

Agriculture (Wales) Bill

Bill Summary

February 2023



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The **Agriculture (Wales) Bill** ('the Bill') was introduced to the Senedd on 26 September 2022 by the Minister for Rural Affairs and North Wales, and Trefnydd ('the Minister'). The Minister made her **statement in Plenary** on 27 September.

The Bill introduces a new framework for agricultural support based on 'Sustainable Land Management'. It allows transition from the EU's Common Agricultural Policy system of support.

It also includes powers for Welsh Ministers to replace those due to expire in the **UK Agriculture Act 2020**: to intervene in agricultural markets; on the collection and sharing of data; and marketing standards and carcass classification.

The Bill amends the Agricultural Holdings Act 1986 to establish dispute resolution processes for Agricultural Holdings Act (AHA) tenants, aiming to help them access future support.

It amends the Forestry Act 1967, giving Natural Resources Wales (NRW) the power to add environmental conditions to tree felling licences, and enabling NRW to amend, suspend and revoke licences.

It also amends the Wildlife and Countryside Act 1981 to prohibit the use of snares (and other cable restraints) and glue traps.

The Bill was referred to the Senedd's Economy, Trade and Rural Affairs (ETRA) Committee for **Stage 1 scrutiny**. Ahead of the Stage 1 debate, **the Committee recommends** that the Senedd agrees the general principles of the Bill, whilst highlighting areas for improvement.

This briefing provides a background to the Bill, summarises its provisions and outlines the Senedd's work to date at Stage 1 of the legislative process.

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1. Background

Leaving the EU meant leaving the **Common Agricultural Policy** (CAP). To allow continuation of payments to farmers in Wales after 2020, the Senedd **gave consent** for the **UK Agriculture Act 2020** ('UK Agriculture Act') to maintain (and modify to an extent) the CAP system domestically.

Since the UK Agriculture Act does **not** include powers for new Welsh agricultural schemes, it has largely preserved the status quo following EU exit.

The UK Agriculture Act also includes powers for Welsh Ministers to intervene in agricultural markets; on the collection and sharing of data; marketing standards and carcass classification; and data protection.

These are all transitional powers, included in Schedule 5 of the UK Agriculture Act. They are subject to a sunset clause and will expire on 31 December 2024.

Since the UK Agriculture Act came into force, **the Welsh Government's intention** has been to introduce an Agriculture (Wales) Bill to supersede these transitional arrangements and bring forward powers to introduce a new agricultural support scheme (amongst other things).

The Welsh Government proposes to replace the CAP system with the Sustainable Farming Scheme (SFS). The **draft SFS** was published in July 2022 and is subject to further consultation. The proposed SFS would reward farmers for actions which address the climate and nature emergencies, alongside sustainable food production, based on 'Sustainable Land Management' (SLM).

The Bill and draft SFS follow three public consultations: **Brexit and our Land** (2018), **Sustainable Farming and our Land** (2019) and the resulting **White Paper for the Agriculture (Wales) Bill** (2020). The Welsh Government is also carrying out phases of '**co-design**' with stakeholders informing the proposals.

Other Senedd Research publications provide relevant background:

- **Agricultural support;**
- **Sustainable Farming Scheme;**
- **The farming sector in Wales;**
- **Designing agricultural policies: contextual considerations; and**
- **UK Agriculture Bill 2019-21.**

2. Summary of provisions

Part 1 - Sustainable Land Management

Section 1 establishes four Sustainable Land Management (SLM) objectives:

- to produce food and other goods in a sustainable manner;
- to mitigate and adapt to climate change;
- to maintain and enhance the resilience of ecosystems and the benefits they provide; and
- to conserve and enhance the countryside and cultural resources and promote public access to and engagement with them, and to sustain the Welsh language and promote and facilitate its use.

Section 2 places a duty on the Welsh Ministers to exercise certain functions relating to “agriculture” and “ancillary activities” (defined in sections 48 and 49, respectively) in the way they consider best contributes to achieving the SLM objectives.

Section 3 provides for limited exceptions to the section 2 duty.

Section 4 requires the Welsh Ministers to prepare, publish and lay a statement before the Senedd setting out indicators and targets to measure progress towards achieving the SLM objectives.

Section 5 sets out steps to be undertaken in preparing or revising indicators and targets.

Section 6 requires the Welsh Ministers to prepare and publish SLM reports and details the content and timings of those reports. The SLM reports will monitor progress towards achieving SLM objectives using the indicators and targets.

Section 7 sets out the reports, policies and other matters to which the Welsh Ministers must have regard in preparing the SLM reports.

Part 2 - Support for agriculture etc.

Chapter 1 - Welsh Ministers’ power to provide support

Section 8 empowers the Welsh Ministers to provide support for, or in connection with, agriculture and ancillary activities taking place in Wales. It sets out a non-exhaustive list of ‘purposes’ which may be supported. These are amendable by

regulation. The purposes aim to support the achievement of the SLM objectives. Support may be provided via a scheme, or by other means.

Section 9 provides further detail on the scope of support under section 8. Support may be provided financially or otherwise, and be provided to a person or organisation who has established or operates a “third party scheme” (i.e. a scheme not made by the Welsh Ministers).

Section 10 empowers the Welsh Ministers to make regulations about the publication of certain information in connection with support provided under section 8, for example the recipient of any support provided.

