

Agriculture (Wales) Bill

Committee Stage 1 Report

January 2023



The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the Senedd website:
www.senedd.wales/SeneddEconomy

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

Economy, Trade and Rural Affairs Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

Tel: **0300 200 6565**

Email: **SeneddEconomy@senedd.wales**

Twitter: **[@SeneddEconomy](https://twitter.com/SeneddEconomy)**

© **Senedd Commission Copyright 2023**

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the Senedd Commission and the title of the document specified.

Agriculture (Wales) Bill

Committee Stage 1 Report

January 2023



About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddEconomy

Current Committee membership:



Committee Chair:
Paul Davies MS
Welsh Conservatives



Hefin David MS
Welsh Labour



Luke Fletcher MS
Plaid Cymru



Samuel Kurtz MS
Welsh Conservatives



Vikki Howells MS
Welsh Labour



Sarah Murphy MS
Welsh Labour

The following members of the Climate Change, Environment, and Infrastructure Committee also participated in the inquiry.



Llyr Gruffydd MS
Plaid Cymru



Huw Irranca-Davies MS
Welsh Labour



Delyth Jewell MS
Plaid Cymru



Jenny Rathbone MS
Welsh Labour

Contents

Chair's foreword	9
Recommendations	12
1. Introduction	16
Terms of Reference	17
The Committee's Approach	17
Other Committees' consideration of the Bill	18
2. General principles and the need for legislation	19
Background to the Bill	19
Overview of the Bill	19
The Bill's purpose and intended effect	20
The need for legislation	21
Scope and accessibility of the legislation	22
Committee View	23
National Minimum Standards	25
Committee View	26
Interaction with the Internal Market Act 2020 and Divergence	27
Engagement of human rights and equality impact assessment	29
Common Land Reform	30
Renewable Energy	31
Financial Implications and Costs	32
3. Part 1 – Sustainable Land Management	33
What the provisions in Part 1 do	33
The framework and definition of Sustainable Land Management	34

Animal Health and Welfare within the framework.....	36
Committee view	37
The SLM Objectives (Section 1)	38
The SLM objectives and the Well-being of Future Generations (Wales) Act 2015	39
First objective: To produce food and other goods in a sustainable manner	39
Second objective: To mitigate and adapt to climate change	40
Third objective: To maintain and enhance the resilience of ecosystems and the benefits they provide.....	41
Fourth Objective: 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.....	41
Committee view	43
The Duty to deliver the SLM Objectives (Section 2)	45
Committee View	45
Indicators and Targets (Section 4).....	46
Preparing and revising indicators and targets (Section 5)	47
Committee View	48
Sustainable Land Management Reports (Section 6).....	49
Steps to be taken in preparing reports (Section 7)	49
4. Part 2 – Support for Agriculture etc.	51
Chapter 1 - Welsh Ministers’ power to provide support.....	51
What the provisions in Chapter 1 of Part 2 do	51
Overview	52
Support for Ancillary Activities (Section 8(1) and Section 49).....	53

Meaning of “ancillary activities” (Section 49)	54
Committee View	55
List of Purposes (Section 8)	56
Committee View	57
Support for new entrants, succession and community food schemes ..	58
Income stability and food security	59
Committee View	61
Further Provision – particularly Third Party Schemes (Section 9)	61
Power to make provision about publication of information about support (Section 10)	62
Powers to make provision about checking eligibility for support, etc. (Section 11)	62
Monitoring and Reporting on Support (Sections 12-14)	62
Chapter 2 - Powers to modify legislation relating to financial and other support (Sections 15 – 19)	63
What the provisions in Chapter 2 of Part 2 do	63
Transition plans and a ‘sunset’ provision	64
Chapter 3 - Intervention in agricultural markets	65
What the provisions in Chapter 3 of Part 2 do	65
Chapter 4 - Agricultural tenancies	67
What the provisions in Chapter 4 of Part 2 do	67
Committee View	70
5. Part 3 - Matters relating to agriculture and agricultural products	72
Chapter 1 - Collection and sharing of data	72
What the provisions in Chapter 1 of Part 3 do	72
Overview	73

