

Explanatory Memorandum to THE AGRICULTURAL HOLDINGS (UNITS OF PRODUCTION) (WALES) ORDER 2008

This Explanatory Memorandum has been prepared by the Rural Affairs Department and is laid before the National Assembly for Wales.

- (i) **Description** – The Agricultural Holdings (Units of Production) Order lays down figures for agricultural incomes associated with various farming activities which are used in cases of possible succession to an agricultural tenancy. The resultant calculations are then applied to decide whether a close relative is eligible to succeed to a tenancy. If the close relative already has a farm – and if that farm is judged (using the SI data) to be of a commercial size – he/she would not be eligible for automatic succession.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – None
- (iii) **Legislative Background** – Powers for the Welsh Ministers to make an Agricultural Holdings (Units of Production) (Wales) Order are conferred by paragraph 4 of Schedule 6 to the Agricultural Holdings Act 1986 and vest in them by virtue of s162 and paragraph 30 of Schedule 11 of the Government of Wales Act 2006. The SI is to be made using the negative resolution procedure.
- (iv) **Purpose and intended effect of the legislation**– The proposed SI, which is made on an annual basis, will confirm the figures on land values prepared by Welsh Assembly Government Technical Services Division and make them legally binding when used to advise the Agricultural Land Tribunal (ALT) in Wales on cases relating to tenancy succession. Without the introduction of this SI, the Welsh Assembly Government would be unable to advise the ALT on cases of tenancy succession that may be deemed as “commercial units”. This would lead to the ALT being unable to hear such cases in Wales.
- (v) **Implementation**– This SI is timetabled to be made on the 6 February 2008, under a negative resolution, and come into force on the 3 March 2008. There is no Order currently in place to govern the period between 12 September 2007 and 11 September 2008, consequently a retrospective order is required. This is due to the base statistics, prepared by DEFRA, not being available until the end of November 2007. The Order needs to be in force prior to 11 September 2008 to

take legal effect during this 12 month period. Parallel legislation has been made in England. The Welsh legislation is delayed in relation to the English legislation as:

- The Welsh units of production values are based on statistics prepared by DEFRA and then adapted by the Technical Services Division of the Department for Rural Affairs and Heritage, and agreed by Economic Advice Division, to reflect the different situation in Wales. These DEFRA figures were not available until November 2007.

The Units of Production Order 2007 included net annual income figures for brassicas, root vegetables and onions and fresh peas and beans. However, we do not have sufficiently robust data to calculate a net annual income figure for these crops for 2008. Therefore these crops are not included in the Units of Production Order for 2008.

(vi) **Consultation** – It was not deemed necessary to put this SI out to consultation as the Instrument is made annually and, although technical in nature, is not contentious. The introduction of this SI in Wales purely enables Welsh Assembly Government officials who undertake the necessary calculation; to advise the Tribunal on cases deemed as a “commercial unit”.

(vii) **Regulatory Impact Assessment** – A RIA has not been prepared as this instrument is made annually and is purely technical and not contentious. Also, this instrument has no impact on the statutory duties (sections 77 -79 GOWA 06) or statutory partners (sections 73-75 GOWA 06).