Section 11 empowers the Welsh Ministers to make regulations on arrangements to check whether eligibility criteria for support under section 8 are met and the consequences where they're not. It provides for enforcing compliance and monitoring the extent to which the purposes of support have been achieved, and the investigation of suspected offences.

Section 12 places a duty on the Welsh Ministers to prepare an annual report about the financial and non-financial support provided under section 8 during each financial year.

Section 13 requires the Welsh Ministers to produce an Impact Report every five years, assessing the impact and effectiveness of support provided under section 8.

Section 14 requires the Welsh Ministers to have regard to certain matters when preparing Impact Reports.

Chapter 2 - Powers to modify legislation relating to financial and other support

Section 15 empowers the Welsh Ministers to modify, by regulation, legislation governing the Basic Payment Scheme (of the Common Agricultural Policy) in relation to Wales.

Section 16 empowers the Welsh Ministers to modify by regulation legislation relating to the financing, management and monitoring of the Common Agricultural Policy in relation to Wales.

Section 17 empowers the Welsh Ministers to modify, by regulation, legislation relating to apiculture (beekeeping) in relation to Wales.

Section 18 empowers the Welsh Ministers to modify, by regulation, legislation relating to support for rural development (of the Common Agricultural Policy) in relation to Wales.

Section 19 provides that nothing in this Chapter affects powers to modify the same subject areas (i.e. the Basic Payment Scheme etc.) under separate legislation.

Chapter 3 - Intervention in agricultural markets

Section 20 makes provision for circumstances in which the Welsh Ministers may make an “exceptional market conditions” declaration if, generally there is a severe disturbance in agricultural markets which has, or is likely to have, a significant adverse effect on Welsh agricultural product prices.

Section 21 specifies the Welsh Ministers’ powers while an exceptional market conditions declaration has effect. These may include financial support to Welsh agricultural producers whose incomes have been, are being, or are likely to be adversely affected by the declared exceptional market conditions.

Section 22 empowers the Welsh Ministers to modify retained direct EU legislation relating to public market intervention or aid for private storage, where it affects Wales. ‘Public market intervention’ is the purchasing, storing and reselling of certain goods once prices have risen. ‘Private storage aid’ is paying producers to store products for an agreed period removing them from the market.

Chapter 4 - Agricultural tenancies

Section 23 amends section 19A of the Agricultural Holdings Act 1986. This amendment confers regulation making powers on the Welsh Ministers to provide dispute resolution arrangements for agricultural tenants in dispute with landlords about restrictive tenancy agreement clauses which may prevent them from accessing financial assistance provided under this Bill.

Part 3 - Matters relating to agriculture and agricultural products

Chapter 1 - Collection and sharing of data

Section 24 empowers the Welsh Ministers to require those in, or closely connected with an “agri-food supply chain” to provide information on activities, connected with that supply chain.

Section 25 defines key terms used in section 24.

Section 26 empowers the Welsh Ministers to require a person carrying on a “relevant activity” (and is not “in” or “closely connected” with an agri-food supply chain) to provide information connected with that activity.

Section 27 defines “relevant activity” for the purposes of this Chapter.

Section 28 specifies that information requirements under sections 24 and 26 must specify the purposes for which such information may be processed, and lists those purposes.

Section 29 requires the Welsh Ministers to publish a draft of the requirement before imposing it.

Section 30 stipulates that information provided in response to a requirement may be processed only for the purposes specified in the requirement.

Section 31 empowers the Welsh Ministers to make regulations on enforcement of requirements imposed under section 24 or 26. These may address penalties for non-compliance and appeals.

Chapter 2 - Marketing Standards: agricultural products

Section 32 empowers the Welsh Ministers to make regulations prescribing standards with which certain agricultural products must conform when marketed in Wales. The relevant products are listed in Schedule 1.

Chapter 3 - Classification etc of certain carcasses

Section 33 empowers the Welsh Ministers to make regulations on classification, identification and presentation of certain carcasses by Welsh slaughterhouses.

Part 4 - Forestry

Section 34 gives an overview of how this part of the Bill amends Part 2 of the Forestry Act 1967 in relation to Wales.

Section 35 amends section 10 of the Forestry Act 1967 to enable the Natural Resources Body for Wales (“NRW”), as the “appropriate forestry authority” for Wales, to impose conditions on the granting of a tree felling licence if it appears expedient to NRW to do so for the purpose of (i) conserving or enhancing natural beauty, or (ii)

conserving flora, fauna, geological or physiographical features, or natural habitats.

Section 36 amends section 10 of the Forestry Act 1967 to enable NRW and the holder of a licence granted under that section to mutually agree (at any time) to amend the felling licence.

Section 37 amends the Forestry Act 1967 to enable NRW to unilaterally vary, suspend or revoke a tree felling licence in circumstances where there has a breach of licence conditions, and circumstances where there has been no breach (inserting sections 24C and 24D, respectively).

Section 38 amends the Forestry Act 1967 to provide for compensation to be payable in some circumstances following the receipt of a notice under section 24C or 24D.

Section 39 amends section 25 of the Forestry Act 1967, which provides for appeals against decisions taken to suspend, amend or revoke licences under new sections 24C and 24D.

