

Report on the Legislative Consent Memorandum in relation to the UK Agriculture Bill 2019-21

May 2020

Overall recommendation

We recommend to the Senedd that it gives consent to the provisions in the UK Agriculture Bill 2019-21, subject to it being satisfied by the Minister's response to each of the recommendations in this report.

1. Introduction

Our approach

1. On 12 February 2020, Lesley Griffiths MS, Minister for Environment, Energy and Rural Affairs ('the Minister'), laid before the Senedd a Legislative Consent Memorandum (LCM) in relation to the UK Government's Agriculture Bill 2019-21.
2. On 25 February 2020, the Business Committee referred the LCM to the Climate Change, Environment and Rural Affairs Committee (the Committee) and the Legislation, Justice and Constitution Committee and set a reporting deadline of 24 April 2020.
3. Because of the time available for the Committee to consider the LCM, we undertook a limited public consultation on the proposals. We took evidence from academics and representatives from the agricultural sector. Further information about contributors is included at Annex A.



4. Due to the Covid-19 pandemic and the subsequent cancellation of Senedd Committee meetings, we were unable to take evidence from the Minister. The Business Committee agreed to extend the reporting deadline to 14 May 2020.

Legislative and policy background

5. This Bill is similar in many respects to a previous UK Agriculture Bill, the Agriculture Bill 2017-19, which was introduced into the UK Parliament on 12 September 2018. As a result of the general election in December 2019, that Bill made no further progress. This Committee has considered LCMs in relation to the previous version of the Bill. Its first report was published in January 2019. The Committee reported on a supplementary LCM in June 2019.

This report focuses on the aspects of the UK Agriculture 2019-21 Bill that are either new, or where concerns raised with the Committee remain unresolved.

2. The UK Agriculture Bill and the Legislative Consent Memorandum (LCM)

6. The UK Government introduced the Agriculture Bill 2019-21 to the UK Parliament on 16 January 2020. The Minister issued a written statement to Members of the Senedd on the same day.

7. The 2019-21 Bill includes provisions to enable the continuation of Direct Payments to farmers in Wales after 2020 and further powers to “simplify and improve” the Direct Payments system. These are transitional powers, with a sunset clause of 31 December 2024. The Minister has said that an Agriculture (Wales) Bill will be brought forward in the Sixth Senedd.

8. The Senedd’s consent has been sought for several of the Bill’s clauses. The LCM states that the Welsh Government is of the view that:

“it is appropriate to utilise this UK Bill as a vehicle to enable the Welsh Government to continue providing financial support to farmers in Wales after 2020, and to ensure the effective operation of agricultural markets in Wales and across the UK following the UK’s departure from the EU. Certain time-limited powers provided for by this Bill will be used until an Agriculture (Wales) Bill is introduced in the Assembly.”

The Agriculture Bill 2017-19

- 9.** The 2017-19 Bill aimed to provide the legal framework for leaving the CAP. Schedule 3 of that Bill applied specifically to Wales and set out broad powers for Welsh Ministers to continue making payments to farmers and land managers after Brexit, to make changes to current schemes, to phase out the CAP schemes (over a seven-year transition period) and implement replacement schemes.
- 10.** The most significant difference between the 2017-19 Bill and the 2019-21 Bill in relation to Wales is that the provisions for Welsh Ministers to introduce new agricultural schemes have been removed from the latter.

3. Food and agricultural markets (Part 2)

Food security

- 11.** Clause 17 of the Bill places a duty on the Secretary of State to lay a report before the UK Parliament on UK food security at least once every five years. The provisions specify five areas, “among other things”, the report “may” include:
- global food availability;
 - supply sources for food;
 - the resilience of the supply chain for food;
 - household expenditure on food; and
 - food safety and consumer confidence in food.
- 12.** The explanatory notes state that the report:
- “... will provide a broad understanding of what food security is, the challenges and risks to UK food security in a global context, and our current assessment of the state of our food security to inform our policy thinking on the resilience and security of food supply.”