Enforcement of information requirements (section 31).....	74
Committee View	75
Chapter 2 - Marketing Standards: Agricultural products.....	75
What the provisions in Chapter 2 of Part 3 do	75
Chapter 3 - Classification etc of certain carcasses.....	76
What the provisions in Chapter 3 of Part 3 do	76
6. Part 4 – Forestry.....	78
What the provisions in Part 4 do	78
Overview	79
Environmental Conditions of Tree-felling licences (Section 35).....	81
Monitoring and reporting on the impact of felling consents.....	82
Amendment of tree felling licences by agreement (Section 36).....	83
Varying, suspending or revoking tree felling licences (Section 37).....	83
Compensation (Section 38) and Appeals (Section 39).....	84
Penalty for felling without licence (Section 40)	84
Ancient Woodland and Veteran Trees.....	85
Committee View	86
7. Part 5 – Wildlife	88
Overview	88
What the provisions in Part 5 do	88
Overview and summary of evidence	89
Snares.....	91
Protection and restoration of Priority Species	92
Support for a licensing approach over a ban	93
Proposals to extend the ban to cover possession, manufacture or sale	96
Extending the ban to other kinds of traps	97
Wording of provisions in Sections 43-45.....	98
Definition of a ‘snare’	98

Penalties	99
Committee View	100
Glue Traps.....	100
Suggestion of an alternative licensing system for professional use.....	102
Committee View	104
8. Part 6 – General.....	105
Definition of Agriculture.....	106
Schedules	107
Annex A: List of oral evidence sessions	108
Annex B: List of written evidence	111
Additional Information.....	113

Chair's foreword

This Bill signifies an important moment for Welsh agriculture, the environment and the Welsh economy. Following EU exit this is the first time that the Senedd considers legislation for a wholly 'made-in-Wales' agricultural policy, intended to last for many years to come.

The Bill signals a new policy approach for sustainable land management, and will give Welsh Ministers powers to support farmers under a scheme developed wholly in Wales, for Wales.

The Bill seeks to legislate for powers to support Welsh farmers and their families to stay on the land. That support must balance the need to protect and promote: sustainable food production and local supply chains; strong and vibrant rural economies and Welsh-speaking rural communities; and our precious Welsh landscapes, natural environment and biodiversity, in the face of climate and nature emergencies. The Committee's bill scrutiny was greatly assisted by the participation of members of the Climate Change, Environment and Infrastructure Committee. Their invaluable input can be seen in the record of proceedings and in this report.

Some provisions of this framework Bill will replace clauses in the UK Agriculture Act 2020 which are due to expire under a 'sunset' clause at the end of 2024. However, the Bill is particularly broad in scope and introduces significant new elements. This includes provisions that, while agricultural in nature, could potentially have been legislated for separately. The Committee has scrutinised all aspects of the Bill to the best of its ability in the time available, including the provisions to prohibit the use of snares and glue traps in Wales, and powers over forestry felling licences.

The Welsh Government has involved stakeholders in the development of this Bill, with a number of consultations and a 'co-design' process over recent years. It was therefore initially surprising to Members that there were some fundamental aspects of the Bill on which stakeholders still had quite divergent views. The definition of Sustainable Land Management (SLM) has proved to be a sticking

point, and the Committee's report also sets out strong arguments for how the Bill's SLM objectives, and the list of purposes for support, could be strengthened. There is disquiet about the proposal to allow the definition of 'agriculture' to be amended by subordinate legislation, and we recommend the Minister reviews this aspect of the Bill.

There appeared to be a lack of clarity, or a lack of understanding by stakeholders, about the Welsh Government's intentions with some of the provisions. In particular this is the case for support for ancillary activities and how this might benefit the agri-food supply chain. It was also widely expected that National Minimum Standards would be a feature of this legislation, and the Committee recommends that the Minister clearly sets out her intentions for the future regulatory baseline for the sector, and also gives further consideration to animal welfare in the new legislative framework.

It was clear that more work is needed to address concerns of tenant farmers and those who farm on common land, ensuring that they are able to fully access the support available under the proposed Sustainable Farming Scheme (SFS), and to support new entrants into the sector. We welcome the Minister's commitment to this further work.

Monitoring the effectiveness and impact of the SFS will be vital. Reflecting the views of stakeholders, the 30 recommendations in this report include some suggested amendments to the Bill's reporting provisions, and recommendations to address concerns raised about data collection provisions. The Bill grants Welsh Ministers powers over marketing standards, and our inquiry raised important questions about post-EU divergence and the role of the Common Frameworks - we make a recommendation about assessing the impact of trade deals on the Welsh agricultural sector.

At Stage 1 of the scrutiny process the Committee is required to report on the general principles of the Bill. The report notes that with regard to Part 5 of the Bill, a clear majority of the Committee support the provisions to prohibit the use of snares, although there was support from two Members for the Minister to give further consideration to a highly-regulated licensing system. Taking account of the range of evidence presented to us, and our 30 recommendations, the Committee recommends that the Senedd agrees to the general principles of this Agriculture (Wales) Bill and that it proceeds to the second amending stage.