Section 40 amends section 17 of the Forestry Act 1967 so that the penalty for offences committed in respect of Welsh land is an unlimited fine.

Section 41 makes several consequential amendments to the Forestry Act 1967 which result from changes made to that Act by sections 35 to 39 of the Bill.

Part 5 - Wildlife

Section 42 gives an overview of the purposes for which this Part of the Bill amends the Wildlife and Countryside Act 1981.

Section 43 amends section 11(1) of the Wildlife and Countryside Act 1981 to make it an offence to:

- set a snare or other cable restraint in position in Wales, if the snare or restraint is of a type, and is placed, so likely to cause injury to any wild animal;
- use a snare or other cable restraint in Wales to kill or take any wild animal;
- set a glue trap in position in Wales, if the trap is of a type, and is placed, so as to be likely to catch any (non-human) vertebrate animal; and
- use a glue trap in Wales to kill or take any (non-human) vertebrate animal.

Section 44 amends section 11(2) of the Wildlife and Countryside Act 1981 to modify

the prohibitions on setting any trap or snare, or any electrical device for killing or stunning, or any poisonous, poisoned or stupefying substance. The effect is that the prohibitions will apply where their use is “likely” to cause injury to a wild animal of the type specified (rather than where the use is “calculated to cause” injury).

Section 45 makes consequential amendments to the Wildlife and Countryside Act 1981 connected to the changes made to that Act by sections 43 and 44 of the Bill.

Part 6 - General

Section 46 empowers the Welsh Ministers to make such supplemental, consequential or transitional provision as necessary to give full effect to any provision of the Bill.

Section 47 makes general provision about regulations made under the Bill, setting out the applicable Senedd regulation-making procedure.

Section 48 defines “agriculture” for the purposes of the Bill.

Section 49 defines “ancillary activities” for the purposes of the Bill.

Section 50 empowers the Welsh Ministers to amend the definitions of “agriculture” and “ancillary activity” by regulations, subject to the affirmative resolution procedure.

Section 51 is an interpretation provision which defines further words and terms used in the Bill.

Section 52 introduces Schedules 2 and 3 which contain a series of consequential amendments and repeals.

Section 53 sets out when each provisions of the Bill comes into force.

Section 54 provides the short title which is the “Agriculture (Wales) Act 2023”.

Schedules

Schedule 1 (introduced by section 32) makes provision for agricultural products relevant to the marketing standards provisions in the Bill.

Schedule 2 (introduced by section 52) makes minor and consequential amendments relating to Parts 1-3 of the Bill.

Schedule 3 (also introduced by section 52) makes consequential amendments to

Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products (the “CMO Regulation”).

3. The Economy, Trade and Rural Affairs Committee’s stage 1 scrutiny of the Bill

The Bill was remitted to the **Senedd’s Economy, Trade and Rural Affairs Committee (‘the Committee’) for Stage 1 scrutiny**. The Committee:

- held a **public consultation** on the Bill between 30 September and 11 November 2022 (**with 55 responses**);
- held an **initial evidence session with the Minister** on 5 October;
- took oral evidence from a **variety of stakeholders**; and
- held a **final evidence session with the Minister** on 16 November.

Members of the Climate Change, Environment and Infrastructure Committee expressed an interest in participating in Bill scrutiny and attended sessions relating to their remit.

The Committee’s report provides a comprehensive account of the evidence, along with the Committee’s views and recommendations. The sections below summarise key evidence received and Committee conclusions, it is not exhaustive.

Overall the Committee recommends the Senedd agrees the general principles of the Bill, whilst highlighting areas for improvement.

Sustainable Land Management (Part 1)

The definition of Sustainable Land Management

Sustainable Land Management (SLM) isn’t defined on the face of the Bill. It’s defined in the EM (para 3.39) using the **United Nations (UN) definition**.

This was a key area of conflicting evidence. Several stakeholders called for a definition on the face of the Bill, but with different views on what it should be. For example:

- Farming unions (NFU Cymru and Farmers’ Union of Wales (FUW)) wanted the **World Bank definition** emphasising this adds “the importance of food

production and rural communities”.

- Several environmental groups and Natural Resources Wales (NRW) supported the UN definition but called for reference to the Environment (Wales) Act 2016 (“Environment Act”) definition of **Sustainable Management of Natural Resources** (SMNR) and the Well-being of Future Generations (Wales) Act 2015 (“WFG Act”).
- Others (e.g. Nature Friendly Farming Network (NFFN)), suggested the **UN 10 principles of agroecology**, arguing these provide a “holistic and integrated approach”; and
- The Food and Drink Wales Industry Board supported the UN definition but called for inclusion of “resilient supply chains”.

On 16 November the Minister argued the SLM definition is clarified through the SLM objectives, which she said integrated the UN and World Bank definitions.

Committee view

Most Members were satisfied with the Minister’s response and agreed that the four SLM objectives make up the over-arching SLM definition. The Committee noted the Bill presents an opportunity to develop a ‘bespoke’ Welsh definition of SLM and highlighted the importance of the objectives linking to recognised principles and related legislation – including the Environment Act and the WFG Act.

