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WELSH STATUTORY INSTRUMENTS

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**2023 No. 42 (W. 5)**

**LANDLORD AND TENANT, WALES**

**The Agricultural Holdings (Units  
of Production) (Wales) Order 2023**

<i>Made</i>	- - - -	<i>17 January 2023</i>
<i>Laid before Senedd Cymru</i>		<i>19 January 2023</i>
<i>Coming into force</i>	- -	<i>10 February 2023</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 2023, it applies in relation to Wales and comes into force on 10 February 2023.

(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 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>;

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

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

2.—(1) Paragraphs (2), (3) and (4) 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 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,
- (b) the amount determined for the period of 12 months, beginning with 12 September 2021, as the net annual income from that unit of production in that period is the amount in the corresponding entry in column 3, and
- (c) the amount determined for the period of 12 months, beginning with 12 September 2022, as the net annual income from that unit of production in that period is the amount in the corresponding entry in column 4.

(3) Where land capable, when farmed under competent management, of producing a net annual income was an eligible hectare in 2020 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 2021, as the net annual income from that unit of production in that period is the amount in the corresponding entry in column 3.

(4) Where land capable, when farmed under competent management, of producing a net annual income was an eligible hectare in 2021 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 2022, as the net annual income from that unit of production in that period is the amount in the corresponding entry in column 4.

17 January 2023

*Lesley Griffiths*  
Minister for Rural Affairs, North Wales and  
Trefnydd, one of the Welsh Ministers

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(3) EUR 2013/1307, amended by [S.I. 2020/1556](#); there are other amending instruments but none is relevant to these Regulations. This Regulation was incorporated into domestic law by section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2).

## 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 (£) for the period of 12 months beginning with 12 September 2021</i>	<i>column 4</i> <i>Net annual income from unit of production (£) for the period of 12 months beginning with 12 September 2022</i>
<b>1. Livestock</b>			
Dairy cows	cow	641	813
Beef breeding cows:	on land in a less favoured area	cow	-144
	on other land	cow	-264
Beef fattening cattle (semi-intensive)	head	-149 <sup>(1)</sup>	-18 <sup>(1)</sup>
Dairy replacements	head	90 <sup>(1)</sup>	99 <sup>(1)</sup>
Ewes:	on land in a less favoured area	ewe	-20
	on other land	ewe	3
Store lambs (including ewe lambs sold as shearlings)	head	5	9
Pigs:	sows and gilts in pig	sow or gilt	244
	porker	head	8
	cutter	head	10.8
	bacon	head	12.7
Poultry:	laying hens	bird	4.3
	broilers	bird	0.3
	point-of-lay pullets	bird	0.8
Christmas turkeys	bird	10.5	12.5
<b>2. Farm arable crops</b>			
Barley	hectare	145	397
Beans	hectare	7	135
Oilseed rape	hectare	250	294

(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).

<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 (£) for the period of 12 months beginning with 12 September 2021</i>	<i>column 4</i> <i>Net annual income from unit of production (£) for the period of 12 months beginning with 12 September 2022</i>
Dried peas		hectare	-20	-50
Potatoes:	first early	hectare	3,190	3,460
	maincrop (including seed)	hectare	2,410	2,410
Sugar beet		hectare	160	460
Wheat		hectare	370	480
<b>3. Outdoor horticultural crops and fruit</b>				
Orchard fruit		hectare	3,090	3,460
Soft fruit		hectare	14,720	15,460
<b>4. Eligible hectares</b>				
Land which was in 2020 (see column 3) or in 2021 (see column 4), an eligible hectare for the purposes of Regulation 1307/2013	severely disadvantaged land	hectare	132.70	114.98
	disadvantaged land	hectare	131.19	114.96
	all other land	hectare	33.46	79.06

(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 periods 12 September 2021 to 11 September 2022 and 12

September 2022 to 11 September 2023, 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) which address this question. 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 provides a definition of “commercial unit of agricultural land”.

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 specified in column 2 and the net annual income specified in column 3 or 4 will form the basis of the assessment.

This Order includes net annual income figures for land which was in 2020 or 2021, 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. 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.