Evidence from contributors

- 13.** Farmers’ Union of Wales (FUW), NFU Cymru and Tenant Farmers Association (TFA) Cymru welcomed the inclusion of food security in the Bill. However, they expressed concern about the frequency of the reporting requirement. The FUW said a five-year reporting cycle would not “sufficiently reflect the food security risk

to the UK". The Welsh Organic Forum said five years might be too long "particularly through a transition period that could prove to be challenging." Contributors believed there should be an annual or, at least biannual, reporting requirement.

14. CLA Cymru welcomed the inclusion of these reporting provisions, but emphasised that the Welsh Government should be:

"included in the methodology planning for the report so that Welsh (and other Devolved Administrations) are able to extrapolate their own data to inform future policy making in the individual jurisdictions that constitute the UK."

15. The Welsh Organic Forum and NFU Cymru said that the lack of an obligation on Ministers to take action in response to the findings of the report on food security was a deficiency.

16. TFA Cymru suggested that the Bill should include requirements for the UK Government to specify food security targets, in consultation with the devolved administrations and to report on whether they were being met.

Our view

We welcome the inclusion of food security in the Bill. This issue is of relevance during the current Covid-19 pandemic. Considering this, we believe that the Bill must now go further if it is to be fit for purpose and protect Welsh and UK citizens.

Firstly, we agree with stakeholders that the needs of Wales must be reflected in the methodology for assessing the UK's food security. We also believe this process should be informed by consultation with stakeholders, where possible. We would be grateful to hear the Minister's views on this matter and invite her to provide detail on how this can be achieved.

Second, we agree with stakeholders that the reporting frequency is inadequate. The report must be prepared on an annual or biannual basis. Further, we would welcome the Minister's views on whether it would be desirable and feasible to prepare a report focused on food security in Wales and whether this could be done annually.

Third, the Bill should be amended to require the UK and Welsh Governments to publish a response and to take action, as appropriate, in response to the report. If an amendment to give effect to this is not forthcoming or agreed, we would

be grateful if the Minister would give a commitment that she would publish a response addressing any matters that relate to Wales.

Finally, the Welsh Government must ensure that there is a mechanism for the Senedd to consider and debate the UK food security report as it applies to Wales.

Recommendation 1. The Welsh perspective must be reflected in the methodology for assessing the UK's food security. The Welsh Government should clarify how it will contribute to the development of the food security report and how the views of food producers and stakeholders will be reflected.

Recommendation 2. The reporting frequency on food security matters set out in the Bill is inadequate. The report must be prepared and published annually or biannually.

Recommendation 3. The Minister should clarify whether she believes it would be desirable to prepare an annual report focused on food security in Wales to inform the development of food policy.

Recommendation 4. The Bill should be amended to require the UK and Welsh Governments to publish a response to, and take appropriate action in respect of, the food security report proposed in the Bill. If an amendment to give effect to this is not forthcoming or agreed, the Minister should give a commitment that she will publish a response to any matter in the report that relates to Wales and devolved policy areas. The Minister should ensure that the Senedd has sufficient opportunity to consider the food security report and response and must ensure that a debate in the Senedd Chamber takes place.

4. Transparency and fairness in the agri-food supply chain (Part 3)

Fair dealing with agricultural producers and others in the supply chain

17. Clause 27 gives the Secretary of State powers to impose, by regulations, obligations on “business purchasers of agricultural products in relation to contracts they make for the purchase of agricultural products from qualifying sellers”. Obligations might include a requirement to use a written contract or to include specific terms in a contract, for example on premiums or deductions.

18. The explanatory notes state that this is aimed at addressing “unfair trading practices” in agri-food supply chains. These, it says, arise because of the disparity between primary agricultural producers which “tend to be small, individual businesses operating without strong links between them” compared to other actors further up the supply chain, who are “typically highly consolidated businesses that command substantial shares of the relevant market”.

Evidence from contributors

19. TFA Cymru welcomed the provisions relating to the collection of data as they could form the basis for a “more informed negotiation between farmers, processors, retailers and food service outlets”. The FUW also welcomed the provisions in principle but emphasised they should be proportionate and not disadvantage food producers in Wales. It warned that a cohesive approach would be necessary across the UK, given that supply chains extend across the UK, the EU and beyond.