The Committee is grateful to all those who have engaged with the Committee's scrutiny of the Bill so far. We look forward to the Minister's response to our report, and commend it to the Senedd.

Paul Davies MS

Chair

Recommendations

Recommendation 1. That the Senedd, taking into account the wide range of evidence provided to us as part of our Stage 1 scrutiny, and the recommendations made in this report, agrees the general principles of the Agriculture (Wales) Bill.
..... Page 24

Recommendation 2. That the Minister considers the appropriateness of section 50 allowing definitions in the Bill to be amended by subordinate legislation, and what measures might be taken to allay concerns about this provision, including the proposal for a duty to consult. Page 25

Recommendation 3. That the Minister provides further clarification – beyond the Options and Costs and Benefits set out in Chapter 7 of the EM - of the rationale for including the provisions of Parts 4 and 5 of the Bill within this Agriculture (Wales) Bill, rather than those provisions being subject to scrutiny in separate legislation.
..... Page 25

Recommendation 4. The Minister should give further consideration to how the policy intent around National Minimum Standards is communicated to stakeholders as part of development of the Sustainable Farming Scheme. The Minister should confirm to the Committee her intentions with regard to the NMS, including whether further legislation will be brought forward. The Minister's consideration should include the timing of Welsh Government's review of the existing regulatory baseline, and how that regulatory baseline is communicated to the agriculture sector in Wales, whether they are farmers likely to access future support or not..... Page 27

Recommendation 5. The Committee would welcome the Minister providing more clarity on the role of the farm vet in both the monitoring of the SLM objectives in the Bill, and consultation on National Minimum Standards for animal health and welfare under the new SLM framework. Page 27

Recommendation 6. The Minister should bring forward specific proposals to address the concerns of commoners regarding enforcement and access to support schemes, whether that be through amendments to the Bill at Stage 2 or other solid commitments arising from the work of the common land working group. The Committee looks forward to the Minister reporting back on the proposals arising from that group's work and how they will be taken forward.
..... Page 31

Recommendation 7. The Minister is invited to consider the arguments set out in the Committee’s report for changes to the wording of the SLM objectives in the Bill, and to bring forward amendments at Stage 2, or to set out her rationale for not doing so. Page 38

Recommendation 8. The Minister should consider amending the third objective in section 1 on including nature recovery more explicitly in the Bill, in line with RSPB Cymru’s suggested inclusion of new wording as outlined in this report, as long as the Minister can alongside this provide a guarantee that this objective will be tied in closely to the actions to be supported in the SFS, and that in her view such a change will not lead to any divergence from the policy intent of the Bill. Page 44

Recommendation 9. The Minister should provide more clarity on how local procurement and local supply chains will be supported by the Bill. Page 44

Recommendation 10. The Minister should bring forward amendments to strengthen the fourth objective, so that more explicit emphasis is given to the policy intent to support strong and vibrant rural communities and to address stakeholders’ concerns. Page 44

Recommendation 11. The Minister should bring forward amendments to the Bill to strengthen its provisions for sustaining and promoting the Welsh language: this may include by adding it to the list of purposes in section 8, and committing to include specific indicators and targets in order to better measure outcomes. Page 44

Recommendation 12. The Minister should amend section 2 to: a) make it clearer that there is no hierarchy to the SLM objectives, and that they must be delivered in a balanced way to achieve the overarching SLM policy goals and b) in amending section 2 should consider wording from the Well-being of Future Generations (Wales) Act 2015 that places a duty on Welsh Ministers to ‘maximise their contributions’ and to ‘take all reasonable steps to do so’. Page 45

Recommendation 13. The Minister should bring forward an amendment to provide for interim reports that account for the time taken for different objectives to be achieved, and also consider whether the wording of section 6 should be amended to require reports to outline why successful outcomes have been achieved, rather than just why they have not been (sections 6(4) and section 6(5)). Page 49

Recommendation 14. The Minister should consider how the reporting timescales are aligned with reporting cycles for the Wellbeing of Future Generations (Wales) Act 2015 and Environment (Wales) Act 2016 and bring forward any necessary amendment to section 6 of the Bill to account for this.Page 49

Recommendation 15. The Minister should consider bringing forward an amendment to the wording of section 7 - as proposed by NRW in its consultation response - to ensure that the full scope of consideration is given to the state of natural resources reports (SoNaRR) in preparing the SLM report..... Page 50

