

2005 No. 2867

LANDLORD AND TENANT, ENGLAND

**The Agricultural Holdings (Units of Production) (England)
Order 2005**

<i>Made</i> - - - -	<i>12th October 2005</i>
<i>Laid before Parliament</i>	<i>14th October 2005</i>
<i>Coming into force</i> - -	<i>7th November 2005</i>

The Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986(a), and now vested in her(b), makes the following Order:

Title, commencement and interpretation

1.—(1) This Order may be cited as the Agricultural Holdings (Units of Production) (England) Order 2005 and shall come into force on 7th November 2005.

(2) In this Order—

“Council Regulation 1251/1999” means Council Regulation (EC) No. 1251/1999 establishing a support system for producers of certain arable crops(c) as it applied to the marketing year 2004/2005(d);

“Council Regulation 1254/1999” means Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal(e) as it applied immediately before 1st January 2005(f);

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

(b) 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).

(c) OJ No. L160, 26.6.99, p.1.

(d) Council Regulation (EC) No. 1251/1999 was amended by Council Regulation (EC) No. 2704/1999 (OJ No. L327, 21.12.99, p.12); Council Regulation 1672/2000 (OJ No. L193, 29.7.00, p.13); Council Regulation 1038/2001 (OJ No. L145, 31.5.01, p.16); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the adjustments to the Treaties on which the European Union is founded (OJ No. L236, 23.9.03, p.33); and by Council Regulation (EC) No. 1782/2003 (OJ No. L270, 21.10.03, p.1). Council Regulation (EC) No. 1251/1999 was repealed by Council Regulation (EC) No. 1782/2003 (OJ No. L270, 21.10.03, p.1) (Article 153(3)) with application from 28th October 2003 (Article 156(2)) but continued to apply to the marketing year 2004/2005 (1st July 2004 to 30th June 2005).

(e) OJ No. L160, 26.6.99, p.21.

(f) Council Regulation (EC) No. 1254/1999 was amended by Council Regulation (EC) No. 1455/2001 (OJ No. L198, 21.7.01, p.58); Council Regulation (EC) No. 1512/2001 (OJ No. L201, 26.7.01, p.1); Commission Regulation (EC) No. 2345/2001 (OJ No. L315, 1.12.01, p.29); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the adjustments to the Treaties on which the European Union is founded (OJ No. L236, 23.9.03, p.33); Council Regulation (EC) No. 806/2003 (OJ No. L122, 16.5.03, p.1); Council Regulation (EC) No. 1782/2003 (OJ No. L270, 21.10.03, p.1); and Council Regulation (EC) No. 1899/2004 (OJ No. L328, 30.10.04, p.67). Articles 3 to 25 of Council Regulation (EC) No. 1254/1999 were deleted by Council Regulation (EC) No. 1782/2003 (OJ No. L270, 21.10.03, p.1) (Article 152(b)) with application from 1st January 2005 (Article 156(2)(f)).

“Council Regulation 2529/2001” means Council Regulation (EC) No. 2529/2001 on the common organisation of the market in sheepmeat and goatmeat(a) as it applied immediately before 1st January 2005(b);

“marketing year” shall be construed in accordance with Council Regulation 1251/1999(c).

Assessment of productive capacity of land

2.—(1) Paragraphs (2) and (3) of this article 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, crop, fruit or miscellaneous product as is mentioned in any of the entries 1 to 6 in column 1 of the Schedule to this Order, then—

- (a) the unit of production prescribed in relation to that use of the land shall be 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 2005, as the net annual income from that unit of production in that period shall be 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 in receipt of hill farm allowance, or was in the marketing year 2004/2005 designated as set aside land, as is mentioned in entries 7 and 8 respectively in column 1 of the Schedule to this Order, then—

- (a) the unit of production prescribed in relation to that use of the land shall be 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 2005, as the net annual income from that unit of production in that period shall be 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 2004(d) is revoked.

12th October 2005

Bach
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) OJ No. L341, 22.12.01, p.3.

