STATUTORY INSTRUMENTS

2017 No. 977

LANDLORD AND TENANT, ENGLAND

The Agricultural Holdings (Units of Production) (England) Order 2017

Made - - - -	*10th October 2017*
Laid before Parliament	*12th October 2017*
Coming into force - -	*7th November 2017*

The Secretary of State makes this Order in exercise of the powers conferred by paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986(**a**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Agricultural Holdings (Units of Production) (England) Order 2017 and comes into force on 7th November 2017.

(2) In this Order—

"disadvantaged land" (except in the expression "severely disadvantaged land") means any area of land shown coloured blue on the England LFA maps;

"eligible hectare" has the same meaning as in Article 32(2) of Regulation 1307/2013;

"the England LFA maps" means the four volumes of maps entitled "Less Favoured Area Map of England 2009", each volume being marked with the number of the volume, dated 29th January 2010, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the Intelligence Hub at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

"less favoured area" means any area of disadvantaged land or severely disadvantaged land;

"moorland" means all the land that is—

(a) severely disadvantaged land, and

(b) shown coloured brown in the three volumes of maps entitled "Moorland Map of England 2009", each volume being marked with the number of the volume, dated 29th January 2010, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the Intelligence Hub at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

"Regulation 1307/2013" means the Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(**b**);

(**a**) 1986 c.5. Section 96(1) of that Act defines the "Minister" in relation to England as the Secretary of State.
(**b**) OJ No L347, 20.12.20, p. 608 as last amended by Commission Delegated Regulation (EU) 2016/142 (OJ No L28, 4.2.2016, p. 8; and corrected by Corrigendum, OJ No L130, 19.5.2016, p. 8.

"severely disadvantaged land" means any area of land shown coloured pink on the England LFA 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 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—

(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 7th November 2017, 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 the Schedule.

(3) Where land capable, when farmed under competent management, of producing a net annual income was an eligible hectare in 2016 in accordance with entry 4 in column 1 of the Schedule to this Order—

(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 7th November 2017, as the net annual income from that unit of production in that period is the amount in the corresponding entry in column 3.

Revocation

3. The Agricultural Holdings (Units of Production) (England) Order 2016(**a**) is revoked.

George Eustice
Minister of State
10th October 2017 Department for Environment, Food and Rural Affairs

(**a**) S.I. 2016/1002.

SCHEDULE

Article 2

Prescribed units of production and determination of net annual income

Column (1) Farming use		*Column (2) Unit of Production*	*Column (3) Net annual income from unit of production (£)*
1. Livestock			
Dairy Cows		Cow	450
Beef Breeding cows:	on land in a less favoured area	Cow	-111
	on other land	Cow	-137
Beef fattening cattle (semi-intensive)		Head	-72[(1)]
Dairy replacements		Head	87[(2)]
Ewes:	on land in a less favoured area	Ewe	-27
	on other land	Ewe	-6
Store lambs (including ewe-lambs sold as shearlings)		Head	4.2
Pigs:	sows and gilts in pig	Sow or gilt	270
	porker	Head	7.8
	cutter	Head	11
	bacon	Head	13.9
Poultry:	laying hens	Bird	4.4
	broilers	Bird	0.8
	point-of-lay pullets	Bird	0.3
Christmas turkeys		Bird	9.6
2. Farm arable crops			
Barley		Hectare	-48
Beans		Hectare	-152
Oilseed rape		Hectare	32
Dried peas		Hectare	150
Potatoes:	first early	Hectare	3690
	maincrop (including seed)	Hectare	3440
Sugar beet		Hectare	280
Wheat		Hectare	100
3. Outdoor horticultural crops and fruit			
Orchard fruit		Hectare	2450
Soft fruit		Hectare	7310
4. Eligible hectare(a)			
Land which was, in 2016, an eligible hectare within the meaning of Regulation 1307/2013	moorland	Hectare	-27.6
	Severely disadvantaged land, excluding moorland	Hectare	126.8
	Disadvantaged land	Hectare	61.3
	All other land	Hectare	-3.7

(**a**) Eligible hectares are entitled to receive direct payments made under the basic payment scheme established by Regulation 1307/2013 (BPS rates), including an additional greening component (greening rates) in relation to agricultural practices beneficial for the climate and the environment. The figures given in column 3 are the aggregate of the BPS rate and greening rate applicable to that unit of production for the relevant farming use. The BPS rates used have been adjusted to take off average rents and 2% for cross-compliance. The BPS rates, greening rates and exchange rate applied are those confirmed on 15th November 2016 at https://www.gov.uk/government/news/rural-payments-agency-confirms-entitlement-values-for-2016-basic-payment-scheme.

(1) This is the figure for animals 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.

(2) 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 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 2017 to the 6th November 2018 for certain purposes of the Agricultural Holdings Act 1986 ("the 1986 Act"). This Order revokes the Agricultural Holdings (Units of Production) (England) Order 2016 (S.I. 2016/1002).

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 (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 that assessment.

Article 2 also includes net annual income figures for land which was, in 2016, an eligible hectare within the meaning of Article 32(2) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (OJ No L347, 20.12.2013, p608).

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

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