Recommendation 16. The Minister should provide further clarity on the scope of support for “ancillary activities” as defined in section 49 of the Bill, for the benefit of those involved both directly in agriculture and indirectly in the agri-food supply chain. The Minister should also confirm whether she intends to bring forward amendment(s) to the wording of section 8(1) and/or the definition of “ancillary activity” in section 49, to enhance understanding and for the avoidance of doubt.Page 55

Recommendation 17. The Minister should review the wording of ‘taking action on land’ in section 49 and bring forward any necessary amendment to remove any confusion or issues arising from lack of status with other relevant legislation.Page 55

Recommendation 18. The Minister should bring forward amendments to the Bill to address the points raised by the Committee about omissions from the list of purposes in section 8, or provide a rationale for not including additional elements.Page 58

Recommendation 19. The Minister should bring forward amendments to the Bill to take account of the needs of new entrants, and report back to the Committee on other actions that will be taken as a result of the work of the new entrants working group.....Page 59

Recommendation 20. The Minister is invited to consider the evidence from stakeholders for the Bill to be strengthened further to promote horticulture and maximise opportunities for diversification, and to consider how the Bill’s objectives align with stakeholder views on the Food (Wales) Bill.Page 61

Recommendation 21. The Minister should give consideration to amending the Bill to include a timescale for acting on the findings of any Impact Report prepared under section 13 of the Bill.....Page 63

Recommendation 22. The Minister should report back to the Committee on how the concerns of tenant farmers about the dispute resolution provisions in the Bill are being addressed. This should include confirming whether the Minister intends to bring forward amendment(s) to Chapter 4 of the Bill, or otherwise consulting with the Committee on her rationale for an alternative approach.
..... Page 71

Recommendation 23. The Minister should note the concerns raised by the Committee about the data collection provisions in Part 3 of the Bill, and 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..... Page 75

Recommendation 24. The Minister should confirm whether Welsh Government is willing to amend the Bill to include a commitment to a review of the operation of the data collection regime under the provisions in the Bill, after five years.
..... Page 75

Recommendation 25. The Minister should bring forward an amendment to the Bill to commit Welsh Ministers to undertake impact assessments of future trade deals on Welsh agriculture. Page 77

Recommendation 26. The Welsh Government, Natural Resources Wales and the forestry sector should continue to work together on guidance and mutual understanding around the new powers set out in Part 4 of the Bill.Page 86

Recommendation 27. The Minister should set out how she sees the other woodland management issues raised during Stage 1 scrutiny being addressed, including greater protections for ancient woodland and veteran trees.Page 86

Recommendation 28. The Welsh Government and Natural Resources Wales should work at pace to identify and agree the data that will need to be captured to assess the effectiveness of the new provisions in Part 4 of the Bill.Page 87

Recommendation 29. A clear majority of the Committee support the provisions of Part 5 of the Bill 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.Page 100

Recommendation 30. The Committee supports the provisions in Part 5 of the Bill to prohibit use of glue traps.Page 104

1. Introduction

The Agriculture (Wales) Bill (“the Bill”) was introduced on 26 September 2022. The Committee gathered oral and written evidence to inform its scrutiny of the general principles of the Bill. Other Senedd Committees have also conducted scrutiny of financial and constitutional aspects of the Bill.

1. On 26 September 2022, Lesley Griffiths MS, the Minister for Rural Affairs and North Wales, and Trefnydd (“the Minister”) introduced the **Bill** and accompanying **Explanatory Memorandum** (“EM”). A **Statement of Policy Intent** was also published for the Bill. The Minister made a statement on the Bill in Plenary on 27 September 2022. In introducing the Bill the Minister explained that:

“The Bill is the result of years of policy work, co-design, consultation and stakeholder engagement. The result is an ambitious and transformational piece of legislation that reforms decades of EU farming support, heralding a significant change in how we support the agricultural sector here in Wales. It is the first Welsh agricultural Bill, the first time the Welsh Government has had the opportunity to bring legislation before the Senedd to legislate for our agricultural sector, and significantly, the Bill contains a modern and comprehensive definition of agriculture, reflecting agriculture in the twenty-first century.”

2. The Minister went on to state:

“This is the first made-in-Wales policy framework that recognises complementary objectives of supporting farmers to produce food sustainably, alongside taking action to respond to the climate and nature emergencies, contributing to thriving rural communities and keeping farmers on the land.”

