

**2004 No. 1811**

**LANDLORD AND TENANT, ENGLAND**

**The Agricultural Holdings (Units of Production) (England)  
Order 2004**

<i>Made</i> - - - -	<i>13th July 2004</i>
<i>Laid before Parliament</i>	<i>14th July 2004</i>
<i>Coming into force</i> - -	<i>12th September 2004</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 2004 and shall come into force on 12th September 2004.

(2) Any reference in this Order to a Community instrument is a reference to that instrument and any amendment of such instrument in force on the date this Order is made.

(3) In this Order—

“Council Regulation 2529/01” means Council Regulation (EC) No. 2529/01 on the common organisation of the market in sheepmeat and goatmeat(c);

“Council Regulation 1251/99” means Council Regulation (EC) No. 1251/99 establishing a support system for producers of certain arable crops(d);

“Council Regulation 1254/99” means Council Regulation (EC) No. 1254/99 on the common organisation of the market in beef and veal(e).

**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 sub-paragraph (1) of paragraph 3 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—

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(a) 1986 c.5; section 96(1) of the 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. L341, 22.12.01, p.3, as amended by Council Regulation (EC) No. 1782/03 (OJ No. L270, 21.10.03, p.1).

(d) OJ No. L160, 26.6.99, p.1, as last amended by Council Regulation (EC) No. 1782/03 (OJ No. L270, 21.10.03, p.1).

(e) OJ No. L160, 26.6.99, p.21, as last amended by Council Regulation (EC) No. 1782/03 (OJ No. L270, 21.10.03, p.1).

- (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 12th September 2004, 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 is designated as set aside land, as is mentioned in entries 7 and 8 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 12th September 2004, 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 2003<sup>(a)</sup> is revoked.

13th July 2004

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

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<sup>(a)</sup> S.I. 2003/2151.

## 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>
		£
<b>1. Livestock</b>		
Dairy cows (other than Channel Islands breeds)	cow	260
Beef breeding cows:		
On less favoured area land under the Hill Farm Allowance Regulations 2004(a)	cow	31(1)
On other land	cow	80(1)
Beef fattening cattle (semi-intensive)	head	63(2)
Dairy replacements	head	45(3)
Ewes:		
On less favoured area land under the Hill Farm Allowance Regulations 2004	ewe	14(4)
On other land	ewe	21(5)
Store lambs (including ewe 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
<b>2. Farm arable crops</b>		
Barley	hectare	199(6)
Beans	hectare	175(7)
Herbage seed	hectare	120
Oats	hectare	131(8)
Oilseed rape	hectare	188(9)

(a) S.I. 2004/145

<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 (including seed)	hectare	780
Sugar Beet	hectare	270
Wheat	hectare	266(11)
<b>3. Outdoor horticultural crops</b>		
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
<b>4. Orchard fruit</b>		
Apples:		
Cider	hectare	380
Cooking	hectare	1250
Dessert	hectare	1400
Cherries	hectare	900
Pears	hectare	1000
Plums	hectare	1250
<b>5. Soft fruit</b>		
Blackcurrants	hectare	850
Raspberries	hectare	3100
Strawberries	hectare	4200
<b>6. Miscellaneous</b>		
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>
		£
<b>7. Forage Land</b> Eligible forage area as described in regulation 7 of the Hill Farm Allowance Regulations 2004	hectare	The amount of hill farm allowance required to be paid under the Hill Farm Allowance Regulations 2004
<b>8. Set-aside</b> Land which is set-aside under Article 2(3) of Council Regulation 1251/99, except where such land is used (in accordance with Article 6(3) of Council Regulation 1251/99) 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 does not include a sum in respect of the premium for maintaining suckler cows (suckler cow premium) provided for in Article 6 of Council Regulation 1254/99 on the common organisation of the market in beef and veal.

Add £27 to the figure in column 3 in the case of animals for which the net annual income includes a sum in respect of the lower rate of extensification premium provided for in Article 13 of Council Regulation 1254/99.

Add £54 to the figure in column 3 in the case of animals for which the net annual income includes a sum in respect of the higher rate of extensification premium provided for in Article 13 of Council Regulation 1254/99.

(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 does 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 1254/99.

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 includes a sum in respect of the lower rate of extensification premium.

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 includes a sum in respect of the higher rate of extensification premium.

In the case of animals which are kept for less than 12 months and for which the net annual income does not include a sum in respect of beef special premium, 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 are kept for less than 12 months and for which the net annual income includes a sum in respect of beef special premium, 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 includes a sum in respect of extensification premium) the sum of £27 (where the extensification premium is paid at the lower rate) or £54 (where the extensification premium is 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 does 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 2529/01 on the common organisation of the market in sheepmeat and goatmeat.

(5) Deduct £15 from the figure in column 3 in the case of animals for which the net annual income does not include a sum in respect of sheep annual premium.

(6) Deduct £ 238 from the figure in column 3 in the case of land for which the net annual income does not include a sum in respect of the compensatory payment for which producers of arable crops may apply (area payment) provided for in Article 2 of Council Regulation 1251/99.

(7) Deduct £ 274 from the figure in column 3 in the case of land for which the net annual income does not include a sum in respect of area payment

(8) Deduct £ 238 from the figure in column 3 in the case of land for which the net annual income does not include a sum in respect of area payment.

(9) Deduct £ 238 from the figure in column 3 in the case of land for which the net annual income does not include a sum in respect of area payment.

(10) Deduct £ 274 from the figure in column 3 in the case of land for which the net annual income does not include a sum in respect of area payment.

(11) Deduct £ 238 from the figure in column 3 in the case of land for which the net annual income does not include a sum in respect of area payment.

## 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 12th September 2004 to 11th September 2005 inclusive. This Order revokes the Agricultural Holdings (Units of Production) (England) Order 2003.

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 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, neither the system of farming carried out on a particular holding nor historical data from that holding will necessarily be used. Instead, whenever a particular farming use mentioned in column 1 of the Schedule to this Order is relevant to this determination, the units of production and the net annual income specified in columns 2 and 3 respectively will form the basis of the assessment of the productive capacity of the land in question.

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.

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