20. NFU Cymru welcomed the provisions but cautioned that the powers set out in the clauses were discretionary and, as such:

“their effectiveness or otherwise, in addressing issues in the supply chain will depend in large part on the drafting, operation and enforcement of the secondary legislation.”

21. TFA Cymru expressed concern that the UK Government was not seeking to achieve a similar outcome by expanding the role of the Groceries Code Adjudicator¹. This was echoed by the FUW, which said that

“While Section 27 gives the Secretary of State welcome powers to impose written contracts or specific contract terms, the Bill might also be amended to extend the powers of the Groceries Adjudicator to cover all major operators along the whole supply chain.”

¹ The Groceries Code Adjudicator was established in 2013 to enforce the Groceries Supply Code of Practice between grocery retailers and their direct suppliers. However, most farmers do not supply supermarkets directly. They are therefore not covered by the Groceries Code Adjudicator and since it has been established there have been calls from farming unions to address fairness in this part of the supply chain in some way.

Our view

We note that stakeholders have welcomed these provisions in principle but that the detail of how the provisions operate in practice will be set out in secondary legislation.

Contributors told us about the potential impact of the provisions on food producers in Wales. The Minister should clarify what assessment she has made of this. In particular, whether businesses which do not reach a certain threshold of turnover should be exempt from certain requirements in relation to data collection.

Stakeholders were concerned that the Bill provides that regulations can be made, rather than requiring them to be made. We would be grateful if the Minister could set out how she envisages this power will be used in relation to Wales.

The Minister should set out her views on the potential for extending the powers of the Grocery Code Adjudicator in relation to this matter and whether any discussions have taken place with the UK Government.

Recommendation 5. The Minister should clarify what assessment she has made of the impact of the provisions on fair dealing on food producers in Wales. The Minister should also clarify whether she has considered that businesses which do not reach a certain threshold of turnover should be exempt from certain requirements in relation to data collection.

Recommendation 6. The Minister should explain whether she is content that the fair dealing provisions are included in the Bill as an enabling power rather than a duty.

Recommendation 7. The Minister should respond to the points made by stakeholders about the potential for extending the powers of the Grocery Code Adjudicator in relation to fair dealing with agricultural producers.

5. Matters relating to farming and the countryside (Part 4)

Identification and traceability of animals

22. Clause 32 amends the Natural Environment and Rural Communities Act 2006 ('the 2006 Act') to enable the Agriculture and Horticulture Development Board (AHDB) to manage a new multi-species livestock information, identification and tracking service, to be known as the Livestock Information System (LIS).

23. Clause 32 also adds a new section to the 2006 Act which allows "a board established under that Act" to be given functions relating to the collection, management and availability of information regarding animal health, movement and identification. The Delegated Powers Memorandum states that "the AHDB is ideally placed to be able to deliver the programme and the new service", but also notes that assigning the functions in this way also means that they could be assigned to any new board established under the Act without the need for further primary legislation.

The red meat levy

24. Clause 33, relating to the red meat levy, enables the Secretary of State, the Welsh Ministers and the Scottish Ministers (as appropriate) to jointly establish a scheme that requires levy boards within Great Britain to redistribute levy between themselves.

25. The red meat levy is a fee paid by all producers or slaughterers at the point of slaughter (or live export). The levy is paid to the relevant levy board in each country to be used for marketing and promotion of that country's meat products. The country of slaughter dictates which country's levy will be paid. In Wales, the levy is paid to Hybu Cig Cymru (HCC) (Meat Promotion Wales), which is mainly funded through the levy.

Evidence from contributors

26. Contributors welcomed in principle the provisions concerning the identification and traceability of animals in principle. However, several pointed out that there is a considerable amount of animal movement between Wales and England. Consequently, solutions will need to be co-designed and agreed by DEFRA and the Welsh Government. The new UK-wide Livestock Information

System will also need to be compatible with the Welsh Government's livestock identification system, EIDCymru.

27. Contributors also expressed concern that the AHDB, which has been identified as the body to develop the new Livestock Information System, is in no way accountable to the Welsh Government. FUW emphasised that AHDB is "effectively an English board" and that it would have the power not only to collect data but also to decide policy in the area of animal health, traceability and identification.

