London SW1P 2AL; and

“severely disadvantaged land” means any area of land shown coloured pink on the three volumes of maps numbered 1 to 3, each volume being marked “Volume of maps of less-favoured farming areas in England”, dated 20th May 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Department for Environment, Food and Rural Affairs, Ergon House, Horseferry Road, London SW1P 2AL.

### **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 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 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 7th November 2009, 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 the subject of payments of hill farm allowance (see column 1 of entry 4 of the Schedule to this Order), or was an eligible hectare in 2008 (see column 1 of entry 5), 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 7th November 2009, 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) (England) Order 2008(5) is revoked.

*Jim Fitzpatrick*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

## 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 (other than Channel Islands breeds)		cow	416
Beef breeding cows:	on land in a less favoured area as defined in regulation 2 of the HFA Regulations	cow	-143
	on other land	cow	-147
Beef fattening cattle (semi-intensive)		head	-48 <sup>(1)</sup>
Dairy replacements		head	94 <sup>(2)</sup>
Ewes:	on land in a less favoured area as defined in regulation 2 of the HFA Regulations	ewe	-12
	on other land	ewe	-10
Store lambs (including ewe lambs sold as shearlings)		head	3.50
Pigs:	sows and gilts in pig	sow or gilt	182
	Porker	head	11.30
	Cutter	head	13.70
	bacon	head	15.70
Poultry:	laying hens	bird	3
	broilers	bird	0.30
	point-of-lay pullets	bird	0.60

(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 76 of Council Regulation 1782/2003.

**Changes to legislation:** There are currently no known outstanding effects for the The Agricultural Holdings (Units of Production) (England) Order 2009. (See end of Document for details)

<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>
Christmas turkeys		bird	6.10
<b>2. Farm arable crops</b>			
Barley		hectare	-29
Beans		hectare	7.92 <sup>(3)</sup>
Oilseed rape		hectare	9
Dried peas		hectare	-34.08 <sup>(3)</sup>
Potatoes:	first early	hectare	2497
	maincrop (including seed)	hectare	1866
Sugar beet		hectare	357
Wheat		hectare	42
<b>3. Outdoor horticultural crops and fruit</b>			
Orchard fruit		hectare	2720
Soft fruit		hectare	6830
<b>4. Forage land</b>			
Eligible forage area as defined in regulation 2 of the HFA Regulations		hectare	the amount of hill farm allowance required to be paid under regulations 3 and 5 of the HFA Regulations
<b>5. Eligible hectares</b>			
Land which was, in 2008, an eligible hectare for the purposes of Council Regulation 1782/2003	moorland	hectare	-22.73
	severely disadvantaged land, excluding moorland	hectare	145.03
	disadvantaged land as defined in regulation 2 of the HFA Regulations	hectare	190.88
	all other land	hectare	103.88

- (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 76 of Council Regulation 1782/2003.

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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 England and sets out the amount which is to be regarded as the net annual income from each such unit for the year 7th November 2009 to 6th November 2010 inclusive for certain purposes of the Agricultural Holdings Act 1986 (“the 1986 Act”). This Order revokes the Agricultural Holdings (Units of Production) (England) 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.

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 (OJ No L 270, 21.10.2003, p. 1); it also provides, by reference to the Hill Farm Allowance Regulations 2009 (S.I. 2009/138), net annual income figures for land which is the subject of payments of hill farm allowance under those Regulations.

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Agricultural Holdings (Units of Production) (England) Order 2009.