(b) Council Regulation (EC) No. 2529/2001 was amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the adjustments to the Treaties on which the European Union is founded (OJ No. L236, 23.9.03, p.33). Articles 3 to 11 of Council Regulation (EC) No. 2529/2001 were deleted by Council Regulation No. 1782/2003 (OJ No. L270, 21.10.03, p.1) (Article 152(c)) with application from 1st January 2005 (Article 156(2)(f)).

(c) See Article 1(2) of Council Regulation (EC) No. 1251/1999.

(d) S.I. 2004/1811.

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>
1. Livestock		
Dairy cows (other than Channel Islands breeds)	cow	260
Beef breeding cows:		
	On less favoured area land under the Hill Farm Allowance Regulations 2005(a)	cow 31(1)
	On other land	cow 80(1)
Beef fattening (semi-intensive) cattle	head	63(2)
Dairy replacements	head	45(3)
Ewes:		
	On less favoured area land under the Hill Farm Allowance Regulations 2005	ewe 14(4)
	On other land	ewe 21(5)
Store lambs (including lambs sold as shearlings)	head	1.05
Pigs:		
	Sows and gilts in pig	sow or gilt 95
	Porker	head 1.90
	Cutter	head 3.50
	Bacon	head 5.50
Poultry:		
	Laying hens	bird 1.25
	Broilers	bird 0.15
	Point-of-lay pullets	bird 0.30
Christmas Turkeys	bird	3.00
2. Farm arable crops		
Barley	hectare	199(6)
Beans	hectare	175(7)
Herbage seed	hectare	120
Oats	hectare	131(8)
Oilseed rape	hectare	188(9)

(a) S.I. 2005/154.

<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>
Peas:			
	Dried	hectare	201 (10)
	Vining	hectare	175
Potatoes:			
	First early	hectare	900
	Maincrop seed) (including	hectare	780
Sugar Beet		hectare	270
Wheat		hectare	266 (11)
3. Outdoor horticultural crops			
Broad beans		hectare	575
Brussel sprouts		hectare	1600
Cabbage, savoys and sprouting broccoli		hectare	2000
Carrots		hectare	3100
Cauliflower and winter broccoli		hectare	1000
Celery		hectare	8000
Leeks		hectare	3600
Lettuce		hectare	4150
Onions:			
	Dry bulb	hectare	1305
	Salad	hectare	3800
Parsnips		hectare	3250
Rhubarb (natural)		hectare	6900
Turnips and swedes		hectare	1500
4. Orchard fruit			
Apples:			
	Cider	hectare	380
	Cooking	hectare	1250
	Dessert	hectare	1400
Cherries		hectare	900
Pears		hectare	1000
Plums		hectare	1250
5. Soft fruit			
Blackcurrants		hectare	850
Raspberries		hectare	3100
Strawberries		hectare	4200
6. Miscellaneous			
Hops		hectare	1700

<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>
7. Forage Land Eligible forage area as described in regulation 7 of the Hill Farm Allowance Regulations 2005	hectare	The amount of hill farm allowance required to be paid under the Hill Farm Allowance Regulations 2005
8. Set-aside Land which was, in the marketing year 2004/2005, set-aside under Article 2(3) of Council Regulation 1251/1999, except where such land was used in that period (in accordance with Article 6(3) of Council Regulation 1251/1999) for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption	hectare	37

NOTES TO THE SCHEDULE

1. Deduct £135 from the figure in column 3 in the case of animals for which the net annual income would not include a sum in respect of the premium for maintaining suckler cows (suckler cow premium) provided for in Article 6 of Council Regulation 1254/1999 if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

Add £27 to the figure in column 3 in the case of animals for which the net annual income would include a sum in respect of the lower rate of extensification premium provided for in Article 13 of Council Regulation 1254/1999 if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

Add £54 to the figure in column 3 in the case of animals for which the net annual income would include a sum in respect of the higher rate of extensification premium provided for in Article 13 of Council Regulation 1254/1999 if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

2. This is the figure for animals which would be kept for 12 months.

Deduct £115 in the case of animals which are kept for 12 months and for which the net annual income would not include a sum in respect of the special premium for holding male bovine animals (beef special premium) provided for in Article 4 of Council Regulation 1254/1999 if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

Add £27 to the figure in column 3 in the case of animals which are kept for 12 months and for which the net annual income would include a sum in respect of the lower rate of extensification premium if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

Add £54 to the figure in column 3 in the case of animals which would be kept for that period and for which the net annual income would include a sum in respect of the higher rate of extensification premium if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

In the case of animals which—

(1) are kept for less than 12 months, and

(2) for which the net annual income would not include a sum in respect of beef special premium if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004,

the net annual income is to be calculated by deducting £115 from the figure in column 3 and then making a pro rata adjustment of the resulting figure.