3. On 20 September 2022 the Senedd’s Business Committee **agreed** to refer the Bill to the Economy, Trade and Rural Affairs Committee (“the Committee”) for

consideration of the general principles (Stage 1), in accordance with Standing Order 26.9. The Business Committee agreed that the Committee should report by 27 January 2023.

Terms of Reference

4. The Committee agreed its approach to scrutiny on 29 September. The agreed terms of reference were to consider:

- The general principles of the Bill and the need for legislation to deliver the stated policy intention. In coming to a view the Committee considered the individual Parts of the Bill:
 - Part 1: Sustainable Land Management
 - Part 2: Support for agriculture etc.
 - Part 3: Matters relating to agriculture and agricultural products
 - Part 4: Forestry
 - Part 5: Wildlife
 - Part 6: General
- Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them (including the UK Internal Market Act 2020 and any international law);
- The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum);
- Whether there are any unintended consequences arising from the Bill; and
- The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

The Committee's Approach

5. The Committee issued an open call for views on the Bill. The **consultation** ran for six weeks, from 30 September to 11 November 2022, and 55 responses were published. The Committee received a technical briefing from Welsh

Government officials on 29 September, and held ten oral evidence sessions. A list of oral evidence sessions can be found at Annex A, and a list of consultation responses and additional written information can be found at Annex B. The Committee is grateful to all those who took the time to provide evidence and briefing to Members to inform its scrutiny.

Other Committees' consideration of the Bill

6. Members of the Climate Change, Environment and Infrastructure Committee expressed an interest in participating in scrutiny of the Bill, and attended scrutiny sessions in accordance with Standing Order 17.49.

7. The Finance Committee took evidence from the Minister on **9 November**. Following this session, the Minister undertook to provide further information to the Finance Committee which was **received** on 8 December. The Finance Committee plans to publish a report on the Bill by the reporting deadline of 27 January 2023.

8. The Legislation, Justice and Constitution Committee ("LJC Committee") discussed the Bill in an evidence session with the Minister and officials on **21 November** and **wrote** to the Minister with follow-up questions, requesting a **response** by 8 December. The Minister's response is taken account of in this report. The LJC Committee plans to publish its report on the Bill by the reporting deadline of 27 January 2023.

2. General principles and the need for legislation

Background to the Bill

9. The Bill was preceded by a number of consultations and a White Paper, and has been subject to a co-design process with stakeholders prior to introduction. The Welsh Government has been developing proposals for future agricultural support since the EU referendum. It published two consultations: **Brexit and our Land (2018)** and **Sustainable Farming and our Land (2019)**. This led to a **White Paper** for an Agriculture (Wales) Bill in December 2020, to set a support framework for the next 15-20 years. A summary of consultation responses to the White Paper, findings of the co-design and the Welsh Government's policy response were published on **21 September 2021**.

Overview of the Bill

10. In summary, the Bill includes provision for:

- Sustainable Land Management (SLM) and also makes provision relating to support for or in connection with agriculture in Wales;
- Allowing for Welsh Ministers to continue making agricultural support payments to farmers during a transition period (policy proposals on transition are set out in the **Sustainable Farming Scheme** ("SFS") publication);
- Amending the **Agricultural Holdings Act 1986** ("AHA") to provide tenants with a route to dispute resolution in certain circumstances;
- Replacing the time limited powers taken for Welsh Ministers in Schedule 5 to the **Agriculture Act 2020** ("AA 2020"), which expire in December 2024;
- Amending the **Forestry Act 1967** to give Natural Resources Wales (NRW) the power to add conditions to amend, suspend or revoke felling licenses to prevent felling that would contradict other environmental legislation; and
- Prohibiting the use of snares and glue traps.

The Bill's purpose and intended effect

11. The purpose and intended effect of the legislation is set out in pages 10-12 of the EM. It sets out the important contribution that farmers in Wales make to the economy, the natural environment and our rural communities by working their land.

12. The EM points out the implications of leaving the European Union (EU) and the funding and regulatory framework of the Common Agricultural Policy (CAP), and how this presents an opportunity “to create future agricultural policy which is more in tune with the unique challenges and opportunities specific to Wales”. The EM notes how the new challenges facing Wales, the UK and Europe have meant support for agriculture is increasingly linked to the environment. It also points to recent shocks to the agri-food supply chain as a result of Covid-19, the shipping crises and war in Ukraine, highlighting the importance of resilient supply chains and locally produced food.