The SLM objectives

Although the four SLM objectives were welcomed, stakeholders suggested changes:

- Farming unions and Hybu Cig Cymru (HCC) wanted the first objective (to produce food and other goods in a sustainable manner) to recognise Wales’s global responsibility to maintain and enhance food production. Several stakeholders wanted greater clarity on the definition of sustainable food production.
- Environmental groups proposed the third objective (to maintain and enhance the resilience of ecosystems and the benefits they provide) be strengthened. RSPB Cymru suggested rewording: “to **restore**, maintain and enhance **biodiversity** and the resilience of ecosystems and the benefits they provide”. Cross reference to SMNR was advised.

- Farming unions argued the fourth objective (on cultural resources, public access and Welsh language) should have more emphasis on the integral role farmers play, to support them in delivering those objectives.
- NFFN and food supply chain representatives suggested reference to the wider food supply chain to promote shorter supply chains and food sovereignty.
- Simon Wright (University of Wales Trinity St David and Wright's Food Emporium), Dr Mary Dobbs (Maynooth University) and Dr Ludivine Petetin (Cardiff University) suggested an objective for community prosperity through nutritious food provision with reference to community health.
- Farming unions wanted a fifth objective on economic stability and rural vibrancy related to safeguarding rural livelihoods. Dr Petetin and Dr Dobbs supported this;
- RSPCA Cymru wanted an objective for animal health and welfare.
- Food and Drink Wales Industry Board described the objectives as “nebulous” with no clear vision for the food industry.

The Minister said ensuring vibrant farming communities and economic resilience was at the heart of the Bill. She noted there are ongoing discussions with Plaid Cymru under the Co-operation Agreement on the fifth objective suggested by the farming unions.

Committee view

The Committee recommended a strengthened third SLM objective addressing biodiversity restoration. It asked for clarity on how the Bill will support local procurement and local supply chains. It recommended the Minister bring forward amendments strengthening the fourth objective, with more explicit emphasis on supporting strong and vibrant rural communities and to address stakeholders' concerns. It recommended the Minister should bring forward amendments strengthening promotion of the Welsh language.

The SLM duty

Some were concerned the Bill, as drafted, could result in some objectives being “cherry picked” over others. There were calls for Ministers to have a duty to deliver the objectives in a balanced way.

In her initial session, the Minister told the Committee the objectives are “complementary” but went on to say “it will be possible... to make a significant contribution to one of them whilst making, perhaps, little or indeed no contribution to the others”.

Committee view

The Committee recommended the Minister should amend section 2 of the Bill to make clear there is no hierarchy in the objectives and ensure they are delivered in a balanced way.

Monitoring and reporting on SLM

RSPB Cymru believed the types of indicators are “critical” and should be on the face of the Bill.

The National Parks, Dr Petetin and Dr Dobbs said multiple indicators are necessary e.g. for the complex third objective on ecosystem resilience. The Minister told the Committee too many indicators/targets would become “unwieldy” and lose meaning.

Some called for wider consultation in developing the indicators and targets. The approach taken of having a single statutory consultee (the Future Generations Commissioner) was described as “democratically weak” (by Wales Environment Link (WEL)). NFU Cymru suggested a requirement to consult with the agricultural industry. Several suggested a requirement to consult NRW.

The Minister said Welsh Ministers would take advice on a case by case basis but flexibility is important, as consultation with, and advice from key stakeholders could change. She said indicators and targets are likely to change over time but listed the groups important to consult for the record.

The SLM reports are to be published every 5 years. There was concern that some indicators will need more frequent tracking, with Dr Petetin and Dr Dobbs suggesting interim reports. It was acknowledged that other indicators will take longer to achieve, with stakeholders warning about a change in policy too soon based on SLM reports.

Committee view

The Committee acknowledged calls for other statutory consultees when preparing the indicators and targets to be included in the Bill. Members accepted the Minister’s point that requirements for consultation and advice will change over time. It welcomed her commitment on the record to

consult with a range of organisations but noted the approach taken by future Ministers may differ. No recommendation was made on this issue.

Support for agriculture etc. (Part 2)

List of purposes for support

Stakeholders suggested additional / strengthened purposes:

- WEL suggested adding ‘improving community access to local food’ to support Community Supported Agriculture (CSA);
- NRW said adaptation to climate change should be considered;
- Environment groups wanted more emphasis on support for nature. Suggestions included reference to restoration of priority habitats and species and the **‘DECCA’ ecosystem approach**: to ensure resilience through improving ecosystem diversity, extent, connectivity, condition and adaptability;
- NFFN proposed support for infrastructure, machinery and equipment which link to the SLM objectives, given their cost;
- NFFN and Simon Wright wanted to see support for farmers who educate the public about where food comes from, its nature and climate impacts and role in supporting vibrant rural communities;
- The Tenant Farmers Association (TFA) and farming unions felt the list is too narrowly focused on environmental purposes and that economic efficiency and social/cultural impact criteria need to be included;
- The Food and Drink Wales Industry Board called for reference to the role of innovation in land and supply chain management;
- Ramblers Cymru said maintaining access (the purpose in section 8 is ‘maintaining and enhancing’ public access) should be part of the regulatory baseline with payments given for enhancement under the SFS; and
- The Deputy Welsh Language Commissioner and farming unions called for the inclusion of Welsh Language, noting the agriculture sector has the highest proportion of Welsh speakers. **The Minister indicated** on introduction she would address this by amendment.