28. There was unanimous support from contributors for the provisions in relation to the red meat levy.

Our view

We share the concerns expressed by stakeholders about the lack of accountability of AHDB to the Welsh Government. It is not acceptable that a UK body, operating in a devolved policy area, is not accountable to the Welsh Government for those aspects of its work.

We believe that accountability is key to ensuring that farmers have confidence in any new system. The Minister should clarify how she intends to address this accountability gap, whether it is by an amendment to the UK Bill or by any other means.

We agree with stakeholders that the new Livestock Identification System must be compatible with the Welsh Government's EIDCymru system. The Minister should provide an update on the latest developments in this regard and provide reassurance that these matters are being considered as a matter of course.

The provisions relating to the red meat levy have been carried forward from the 2017-19 Bill. We welcome the inclusion of these provisions as an opportunity to address a historical unfairness.

In response to our previous report, the Minister said that she did "not intend to use the reform of the Red Meat Levy system to change the way in which Hybu Cig Cymru's operations are funded by Welsh Government." We seek a further assurance from the Minister that the additional new funding from the red meat levy will not be used in place of existing funding.

Recommendation 8. The Minister should set out, and give reasons for, her position on the appropriateness of the Agriculture and Horticulture

Development Board being the body identified to lead on the new Livestock Information System. In particular, the Minister should explain in detail how the problems in relation to the lack of accountability of that Board to the Welsh Government will be addressed.

Recommendation 9. The Minister should provide an update on her understanding of how the new Livestock Identification System will interact with EIDCymru and the work she is doing to ensure that the two systems are compatible.

Recommendation 10. The Minister should give a commitment that any new funding arising from the red meat levy will be used to supplement, rather than replace, Welsh Government funding for Hybu Cig Cymru.

6. Marketing standards, organic products and carcass classification (Part 5)

Organic products

29. Clause 36 gives the Secretary of State and, where applicable, devolved Ministers, powers to make new provisions or amend existing provisions regarding organic certification, the import and export of organic products and the enforcement of organic regulation. This is a new section added for the 2019-21 Bill.

30. The Delegated Powers Memorandum explains that current organic product regulations become retained EU law at the end of the implementation period on 31 December 2020. However, there are only limited powers to amend them. This could restrict the ability to amend rules, for example, to reflect UK environmental standards or any future trade agreements.

Evidence from contributors

31. Representatives of the organic sector told the Committee they had not been consulted during the development of the Bill. They noted, however, that much of the detail of the provisions will be contained in secondary legislation. They expected to be consulted at that stage.

32. Representatives of the organic sector were also concerned about maintaining future equivalence or compliance with new EU organic regulations after the end of the transition period on 31 December 2020. New EU regulations are due to come into force on 1 January 2021 and it is unclear how future UK

regulations will interact with these regulations. The Welsh Organic Forum noted that:

“New EU organic regulation (848/2018) requires that third countries are compliant with E.U Regulation via a trade agreement. Historically equivalence was acceptable.”

33. Contributors said their preferred outcome would be a comprehensive trade agreement between the UK and the EU that included an agreement on equivalence for organic regulations.

34. Several contributors were also concerned about the status of organics in any future trade deal with other countries, including the USA. They expressed concern that imported products may be labelled as organic but subject to different and, in some cases, less stringent standards than in the UK.

35. Representatives of the organic sector told the Committee that divergence in standards and requirements for organics across the countries of the UK could add complexity for producers in the UK and risk distorting the internal market.

Our view

We note the comments from stakeholders about the lack of consultation on the provisions in the Bill. We would be grateful for clarification from the Minister of the extent to which the Welsh Government was involved in developing the provisions on organics in the Bill and how they reflect her aspirations for the sector in Wales.

We note the concerns expressed by several stakeholders about the impact of future EU organic regulations and whether an agreement on equivalence can be reached. The Minister should clarify her position on this matter and provide an update on how this is being reflected in discussions with the UK Government.

Ensuring that current organic standards are not undermined by future trade deals was another matter stakeholders wished to raise with us and we share their concern. The Minister should explain how she will seek to ensure that organic standards are maintained and whether the Bill, in her view, gives enough protection in this regard.