13. Welsh Government recognises the key role of the agriculture sector to the cultural and social make-up of Wales, and in helping to meet wellbeing, climate change and biodiversity goals. The EM notes that meeting Welsh emissions reduction targets will “demand greater effort from all emissions sectors, including agriculture.” It explains the role of the proposed SFS aimed at “rewarding farmers for the delivery of a range of outcomes alongside and as a consequence of, food production”:

“Agricultural reform and responding to the climate and nature emergencies are long term challenges. A sustainable agriculture sector for current and future generations is key to meeting our commitment for Wales to be net zero by 2050 and reversing the decline of biodiversity. The Bill will be fundamental to delivering these aims, setting our policy direction for the next fifteen to twenty years.”

14. The EM also explains that the Well-being of Future Generations Act 2015 (“WFG Act 2015”) requires Welsh Government to think more long term, and that the Sustainable Development Principle and seven Well-being Goals in the Act provide “a framework for government decision-making which must be reflected in our new approach to land management.”

The need for legislation

15. As outlined above, the Bill will replace existing provision for UK agricultural policy and support since leaving the EU, which is currently set out in the AA 2020. The Bill sets a new policy framework and direction of travel, for a ‘made-in-Wales’ approach to future support to the agriculture and agri-food sector.

16. Leaving the EU meant leaving the CAP. To allow continuation of payments to farmers after 2020, the Senedd gave consent for the AA 2020 to maintain (and modify) the CAP system in Wales. This has largely preserved the status quo ahead of transition to future schemes. The AA 2020 does not include powers for new Welsh support schemes.

17. The AA 2020 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 transitional powers, included in Schedule 5 of the AA 2020, subject to a sunset clause, and will expire on 31 December 2024.

18. The Welsh Government therefore published a White Paper for the Agriculture (Wales) Bill at the end of 2020, and a summary of responses and the Welsh Government’s policy response in 2021. The resulting framework Bill establishes high-level, enabling powers for Welsh Ministers. It replaces Schedule 5 to the UK AA 2020 and provides powers for Welsh Ministers to provide support for agriculture (including under a scheme), allowing transition from the CAP. The Bill also establishes dispute resolution processes for agricultural tenants to allow them to access support from the new Welsh scheme(s).

19. As set out in the overview section above, the Bill also provides for amendments to the Forestry Act 1967, giving NRW the power to add environmental conditions to tree felling licences, and enabling NRW to amend, suspend and revoke licences; and amends the Wildlife and Countryside Act 1981 to prohibit the use of snares (and other cable restraints) and glue traps.

20. The Bill has been welcomed by the farming unions as a “once in a generation” opportunity for a ‘made in Wales’ policy, and by environmental organisations as *“the single most significant asset the Sixth Senedd will have to respond to the climate and nature emergency”*. Wales Environment Link (WEL) say it is *“hard to overstate the need for urgent reform for the sake of the rural economy, Welsh culture and the environment.”* Landworkers Alliance Cymru

¹ Written evidence – AGR46

(LWA) “welcome the overall direction of travel: it is high time farmers were rewarded based on how they farm; not simply the amount of land they own.”²

Scope and accessibility of the legislation

21. The Bill’s EM explains that the overarching policy objective of the Bill is “to provide the Welsh Ministers with the powers to enable and support the delivery of SLM principles, through powers to provide support to the agricultural sector, through a support scheme or schemes, or via other forms of support.” (Page 13 of the EM). Paragraph 3.20 sets out the proposals to achieve this, which are included in Parts 1-3 and 6 of the Bill. Paragraph 3.21 of the EM goes on to explain that “The Bill will also amend other legislation in relation to agricultural tenancies, Forestry, Snares and Glue Traps”, and details those provisions contained in Parts 4 (Forestry) and 5 (Wildlife) of the Bill. Although these latter provisions can be argued to be ‘agricultural’ in nature, they are not central to the provision of support to the sector, but the Bill is being used as a legislative vehicle to amend primary legislation in relation to felling licences³, and to meet the **Programme for Government** commitment to ban snares.

22. The Bill is therefore a Framework Bill with limited detail on the face of the Bill about how the powers to provide support will be exercised. The agricultural support aspect of the Bill is accompanied by Welsh Government’s initial proposals for the SFS, which are subject to co-design, but where further detail is still awaited. The provisions in Part 4 and 5, which have excited a lot of interest, could arguably have been taken forward separately from this framework Bill and been subject to separate scrutiny. The Committee has had to carefully balance the time available to scrutinise all aspects of the general principles of this Bill at Stage 1.