In the case of animals which—

(1) are kept for less than 12 months, and

(2) for which the net annual income would include a sum in respect of beef special premium if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004,

the net annual income is to be calculated by first deducting £115 from the figure in column 3, then making a pro rata adjustment of the resulting figure, then adding to that figure the sum of £115 and (where the net annual income would include a sum in respect of extensification premium if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004) the sum of £27 (where the extensification premium would be paid at the lower rate) or £54 (where the extensification premium would be paid at the higher rate).

3. This indicates the figure for animals (irrespective of age) which would be kept for 12 months. In the case of animals which are kept for less than 12 months a pro rata adjustment of this figure is to be made.

4. Deduct £19 from the figure in column 3 in the case of animals for which the net annual income would not include a sum in respect of the premium for offsetting income loss sustained by sheep meat producers (sheep annual premium) provided for in Articles 4 and 5 of Council Regulation 2529/2001 if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

5. Deduct £15 from the figure in column 3 in the case of animals for which the net annual income would not include a sum in respect of sheep annual premium if that premium were still available and the conditions for receiving it were the same as for the calendar year 2004.

6. Deduct £238 from the figure in column 3 in the case of land for which the net annual income would not include a sum in respect of the compensatory payment for producers of arable crops (area payment) provided for in Article 2 of Council Regulation 1251/1999 if that payment were still available and the conditions for receiving it were the same as for the marketing year 2004/2005.

7. Deduct £274 from the figure in column 3 in the case of land for which the net annual income would not include a sum in respect of area payment if that payment were still available and the conditions for receiving it were the same as for the marketing year 2004/2005.

8. Deduct £238 from the figure in column 3 in the case of land for which the net annual income would not include a sum in respect of area payment if that payment were still available and the conditions for receiving it were the same as for the marketing year 2004/2005.

9. Deduct £238 from the figure in column 3 in the case of land for which the net annual income would not include a sum in respect of area payment if that payment were still available and the conditions for receiving it were the same as for the marketing year 2004/2005.

10. Deduct £274 from the figure in column 3 in the case of land for which the net annual income would not include a sum in respect of area payment if that payment were still available and the conditions for receiving it were the same as for the marketing year 2004/2005.

11. Deduct £238 from the figure in column 3 in the case of land for which the net annual income would not include a sum in respect of area payment if that payment were still available and the conditions for receiving it were the same as for the marketing year 2004/2005.

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 2005 to 6th November 2006 inclusive. This Order revokes the Agricultural Holdings (Units of Production) (England) Order 2004.

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 Agricultural Holdings Act 1986: see in particular sections 36(3) and 50(2). A “commercial unit of agricultural land” is 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). In determining this annual income figure, whenever a particular farming use mentioned in column 1 of the Schedule to this Order 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.

The net annual income figures in column 3 of the Schedule describe the net annual income from one unit of production. In some cases the net annual income is derived from a unit which will be on the land for the full twelve-month period. In other cases the net annual income is derived from a unit which will be on the land for only part of the year, and there may be more than one production cycle in the twelve-month period. The assessment of the productive capacity of the land will take account of the total production in the course of a year.

The notes to the Schedule require various additions and deductions to be applied in respect of payments which were payable under several Common Agricultural Policy schemes which have now been replaced by the Single Payment Scheme. The notes require those additions and deductions to be applied where the payments would or would not be made if those schemes were still in operation and the conditions for receiving the payments in the last year of operation of each scheme still applied.

£3.00

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E1459 10/2005 151459T 19585