Further, we note the comments from stakeholders about the potential impact on the internal UK market of divergence in organic standards. The Minister should clarify her position on this matter and set out how she believes a

cohesive approach can be developed. One which respects the rights of the constituent parts of the UK to develop policies in areas where they have competence while maintaining the integrity of the internal UK market.

Finally, we understand that a four-nation UK organic group has been established. We would be grateful for further information about this group, including its purpose and membership.

Recommendation 11. The Minister should set out the extent to which the Welsh Government was involved in developing the provisions on organics in the Bill and how they reflect her aspirations for the sector in Wales.

Recommendation 12. The Minister should set out her position on future equivalence or compliance with EU organic regulations and provide an update on how this is being reflected in discussions with the UK Government.

Recommendation 13. The Minister should explain how she will seek to ensure that current Welsh organic standards are not undermined by future trade deals. The Minister should set out whether the Bill gives enough protection in this regard.

Recommendation 14. The Minister should set out whether she believes that common organic standards should be maintained across the UK.

Recommendation 15. The Minister should provide further information about the Welsh Government's involvement in the four-nations organic group, including its purpose and membership. This should include an update on its work to date.

Recommendation 16. The Minister should clarify whether she believes the Bill needs to be amended to include safeguards to ensure that market standards in Wales are not undercut by imports in any future trade arrangements. Further, the Minister should provide an update on any discussions she has had with the UK Government on this matter.

7. World Trade Organisation Agreement on Agriculture (Part 6)

36. Part 6 relates to World Trade Organisation (WTO) Agreement on Agriculture (AoA) compliance. It gives powers to the Secretary of State to conclusively determine the classification of financial support across the UK; set limits of

spending for the whole of the UK; set individual ceilings of support across the devolved administrations; and create different ceilings across the devolved administrations.

37. The UK Government considers these provisions to be reserved matters and, as such, do not require the Senedd's consent. The Welsh Government disagrees and its LCM for the 2019-2120 Bill states:

“It is the Welsh Government's view that these provisions require consent because they make provision with regard to agriculture and concern the domestic implementation of international obligations.”

38. During the passage of the 2017-2019 Bill, the Welsh and UK Governments agreed on a governance mechanism for use of the Secretary of State's powers contained in the WTO clause, “so that the interests of all parts of the UK are fully taken into account”. This governance mechanism was codified in The UK and Welsh Government Bilateral Agreement on WTO provisions within the Agriculture Bill, March 2019, (‘the Bilateral Agreement’).

39. The Welsh Government's LCM for the 2019-21 Bill says the Bilateral Agreement will:

“require the UK Government to consult the devolved administrations before bringing forward regulations under this power.”

Evidence from contributors

40. Most contributors said they still had significant reservations about the provisions in the Bill. For NFU Cymru, the Bill meant that the Secretary of State could introduce “artificial constraints” on agricultural spending in Wales and therefore “constrain” Welsh policy choices.

41. FUW highlighted that there is no requirement to set minimum spending under the WTO boxes. This could result in divergence across the UK in allocations for agriculture, causing market imbalances. It believed this should be addressed by amending the Bill to “allow regulations to be introduced, following consultation and agreement between the four UK nations, which specify both minimum and maximum spending thresholds in relation to specific policy areas”.

Our view

In our first report, we referred to stakeholders' concerns about the implications of the WTO clause and its potential to restrict the Welsh Government in

devolved areas. We said this should be addressed either by an amendment to the UK Bill or, at the very least, a formal, published agreement between the UK and Welsh Governments.

Shortly after, a Bilateral Agreement was agreed by the UK and Welsh Governments. However, we were not convinced then that the Agreement was sufficiently robust to ensure that Wales' interests are properly considered or safeguarded. We have been presented with no information to change our minds.

It remains the case that the Secretary of State will have the final say on the draft regulations, and ultimately, the decision to approve the regulations will rest with the UK Parliament. We continue to believe this is inappropriate, given the potential for these provisions to restrict the Welsh Government in a key area of devolved competence.