23. The short title of the Bill is the ‘Agriculture (Wales) Bill’ and the definition of agriculture is set out in section 48 of the Bill. However section 50 of the Bill allows Welsh Ministers to amend that definition by regulation. Therefore the entire scope of this framework Bill for Welsh agriculture policy could be changed by Welsh Ministers in future by subordinate legislation. Regardless of stakeholder views on the current definition in section 48 as drafted, stakeholders raised strong concerns about the appropriateness of this “agriculture” definition being amendable by subordinate legislation. NFU said there should be a duty to consult on section 50⁴, and FUW said:

² Written evidence – AGR54

³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraphs 352-362

⁴ Written evidence – AGR38

“any amendment to the definition of agriculture must be subject to intense scrutiny in order to ensure that genuine active farmers are not excluded and that peripheral activities are not encompassed in a manner which would reduce the funding available for grass roots farming activities and food production.”⁵

24. 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, and that we can adapt and also reflect on any changes that are brought forward, particularly in technology, because, as we all know, that moves so quickly.”⁶*

25. The accessibility of this Bill is also important to consider, as it contains numerous subordinate legislation-making powers across a range of policy areas, including enabling the amendment of older English language-only legislation. A reader picking up the Bill after Royal Assent would also need to refer to various subordinate legislation, agricultural tenancy legislation, forestry legislation, wildlife and countryside legislation, the Sustainable Farming Scheme (SFS), provision on national minimum standards, EU retained legislation, and more. While there is a clear need for a Bill to provide for agriculture support in Wales, and to allow for necessary subordinate legislation arising from it, the accessibility of the Bill, and the wider legislation in this area, is noteworthy.

26. The Minister responded to LJC Committee on this point, saying:

“The Bill amends some well-established statutory regimes, such as those set out in the Forestry Act 1967 and the Wildlife and Countryside Act 1981. Achieving the policy by way of freestanding provisions in a Senedd Bill would have resulted in inaccessibility issues and undesirable complexity.”⁷

Committee View

27. The Committee welcomes Welsh Government’s approach to developing a new ‘Made in Wales’ agriculture policy framework in close consultation with stakeholders. It is notable that despite this ‘co-design’ process there are still some quite fundamental aspects of the Bill where the farming unions and

⁵ Written evidence – AGR27

⁶ Economy, Trade and Rural Affairs Committee, 5 October 2022, Paragraph 177

⁷ LJC Committee, 12 December 2022, Paper 28

environmental organisations are not in agreement, in particular around the Sustainable Land Management definition and objectives. Views on both sides are valid and important to consider, motivated as they are by a desire for a robust policy framework that delivers for everyone.

28. The ability to amend the definition of ‘agriculture’ by regulation, under section 50, raises concerns about future scope, and the role of stakeholders and the Senedd in scrutinising the actions of future Welsh Ministers. It is particularly pertinent when considering this is a framework Bill intended to give powers to deliver agricultural support for many years to come. The Minister is urged to consider these concerns and how they can be allayed, including by considering NFU Cymru’s proposal for a duty to consult.

29. Issues were raised about a lack of clarity surrounding some aspects the Bill, such as the provisions for different types of agricultural tenancies and whether the Bill equalises the provisions. The Committee welcomes Welsh Government’s direct engagement with tenant farmers, new entrants, and commoners, to address their specific concerns.

30. The concerns of the forestry industry about how the powers in Part 4 of the Bill will be implemented by NRW are also important to note, and an ongoing dialogue with the forestry sector will be critical. The Committee has noted suggestions that not all the proposed forestry provisions are considered necessary or helpful, and also that this Part of the Bill has attracted calls for a widening of scope, for example to recognise the need for ‘timber security’ alongside ‘food security’ and to look at protections for ancient woodland and veteran trees.

31. Part 5 of the Bill – on prohibiting the use of snares and glue traps – has attracted strong views both for and against. The Minister told us that this part of the Bill has been subject to very careful drafting, and the Committee likewise has given very careful consideration to the weight and balance of evidence received. Members have differing views on the provisions in this part of the Bill, however this Stage 1 report seeks to present a fair and balanced consideration of the evidence received in the time available, and to make concrete recommendations based on that.

Recommendation 1. That the Senedd, taking into account the wide range of evidence provided to us as part of our Stage 1 scrutiny, and the recommendations made in this report, agrees the general principles of the Agriculture (Wales) Bill.

Recommendation 2. That the Minister considers the appropriateness of section 50 allowing definitions in the Bill to be amended by subordinate legislation, and what measures might be taken to allay concerns about this provision, including the proposal for a duty to consult.