NFU Cymru said regulations amending the list of purposes should require consultation (there is no requirement in the Bill).

The Minister said the list of purposes wasn’t exhaustive and could be amended over time by regulations. A Welsh Government official said the list would be ‘brought

to life' in the SFS, for example in support for capital infrastructure projects and innovation.

Committee view

The Committee noted calls to amend the list of purposes, and invited the Minister to consider these with a view to bringing forward amendments. In particular the Committee thought innovation, Welsh language, community access and education about food systems were key.

National Minimum Standards

National Minimum Standards (NMS) will form the regulatory baseline, above which farmers would be rewarded via the SFS. The Welsh Government intends to consolidate existing standards (including the CAP's cross compliance) and the Minister told the Committee officials are exploring whether further legislation is needed.

Several stakeholders identified a risk that the NMS won't be in place in time for the SFS launch if further legislation is needed. WEL recommended a duty in this Bill to require the Welsh Government to bring forward the NMS in time for the SFS in January 2025. Environmental stakeholders, farming unions, and British Veterinary Association (BVA) called for meaningful consultation on the NMS.

Committee view

The Committee recommended the Minister should consider how the policy intent around NMS is communicated to stakeholders during development of the SFS. She should confirm to the Committee her intentions with regard to the NMS, including whether further legislation will be brought forward.

Support for ancillary activities

Many welcomed powers for the Welsh Ministers to support ancillary activities to improve the wider supply chain and help farmers get product to market.

Both unions were concerned that the breadth of ancillary support powers, especially under paragraph (a) in section 49, could direct support away from active farmers. However the Woodland Trust welcomed this power to extend support to wider nature conservation on land used for agriculture.

Food supply chain representatives called for a balanced approach to support food producers and those beyond the farm gate to ensure a sustainable agri-food system and said divorcing the various elements is not advised.

Confor wanted timber and wood fibre included in the ancillary definitions.

Section 49 defines “ancillary activity”. In her final evidence session the Minister made clear that support was very much for active farmers under the definition in section 49(b). The Minister and officials explained that, as the Regulatory Impact Assessment says, the meaning of ‘agriculture’ and the meaning of ‘ancillary activity’ should be taken together, not in isolation, so support would only be provided to farmers involved in agriculture and ancillary activities. The Committee was told:

The policy intent is that the farmer would have to be involved in that processing, packaging, marketing and branding etc.

Whilst the Bill doesn’t prevent this, there is nothing in sections 8 and 49(b) to target or limit support in line with the stated policy intent.

Committee view

The Committee recommended the Minister should clarify the scope of support for “ancillary activities” whether just to active farmers or those in the wider supply chain. It believed the narrower definition may raise concerns for the wider supply chain. It asked that she confirm whether she intends to clarify this by amendment.

Annual Report and Impact Report

TFA Cymru believed the Impact Report duplicates the SLM report so only one overarching report is needed. It called for publication every three years (instead of every five years as is the case with the Impact Report).

FUW said the provisions are important for scrutiny and transparency, given its concerns about value for money in Rural Development Programme delivery. The farming unions were however concerned the reporting would involve significant administration costs.

NRW noted there is no timescale included for acting on the findings of the Impact Report which could affect post-implementation.

Committee view

The Committee recommended the Minister should consider amending the Bill to include a timescale for acting on the findings of any Impact Report.

Food security

HCC and farming unions said the new framework needs emphasis on food security. Food security was considered widely e.g. through environmental improvement and also prioritising imports/exports to add value.

RSPB Cymru argued food insecurity is linked less to production but factors including food waste, diet choice and food poverty. WWF Cymru said emphasis on food sovereignty and shorter supply chains is needed.

Simon Wright highlighted the importance of horticulture which he says needs special consideration. The Landworkers' Alliance was concerned small fruit and vegetable farms could miss out on support via the SFS.

Several stakeholders pointed to opportunities to integrate delivery of this Bill with the Food (Wales) Bill, e.g. on circular food economies and public procurement.

RSPB Cymru recommended the Bill should place a duty on the Welsh Government to undertake a regular food security assessment, including identifying opportunities for Welsh sustainable food producers. This was supported by the food supply chain representatives.

Committee view

Members noted evidence on opportunities the Bill presents to support a vision for sustainable food production and greater diversification. The Committee will explore food policy further during scrutiny of the Food (Wales) Bill.

It recommended the Minister consider the evidence for further strengthening the Bill to promote horticulture and maximise diversification opportunities, and to consider how the Bill's objectives align with stakeholder views on the Food (Wales) Bill.

Animal health and welfare

The BVA argued insufficient weight is given to animal health and welfare.

RSPCA Cymru was disappointed the Bill doesn't go as far as the UK Agriculture Act. It mentioned the specific veterinary pathway scheme where English farmers receive payments to get the vet on site and also funding for capital costs to introduce higher welfare systems. The Minister confirmed the veterinary pathway scheme was something to emulate for inclusion in the SFS.

The BVA said vets should be involved in development of the National Minimum Standards (discussed above), to ensure animal health and welfare is protected. The BVA also emphasised the important role of the vet in monitoring and meeting the Bill's SLM objectives.

Committee view

The Committee asked the Minister to clarify the role of the farm vet in monitoring SLM objectives, and development of National Minimum Standards for animal health and welfare.