Recommendation 17. The Minister should provide an update on any discussions she has had with the Secretary of State about amending the clauses in relation to the World Trade Organisation Agreement on Agriculture to strengthen the bilateral agreement.

Recommendation 18. The Minister should provide an update on discussions she has had with UK Government counterparts about amending or strengthening the bilateral agreement.

8. Agricultural tenancies (Schedule 3)

42. Schedule 3 provides for agricultural tenancies. Agricultural tenancies were not included in the 2017-19 Bill but were the subject of a Welsh Government consultation between April and July 2019. The Welsh Government has yet to respond publicly to the consultation.

43. In his legislative statement on 16 July 2019, the First Minister said a Welsh Agriculture Bill, to be introduced in the Sixth Senedd, would “look at wider issues such as the rights of tenant farmers”.

44. There are two main types of agricultural tenancy:

- 1986 Act Tenancies governed by the Agricultural Holdings Act 1986 (those agreed before 1 September 1995); and

- Farm Business Tenancies governed by the Agricultural Tenancies Act 1995 (those agreed after 1 September 1995).

45. The Agricultural Holdings Act 1986 ('the 1986 Act') was introduced to provide more security to tenant farmers. Generally, tenancies granted under the 1986 Act have lifetime security of tenure and those granted before 12 July 1984 also carry statutory succession rights, on death or retirement.

46. The Agricultural Tenancies Act 1995 ('the 1995 Act') was introduced to provide a simpler, more flexible framework to encourage more agricultural lettings. Farm Business Tenancies provide a flexible framework, can vary in length, and do not have statutory succession rights.

47. The Welsh Government consultation document states that the number of 1986 Act tenancies is in natural decline and on current trends will cease to be a significant part of the tenanted sector by around 2050. Most land from ending 1986 Act tenancies is re-let as a Farm Business Tenancy.

48. Most of the tenancy provisions in this Bill relate to the 1986 Act.

Evidence from contributors

49. Contributors broadly welcome the provisions aimed at reforming agricultural tenancies. TFA Cymru said it supported "all of the changes being made" but felt that there was a need for certain aspects to be improved. TFA Cymru set out numerous proposals in its written submission for amendments to be made to the UK Bill.

50. TFA Cymru noted that the Welsh Government had consulted on broad proposals for tenancy reform but only some had been brought forward in the UK Bill. There was concern amongst contributors that the Welsh Government had not published its response to the consultation and, as a result, its broader intentions for tenancy reform were unclear.

51. FUW told the Committee there is scope for a separate Welsh Bill to deal with agricultural tenancies. CLA Cymru agreed, adding that the breadth of current Bill meant that a necessary in-depth discussion around tenancies was unlikely to happen.

52. NFU Cymru noted that it remains to be seen how the changes in the Bill would interact with the Welsh Government's proposed post-Brexit Sustainable Farming Scheme, which has an emphasis on delivering public goods. It explained:

“The tenanted sector is important to Welsh agriculture, and we do not want the Welsh Government to move forward with the implementation of new policies to replace the CAP, until the impacts on the tenanted sector are properly understood, and until it can guarantee full and equal access to future support to farmers who do not own the land they farm.”

53. Contributors emphasised that it can often be difficult for tenant farmers to obtain the landlord's consent for undertaking certain works or activities on-farm, which prevents them from taking part in public goods schemes. This is because of the inherent conflict between the effects of such schemes and landlords' requirements to keep land in good agricultural condition.

54. TFA Cymru noted that the provisions which will allow a tenant to object to a refusal from the landlord for consent to enter into a scheme introduced under the financial assistance provisions of the Bill or to carry out works in accordance with a statutory obligation will only apply to tenancies regulated by the Agricultural Holdings Act 1986. It was concerned that these provisions will not extend to tenancies regulated by the Agricultural Tenancies Act 1995.

Our view

We are pleased that an attempt has been made to address some of the issues around agricultural tenancies. This was missing from the 2017-19 version of the Bill. However, the provisions give rise to several new questions which the Welsh Government needs to address.

We note the comments from stakeholders that the Bill includes some of the issues that were subject to the Welsh Government's consultation that ended in July 2019. We agree that the Welsh Government should publish its response to that consultation, so that stakeholders can better understand its priorities in this policy area.

