

SL(6)314 – The Agricultural Holdings (Units of Production) (Wales) Order 2023

Background and Purpose

Certain agricultural tenancies carry succession rights. In these cases, under the Agricultural Holdings Act 1986, a close relative of the deceased or retiring tenant can apply to the Agricultural Land Tribunal ('ALT') for a direction as to whether the relative is entitled to succeed to a tenancy. One of the tests in establishing a right of succession involves satisfying the ALT that the applicant does not already occupy a "commercial unit of agricultural land" elsewhere. If this were the case, the close relative would not be eligible for automatic succession.

This Order sets out figures for agricultural incomes which are associated with various farming activities and are used in determining whether or not the land in question is a "commercial unit of agricultural land" during the relevant period.

The current Order in force is the Agricultural Holdings (Units of Production) (Wales) (No. 2) Order 2021, which covers the period from 12 September 2020 to 11 September 2021. This Order covers two periods, from 12 September 2021 to 11 September 2022 and from 12 September 2022 to 11 September 2023.

Procedure

Negative.

The Order was made by the Welsh Ministers before it was laid before the Senedd. The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument:

1. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In article 1(2), in the Welsh text, the translated definition in italics of "Rheoliad 1307/2013" is incorrect as it reads "*(Regulation 17/2013)*" [**emphasis added**]. It should match the definition that it is translating and read "*(Regulation 1307/2013)*".



Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

Technical Scrutiny point 1:

The Government acknowledge that in article 1(2) of the Welsh text the translated definition in italics of “Rheoliad 1307/2013” is incorrect and reads (Regulation 17/2013) not (Regulation 1307/2013). The Government accepts this omission is not ideal, but on analysis, the Government feel it would not be appropriate to make an amendment or correction to rectify the error.

Our reason for this view is that the error is clearly obvious, and there is no possibility that a court or user of the legislation could interpret the reference in any way other than that which was intended. The Government is of the view that the error is not so sufficiently confusing that it would be worth correcting and feels that the meaning is obvious despite the error. The Government thank the Committee for drawing the omission to its attention. However, due to the reasons set out above, the Government has made the decision to leave the instrument in its existing form.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 6 February 2023 and reports to the Senedd in line with the reporting point above.

