

**EXPLANATORY MEMORANDUM TO THE  
AGRICULTURAL HOLDINGS (UNITS OF PRODUCTION) (ENGLAND)  
ORDER 2005**

**2005 No. 2867**

**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 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 the Economics (Farm Business) Division and the Rural Development Service of Defra from data derived from various sources and represent the net annual income which, on average, might be expected from the main types 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 types of crops and livestock have included the relevant European Union subsidies for each sector. This year as a result of CAP Reform, subsidies have been decoupled from production under the newly introduced Single Payment Scheme. These changes will need to be reflected in the making of future annual UPOs. However, in this year's UPO, the values still include the former EU subsidies for each sector. As data from the Single Payment Scheme are not yet available, Defra's view is that these values give the most accurate estimate of NAI for each sector of production.

7.4 Defra issued a consultation paper at the end of June on proposed changes to the UPO to take account of CAP reform and other developments in agriculture, such as the new Environmental Stewardship scheme. The consultation period ended on 16 September and Defra will be examining the responses and discussing further with stakeholders, in order to produce a UPO for 2006 which will take full account of the Single Payment Scheme.

## **8. Impact**

8.1 A Regulatory 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 of Environment, Food and Rural Affairs. Tel: 020 7238 5748 or email: [judith.marsden@defra.gsi.gov.uk](mailto:judith.marsden@defra.gsi.gov.uk) who can answer any queries regarding the Order.