New entrants

Several stakeholders felt the Bill doesn't support succession, new entrants and alternative community ownership models. The Minister said she looked forward to seeing ideas from a new entrants working group on how to support them.

TFA Cymru was disappointed to see no reference to County Council Smallholding Estates "despite the fact that Welsh Government often speaks of their importance and concern about the extent to which they are being lost through inappropriate disposal". It sees these smallholdings as key for new entrants highlighting 30% have been lost in the last 30 years. It said the Bill should grant powers for Ministers to scrutinise and sign off rural estate plans and their proposals for disposals to ensure best value.

The Minister told Members in her final evidence session on the Bill:

Welsh Ministers have always had a statutory duty in relation to the activities of local authorities and smallholdings...I have to have an annual report from local authorities about their smallholdings ... there isn't much

of a strategic view across the whole of Wales, so I have asked the [new entrants] working group to have a look at this and see how we can have a much more co-ordinated approach.

Committee view

The Committee recommended the Minister bring forward amendments to the Bill to take account of the needs of new entrants, and report back on other plans as a result of the new entrants working group's work.

Transitional support powers

Stakeholders advocated a phased transition (up to 2029) to the new SFS and warned against a cliff-edge approach.

Some environmental groups proposed a sunset provision so that powers to enable continuation of CAP-style payments would expire at the end of 2029. This would prevent indefinite use and ensure full transition to the SFS in 2029. However farming unions warned against a sunset provision highlighting the importance of having all the tools available to allow stability in case of a crisis.

When asked about the sunset provision the Minister told the Committee it had been considered but she had decided not to include it and would exercise the powers when the SFS was ready, not before 2025.

Committee view

The Committee is not advocating a sunset provision.

Exceptional market declaration and intervention

TFA Cymru wanted assurance that market intervention will include natural phenomena as well as economic events impacting upon markets. It said it should cover not only "acute" hardship but also "chronic" long-lasting difficulties like endemic disease. TFA Cymru and NFU Cymru said the Welsh Ministers should consider costs and availability of inputs as well as the prices achievable for agricultural products.

Simon Wright was concerned about how these powers would be used: "given what

we've experienced in the last three years, we could be constantly in exceptional market conditions." The National Trust argued these powers should be used proportionally to avoid suppressing industry responses to risk.

The FUW argued the Bill should require co-ordination across the UK on market intervention, given divergence could distort the market. Dr Dobbs warned against any unilateral requirements for the Welsh Ministers, but suggested the Bill could require the Welsh Ministers to apply common framework processes.

When questioned, the Minister said "any large-scale business disruption that is obviously not the fault of the farmer" would be considered for intervention, including extreme weather. She said it would be important to coordinate with other UK countries and the Common Framework on Agricultural Support was the appropriate mechanism. A Welsh Government official noted, with regard to "acute" and "chronic" difficulties, the power for a 'rolling extension' if needed.

The Committee did not express a view in this area.

Agricultural tenancies and common land farming

A significant proportion of farmed land in Wales is managed through tenancy agreements. There are two main types of agricultural tenancy:

- Agricultural Holdings Act (AHA) tenancies governed by the Agricultural Holdings Act 1986 (those agreed before 1 September 1995); and
- Farm Business Tenancies (FBT) governed by the Agricultural Tenancies Act 1995 (those agreed after 1 September 1995).

The tenanted sector was a key group with concerns about the Bill.

TFA Cymru stressed it is a "major omission" the Bill does not extend to FBTs to help them access future support. It says FBTs need protection due to their short-term nature, restrictive terms and high rents. It highlighted FBTs cover about half the tenanted sector and are likely to become the majority.

In contrast, the Minister claimed there are already sufficient mechanisms in place for FBTs, unlike AHA tenancies which the Bill does address. During the Minister's final session, a Welsh Government official said that changes to the 1986 Act will align it with what is already covered by section 28 of the 1995 Act: "our view is that that section provides sufficiently broad arrangements for matters to be referred to arbitration."

The Committee heard that although a farm tenancy working group has been set up it wasn't established in time to inform the Bill's development. Instead it will be consulted for government amendments to the Bill.

Common land representatives were very concerned about access to future schemes and see the Bill as a missed opportunity. Members welcomed the Minister confirming on 16 November that a common land working group had been set up to inform the Welsh Government, especially on their bespoke needs for the SFS.

Committee view

The Committee recommended the Minister should report back on how tenant farmers' concerns about dispute resolution provisions in the Bill are being addressed. This should include confirmation of whether the Minister intends to bring forward amendment(s) to the Bill, or otherwise consult the Committee on her rationale for an alternative approach.

The Committee recommended the Minister should bring forward specific proposals to address commoners' concerns regarding enforcement and access to support schemes, either by amending the Bill or otherwise.

Matters relating to agriculture and agricultural products (Part 3)

Collection and sharing of data

Stakeholders stressed data provision requirements shouldn't be overly burdensome. Some argued farmers should be paid for this data collection.

The Minister told the Committee on 16 November she doesn't want to burden farmers unnecessarily as a "huge body of data" is already collected.

NFU Cymru said it would like to see more data protection safeguards in the Bill. It highlighted that as the future of GDPR is unknown, the Bill needs to offer protection and is calling for clarity on the destination of the data.