Further to this, there is an apparent lack of clarity about the Welsh Government's intentions in relation to agricultural tenancies. The First Minister has confirmed that this issue will be covered in a future Welsh Agriculture Bill, to be introduced in the next Senedd. However, stakeholders told us that agricultural tenancies may require a specific Bill, such is the complexity of the issues and the risk that they will not receive an appropriate amount of scrutiny if they are included in a Bill covering agriculture more widely. The Minister should respond to this point.

The Minister should also explain why certain aspects of tenancy reform have been prioritised over others for inclusion in the UK Bill.

Finally, we would be grateful if the Minister would explain the rationale for the provisions in the UK Bill applying to 1986 Act holdings and not 1995 Act holdings. It would be helpful to understand the Minister's views on whether the provisions should be extended to cover 1995 Act holdings.

Recommendation 19. The Minister should publish the response to the Welsh Government's consultation on agricultural tenancies, which ended in July 2019.

Recommendation 20. The Minister should respond to the view expressed by stakeholders that agricultural tenancies requires its own Senedd Bill in future.

Recommendation 21. The Minister should explain why certain aspects of tenancy reform have been prioritised over others for inclusion in the UK Bill.

Recommendation 22. The Minister should explain the rationale for the provisions in the UK Bill applying to 1986 Act holdings and not 1995 Act holdings. The Minister should set out her views on whether the provisions should be extended to cover 1995 Act holdings.

9. Provisions relating to Wales (Schedule 5)

Part 1 – Financial support after EU exit

55. Part 1, Schedule 5 provides for the Welsh Ministers to continue Direct Payments in Wales under the Basic Payment Scheme after 2020. These powers will cease at the end of 2024.

Evidence from contributors

56. Contributors generally welcomed the powers for Welsh Ministers to make changes to the Basic Payment Scheme. Several emphasised the need to exercise caution before moving away from this system of support to any proposed successor schemes.

Part 2 - Intervention in agricultural markets

57. Part 2 of Schedule 5 allows the Welsh Ministers to:

- make a declaration if they consider there are “exceptional market conditions”;

- intervene in agricultural markets if they consider there are exceptional market conditions, which warrant financial assistance or intervention; and
- modify powers under retained EU legislation which provide for the operation of public intervention and aid for private storage mechanisms, in response to exceptional market conditions.

58. “Exceptional market conditions” exist where there is (or is a threat of) a severe disturbance in agricultural markets, which has, or is likely to have, a significant adverse effect on agricultural producers in Wales in terms of the prices available for their product.

Evidence from contributors

59. TFA Cymru reiterated its view that environmental phenomena, such as flooding, should warrant the exercise of the Welsh Ministers’ powers to intervene in markets. This is not explicitly provided for in the definition of “exceptional market conditions” in the Bill.

60. FUW expressed concern that respective governments in England and Wales may take a different view about what would constitute exceptional market conditions and, consequently, whether intervention was necessary. This could potentially distort the internal UK market. FUW suggested this could be mitigated by adding a requirement to the Bill for Welsh Ministers and UK Government departments to work together in such circumstances.

61. TFA Cymru suggested that assurances should be sought from the Welsh Government that the provisions would apply not only to “acute” difficulties causing exceptional market conditions, but also “chronic” or long term problems, such as “endemic disease or structural changes in agricultural markets which may require farmers to undergo significant adjustment”.

Part 3 – Collection and sharing of data

62. Part 3 of Schedule 5 enables the Welsh Ministers to introduce new requirements for those in the agri-food supply chain to provide information in relation to the supply chain. It sets out who may be covered and the purposes for which information may be processed. The specified purposes include: to help farmers and producers increase productivity; to help producers to manage risk and market volatility; and to support animal and plant health and traceability.

63. The Bill places a duty on Welsh Ministers to publish, in draft, details of the information that will need to be provided.

Evidence from contributors

64. The FUW cautioned that divergence in data collection and sharing requirements in different parts of the UK could potentially lead to distortion of the UK internal market by placing additional burdens on some producers. It suggested that Welsh Ministers would need to “work closely with other administrations to ensure relative uniformity”.

