

# Report on the Legislative Consent Memorandum for the Direct Payments to Farmers (Legislative Continuity) Bill

January 2020

## Introduction

1. On 14 January 2020, the Minister for Environment, Energy and Rural Affairs laid a Legislative Consent Memorandum for the Direct Payments to Farmers (Legislative Continuity) Bill (the LCM) currently before Parliament.
2. On the same day, the Business Committee referred the LCM to this Committee, and to the Constitutional and Legislative Affairs Committee, for consideration, with a reporting deadline of 21 January 2020.
3. The Climate Change, Environment and Rural Affairs Committee (the Committee) considered the LCM at its meeting of 16 January 2020.
4. A Legislative Consent Motion seeking the Assembly's consent to the Bill's provisions has been scheduled for debate in Plenary on 22 January 2020.

## Background

5. Under the terms of the Withdrawal Agreement the EU Direct Payments legislation will not apply in the UK for the 2020 claim year. The Withdrawal Agreement comes into force after the UK leaves the EU on 31 January. Legislation will be needed before then in order for the UK nations to continue making direct payments to farmers in 2020.



## Overview of the Bill

**6.** The Direct Payments to Farmers (Legislative Continuity) Bill (the Bill) was introduced in the House of Commons on 9 January 2020.

**7.** The Bill will provide the legal basis to continue paying direct payments to farmers by ensuring that the direct payments scheme continues in each part of the UK for claim year 2020. The Bill also:

- contains powers for the UK and Welsh governments to make further regulations to modify retained EU law, either to make corrections so that it works in UK law or to replicate developments in EU law during 2020. These powers expire after 31 December 2020. Regulations made by UK Ministers which apply to Wales will require the Assembly's consent;
- enables the UK Government to increase the total amounts/financial ceilings for direct payments, to provide a greater share of farm support to Wales, as recommended by the Bew Review; and
- applies the EU's state aid exemption to the UK's 2020 direct payments, if they are equivalent to the EU's scheme.

## Provisions for which consent is sought

**8.** Consent is being sought for all of the Bill's provisions (Clauses 1 to 9, and Schedule 1 and 2) as they all fall within, or modify, the Assembly's legislative competence.

**9.** A detailed explanation of the Bill's provisions can be found in paragraphs 8 to 81 of the LCM.

## Reasons for making these provisions for Wales in a UK Bill

**10.** In setting out the Welsh Government's reasons for using the Bill to legislate in relation to Wales, the LCM states:

"Taking powers under the UK Bill will provide a practical and pragmatic solution to the absence of legal powers needed to continue making direct payments to Welsh farmers in the 2020 scheme year.

By adopting a UK wide-approach we anticipate that we would be able to re-apply, and make operable, much of the drafting already in place for the Day 1 corrective legislation for the Direct Payments Regulation

for the 2020 scheme year. Therefore rendering the process smoother, quicker and clear for farmers and stakeholders.”

**11.** It also states:

“It is the view of the Welsh Government that given the urgency of the issue resulting from the absence of legal powers needed to continue making Direct Payments to Welsh farmers in the 2020 scheme year, it would be appropriate to deal with these provisions in this UK Bill.”

## Our view

**12.** Given the limited time available within which we have had to consider and report on the LCM, it has not been possible to look in detail at the proposals.

**13.** The Committee has taken a keen interest in the future of agricultural support following the UK’s departure from the EU. In our [reports on the Legislative Consent Memoranda in relation to the UK Agriculture Bill](#) (introduced in the previous Parliamentary session), we emphasised the need to ensure the continuation of direct payments to Welsh farmers in the immediate post-Brexit period. The Direct Payments to Farmers (Legislative Continuity) Bill puts in place the necessary legislative mechanisms to provide for this.

**14.** With the Brexit deadline a matter of days away, we are content that including provisions in the Bill is necessary and a pragmatic solution.

**15.** The Committee notes the Welsh Government’s reasons for making the provisions for Wales in the Bill. It found no reason to object to the Assembly agreeing the Legislative Consent Motion associated with the LCM.