The Minister wrote to the Committee on these matters on 24 October 2022. She confirmed the Bill's data collection provisions comply with UK GDPR and data protection legislation. She said the Bill doesn't prevent sale of data to third parties, but it isn't the Welsh Government's policy or intention to do so.

FUW and NFU Cymru stated data provision penalties should be proportionate. Inaccuracies arising from automated data collection (like satellite imagery) mustn't result in automatic penalties.

The Minister told the Committee the provisions would allow enforcement to be proportionate, and that regulations will follow the affirmative procedure.

Committee view

Members had concerns about the Welsh Government's understanding of the magnitude of the responsibility and risks of putting such data collection and sharing provisions in the Bill.

The Committee asked the Minister to confirm that the Welsh Government will publish information clearly identifying all controllers and processors for any data collected under the Bill, to ensure transparency around the process for farmers.

It asked the Minister to confirm whether the Welsh Government is willing to amend the Bill to include a commitment to review the operation of the data collection regime under the provisions in the Bill after five years.

Marketing standards and carcass classification

NFU Cymru and Dr Petetin and Dr Dobbs highlighted common frameworks will need to be engaged regarding these provisions to ensure Wales isn't disadvantaged by products with lower standards entering the market.

TFA Cymru said the Bill must impose a duty on Welsh Ministers, when setting these standards, to have regard to ensuring primary producers in Wales aren't disadvantaged. RSPB Cymru recommended the Bill should commit Ministers to undertake impact assessments of future trade deals on Welsh agriculture.

HCC said Schedule 1 to the Bill, which lists agricultural products relevant to the marketing standards provisions, doesn't include sheep meat. It said it is cut and pasted from the EU Common Market Organisation, and the sheep meat industry was always the "poor relation" in the EU. Further correspondence from the Minister was received **on 19 December**. She said the Schedule 1 list is "deliberately non exhaustive to allow for future proofing of the agriculture sector and does not prevent other products being added".

Committee view

The Committee recommended the Minister bring forward an amendment to the Bill committing Welsh Ministers to undertake impact assessments of future trade deals on Welsh agriculture.

Forestry (Part 4)

Power to add environmental conditions to tree felling licences

The Woodland Trust, Forest Stewardship Council UK and the Continuous Cover Forestry Group supported the power for NRW to attach environmental conditions to tree felling licences. The Woodland Trust wasn't clear how NRW will use the powers. However, NRW has published a **paper on how it intends to implement the powers**. The Minister told the Committee this would become part of the statement of policy intent for this part of the Bill.

The Woodland Trust called for an amendment ensuring monitoring and reporting on the impact of felling consents is equivalent to the requirements for reporting on the achievements of the SLM objectives and the support scheme impact.

However, Confor opposed this power saying this would likely push owners into either illegal felling or abandoning forest management altogether. It said the Welsh Government's aim of tackling illegal and incompetent felling can be better addressed through existing legislation including, where relevant, planning legislation.

Confor also said if the changes are to take place the Welsh Government and others should provide further evidence and this issue should be addressed via separate legislation. Confor also said if the Bill is enacted in its current form, felling licences must return to being for a 5-year period in line with England and Scotland (as they were in Wales prior to 2013), and Long-Term Management plans must be substantially reviewed to make them fit for purpose.

Powers to vary, suspend or revoke tree felling licences

The Woodland Trust and Confor broadly supported the new powers for NRW to vary, suspend or revoke felling licences it has already issued.

However, Confor was "highly concerned" about the use of this power where there

has been no breach of condition (see section 37 of the Bill, which inserts a new section 24D into the *Forestry Act 1967*).

Confor said it shouldn't be possible for a licence that has already been subject to public and regulatory consultation to be suspended because of the impact on natural or physical features. Rather if significant, such matters would be considered issues of compliance with other legislation.

The Institute of Chartered Foresters expressed concern about 'operational viability' and more 'burdensome' licensing applications, and said the proposed approach needs further consultation with the sector. The Explanatory Memorandum for the Bill emphasises that NRW has no powers to amend, suspend or revoke a licence once issued if something about the licensed activity later becomes unacceptable. This could be related to factors identified after the licence was granted, such as the presence of protected species accidentally or deliberately overlooked. Or it could be where a change of ownership results in a change of objectives, or disease affects species choice in restocking.

However, Confor argued this "catch all" category must be removed because there is "significant fear of misuse of these powers", given the "inconsistent performance" of NRW.

Monitoring and reporting on the impact of felling consents

The Woodland Trust called for an amendment ensuring monitoring and reporting on the impact of felling consents is equivalent to the requirements for reporting on the achievements of the SLM objectives and the support scheme impact.

The Minister told the Committee a review of the legislation would be conducted within three years of commencement. The Welsh Government would work with NRW and stakeholders to agree a way forward on which relevant data is required and collected. She stressed the importance of a balance between monitoring and ensuring NRW also has the resource to respond to felling licence applications in a timely manner.

Ancient Woodland and Veteran Trees

WEL broadly welcomed the powers in Part 4 saying they "could be helpful" for ancient woodland conservation but had some concerns about implementation: "It is not clear whether or how NRW will use the proposed new powers to achieve this, or that recording and reporting mechanisms will reveal the impact on ancient woodland condition".