Our view

In our report on the LCM for the 2017-19 Bill, we supported the provisions relating to intervention in agricultural markets in principle. However, we were concerned then that it was unclear how these extensive executive powers were intended to be used by the Welsh Government. We asked the Minister to provide examples of how the provisions might be used. We are yet to receive this clarification.

We also stated that we expected the exercise of these powers to be covered by a common framework for agriculture. The Minister accepted this recommendation. We would be grateful for an update on progress.

We note that representatives of the agricultural sector are broadly supportive of the powers for the collection and sharing of data as a means of improving transparency within the supply chain. These powers were also a feature of the 2017-19 Bill. Then, as for the 2019-21 Bill, stakeholders were concerned that powers were discretionary and, as such, there was no obligation on the Welsh Ministers to continue doing what is required under EU regulation. We called for further clarification from the Welsh Government about how the powers would be used. No examples have been provided to date.

We re-emphasise the concerns raised in our previous report about the practical implications for smaller farms of meeting requirements to provide information. Future requirements must not be overly burdensome for these farmers.

Stakeholders have called for the Bill to include safeguards to ensure that food standards are not undercut by imports in any future trade arrangements. We note that the Bill includes no such provision. We would be grateful for an update from the Welsh Government on any discussions that have taken place with the UK Government on this matter.

In our previous report, we emphasised the need for cooperation and agreement between the UK nations on animal health standards through an intergovernmental mechanism. We would be grateful for an update from the Minister on the progress of developing UK common frameworks in this area.

Recommendation 23. The Committee has called for the establishment of an inter-governmental mechanism to secure a long-term agreement for funding of agriculture across the UK. The Minister should provide an update on discussions with the other UK governments about this matter.

Recommendation 24. The Minister should give a commitment that she will provide the Committee with secondary legislation arising from this UK Bill in draft and provide enough time for scrutiny in the Senedd.

Recommendation 25. The Minister should set out the circumstances where she envisages the powers in relation to intervention in agricultural markets would be exercised. Further, the Minister should set out what mechanisms are in place to ensure that Welsh and UK Governments work together in such circumstances. The Minister should also set out whether the provisions will apply not only to short-term, but also to longer-term problems affecting agricultural markets.

Recommendation 26. The Minister should provide an update on progress of developing UK common frameworks in relation to animal health standards.

Recommendation 27. The LCM states that there are outstanding concerns regarding the provisions in the Bill for the identification and traceability of animals, agricultural tenancies, and the regulation of organic products. The Minister should set out in detail what those concerns are and provide an update on progress in resolving them.

Recommendation 28. The Minister should explain how she intends to use the broad powers provided to Welsh Ministers in the Bill, including in relation to the collection and sharing of data; market intervention; and marketing standards.

Annex A: List of oral evidence sessions.

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the Committee's website.

Date	Name and Organisation
26 February 2020	<p>Haydn Evans, Welsh Organic Forum</p> <p>Roger Kerr, Organic Farmers and Growers</p> <p>Christopher Stopes, Organic Farmers and Growers</p>
05 March 2020	<p>Dr Nick Fenwick, Farmers' Union Wales (FUW)</p> <p>Nigel Hollett, Country, Land and Business Association (CLA)</p> <p>Huw Thomas, National Farmers Union (NFU) Cymru</p> <p>George Dunn, Tenant Farmers Association</p>

Annex B: List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the Committee's website.

Reference	Organisation
AB 01	Tenant Farmers Association
AB 02	Welsh Organic Forum
AB 03	Farmers' Union of Wales
AB 04	Organic Farmers and Growers
AB 05	Country, Land and Business Association (CLA)
AB 06	National Farmers Union
AB 07	Meat Promotion Wales
AB 08	RSPB Cymru
AB 09	National Trust
AB 10	Dr Ludvine Petetin – Cardiff University, Dr Mary Dobbs – Queen's University Belfast, Prof Jo Hunt, Prof Ben Pontin, Dr Huw Pritchard – Cardiff University

Additional Submission

Title	Date
AB 05a (Country Land and Business Association)	13 March 2020