

Defra – Net Annual Income Assessment Services

“Commercial Unit” test under the Agricultural Holdings Act (AHA) 1986

To ensure that the Secretary of State for the Environment, Food and Rural Affairs may fulfil his/her obligations in respect of agricultural land tenure legislation under which any close relative of a deceased tenant, the nominated successor (in a retirement case), the landlord or the Property Chamber of the First-tier Tribunal, Agricultural Land and Drainage (‘the Tribunal’, ALD - formerly the Agricultural Land Tribunal (ALT)) may request the Secretary of State for Environment, Food and Rural Affairs to determine the net annual income of a unit of agricultural land.

Acorus Rural Property Services Limited (‘Acorus’) is retained by Defra to undertake land inspections, analysis of the farm unit to be assessed and application of the current Units of Production Order (UPO).

The statement of net annual income provided by Acorus on behalf of the Secretary of State will be taken into account by the parties and the Tribunal when considering whether or not the potential successor is already in occupation of a commercial unit of agricultural land (the “occupancy condition” of eligibility) or might become so by virtue of the deemed occupation provision. Although such a statement will often assist the Tribunal it does not bind the Tribunal and if the parties cannot agree may be challenged at a hearing of the Tribunal, attended by the Acorus consultant as an “official expert”.

The First-tier Tribunal (Property Chamber) (Agricultural Land and Drainage) Practice Statement 2013 can be found on the justice.gov.uk website.

On 9 April 2014¹ Defra flagged that the obligation to produce the UPO under AHA 1986, para 4 of Schedule 6, would be subject to a consultation to look into whether it should be scrapped. Defra has not yet consulted on this but it is still the Department’s intention to take it forward subject to consultation with the industry.

Meanwhile, the current UPO came into force on 7 November 2016.²

For further information please contact Ted Rogers FRICS, Director, Corporate and Government: ted.rogers@acorus.co.uk.

Revised 1 November 2016

¹ Defra Better for Business – A Strategic Reform Plan for Defra’s Regulations – p. 29

² The Agricultural Holdings (Units of Production) (England) Order SI 2016 No. 1002