The Woodland Trust recognised the importance of the powers in relation to ancient woodland conservation, noting that strengthening protections for ancient woodlands is a commitment in the updated **Programme for Government 2021**, but with no provision currently in law.

Committee view

The Committee supported the forestry provisions but recommended the Welsh Government, NRW and the forestry sector should continue to work together on guidance and mutual understanding around the new powers. It said the Welsh Government and NRW should work at pace to identify the data needed to assess the new provisions' effectiveness.

The Committee recommended the Minister should set out how she sees the other woodland management issues raised during Stage 1 scrutiny (not included in the Bill) being addressed, including greater protections for ancient woodland and veteran trees.

Wildlife (Part 5)

Snares

The Game and Wildlife Conservation Trust (GWCT) argued 'Humane Cable Restraints' (HRCs) (also known as 'code-compliant snares') are both humane and selective when used according to the **Welsh Government's Code of best practice on the use of snares in fox control**.

Animal welfare groups didn't agree, and believe a complete ban on snares is proportionate "given the suffering snares cause to animals".

The GWCT argued banning this method of fox control could endanger priority species under section 7 of the Environment (Wales) Act 2016 (e.g. the curlew). It stated the ban would breach the Environment Act duty for Welsh Ministers to take all reasonable steps to maintain and enhance these species. GWCT proposed that 'HRCs' become licensed. Meanwhile welfare groups highlighted that snares catch section 7 species, and by not banning them the Welsh Ministers could breach their duty.

On 16 November the Minister said "we prefer to see a holistic approach to protecting animals—nesters, for instance—and that permitted means of killing is used only as a last resort."

Several animal welfare groups and the BVA called for the snare ban to be extended to manufacture, possession and sale (in addition to use).

The Minister told the Committee there are many “unsophisticated snares” composed of materials that could be used for different purposes, creating enforcement difficulties for banning the sale.

Committee view

A clear majority of the Committee supported the provisions to prohibit use of snares, although there was support from two Members for the Minister to give further consideration to a highly-regulated licensing system.

Glue traps

The two major UK pest control trade bodies, the British Pest Control Association (BPCA) and the National Pest Technicians Association (NPTA) argued glue traps should be reserved for professional use in significantly high-risk situations where there is a threat to public health and where speed is a priority (e.g. hospitals). They said if a licensing scheme is used, it mustn't slow down rapid action.

The National Pest Technician's Association highlighted limitations of alternative methods e.g. that house mice are avoiding rodent bait stations (behavioural resistance) and rodenticides are coming under scrutiny due to environmental contamination.

The UK Glue Traps (Offences) Act 2022 will ban the use of glue traps in England, except in exceptional circumstances. It provides that glue trap licences may only be issued to professional pest controllers where there is no suitable alternative to preserve public health or safety

Animal welfare bodies have said there are no circumstances where glue traps are the only viable method. They want a ban on the sale as well as use of glue traps highlighting the inhumane nature of the traps.

On 16 November, Members were told local authorities did not use them, and neither they nor pest control services had raised any concerns about a ban. The Minister also told Members that DEFRA had had “some real issues” with developing a licensing regime for England, and a complete ban was the right approach for Wales.

Committee view

The Committee supports the provisions in Part 5 of the Bill to prohibit use of glue traps.

General (Part 6)

Definition of ‘agriculture’

Section 48 defines ‘agriculture’ for the purposes of the Bill.

There were strong views on the appropriateness of the ‘agriculture’ definition being amendable by subordinate legislation under section 50. There was concern the entire scope of this framework Bill could be changed by future Welsh Ministers by subordinate legislation. NFU Cymru said there should be a duty to consult on section 50.

The Minister justified the provision in section 50 to allow for innovation. She told the Committee: “It’s really important, because this Bill is going to be here for, hopefully, at least two decades, that you futureproof the Bill”.

Committee view

The Committee felt the ability to amend the definition of ‘agriculture’ by regulation raises concerns about future scope, and the role of stakeholders and the Senedd in scrutinising the actions of future Welsh Ministers. It urged the Minister to consider how these concerns can be allayed, including by considering NFU Cymru’s proposal for a duty to consult.

4. Other Senedd committees' analysis

The Legislation, Constitution and Justice Committee's considered the Bill in accordance with **its remit**. Its **report** raises several significant issues. It describes the Bill as an 'enabling Bill' with disappointment on the lack of detail on the face of the Bill and the extensive use of delegated powers.

The Finance Committee considered the financial implications of the Bill. **Its report** concludes that although the Committee is broadly content with the financial implications of the Bill, it has "significant concerns" regarding the lack of available financial information contained in the RIA relating to the future agricultural scheme. It highlights the RIA also contains a number of unquantified costs and fails to quantify some of the benefits of the Bill.

5. Next steps

The Senedd will debate the general principles of the Bill (the Stage 1 debate) on 7 February 2023.

Should the Senedd agree the general principles, the Bill will proceed to Stage 2 where the Committee moves and votes on amendments. The Business Committee's timetable for the Bill sets a deadline of 21 April 2023 for Stage 2 to be completed.

The Bill will then be subject to further amendment by all Members of the Senedd in Plenary (Stage 3) before a final Plenary vote on whether to pass the legislation (Stage 4).