Recommendation 3. That the Minister provides further clarification – beyond the Options and Costs and Benefits set out in Chapter 7 of the EM – of the rationale for including the provisions of Parts 4 and 5 of the Bill within this Agriculture (Wales) Bill, rather than those provisions being subject to scrutiny in separate legislation.

National Minimum Standards

32. There were strong calls from stakeholders for National Minimum Standards (NMS), which were consulted on in the White Paper, to be brought forward under or simultaneously to the Bill, to underpin the SFS that will be regulated for under the powers in the Bill. The Welsh Government intends to consolidate the regulatory baseline (i.e. the NMS), later rather than using the Bill. NMS will form the basic measures, above which farmers would be rewarded via the SFS.

33. The Committee received significant evidence on this point, and raised it with the Minister. Environmentalists, farming unions, RSPCA Cymru, and academics all felt there was a risk to NMS not being in place in time for the SFS launch if further legislation was needed. WEL and the Woodland Trust recommended placing 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, the farming unions, and the British Veterinary Association (BVA) all called for meaningful consultation on the development of NMS. The BVA said: *“As animal health and welfare specialists and advocates from farm to fork, veterinary surgeons should be involved in the development of the National Minimum Standards, to ensure they minimise the risk of welfare harms and ensure animal health and welfare is properly protected.”*⁸ The BVA also emphasised the important role of the vet in monitoring and meeting the SLM objectives in the Bill.

34. Natural Resources Wales (NRW) said:

“The absence of any commitment in the Bill to regulatory reform (introduction of National Minimum Standards and Civil Sanctions) as outlined in the White Paper is likely to place additional burdens on current financial and regulatory tools to secure essential outcomes required to deliver against the

⁸ Written evidence – AGRO4

Climate and Nature Emergencies that have been declared in Wales.”⁹

35. The Minister clarified that NMS was not part of this Bill and that the key point in the White Paper on NMS was not about introducing new standards, but about a consolidation exercise for the existing regulatory baseline. She said officials had been asked to look at whether primary powers were needed through NMS or civil sanctions, but what was needed was to communicate the existing regulatory baseline better and ensure farmers are aware of their obligations. On 16 November the Minister told the Committee:

“National minimum standards already exist within lots of, well, numerous regulations, I would say, and so we’ve got that regulatory baseline for all farmers in Wales, not only those who are participating in a scheme. I appreciate concerns that NMS do not form part of this Bill. I have asked officials to consider whether further primary powers are required for Welsh Ministers to appropriately regulate the agriculture environment in the future through either NMS or civil sanctions. So, officials are looking to see if we do need further primary powers.”¹⁰

36. The Minister also subsequently appeared before the LJC Committee on 21 November, and told Members that NMS ‘could’ possibly be brought forward in future primary legislation on agriculture if it was assessed such legislation was necessary.¹¹

Committee View

37. The Committee notes the high level of expectation from stakeholders that National Minimum Standards should be brought in alongside any new Welsh agricultural support scheme, to support its delivery. While Members acknowledge the Minister’s position on this point, there appears to be a lack of clarity and perhaps some misunderstanding among stakeholders. The Committee also notes that, for farmers who choose not to access the future SFS as the replacement for the Basic Payment Scheme (“BPS”), what then will they perceive to be the penalty for non-compliance with the regulatory baseline? While regulations such as the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 for example, form part of current cross-compliance requirements, and have penalties

⁹ Written evidence – AGR53

¹⁰ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 339

¹¹ Legislation, Justice and Constitution Committee, 21 November 2022, Paragraphs 176-184

attached to them for non-compliance, a lack of clarity about the consequences of future non-compliance with environmental standards is not helpful.

Recommendation 4. The Minister should give further consideration to how the policy intent around National Minimum Standards is communicated to stakeholders as part of development of the Sustainable Farming Scheme. The Minister should confirm to the Committee her intentions with regard to the NMS, including whether further legislation will be brought forward. The Minister's consideration should include the timing of Welsh Government's review of the existing regulatory baseline, and how that regulatory baseline is communicated to the agriculture sector in Wales, whether they are farmers likely to access future support or not.

Recommendation 5. The Committee would welcome the Minister providing more clarity on the role of the farm vet in both the monitoring of the SLM objectives in the Bill, and consultation on National Minimum Standards for animal health and welfare under the new SLM framework.

Interaction with the Internal Market Act 2020 and Divergence

38. Given the joined-up nature of the food and farming industry and agri-food supply chain in the UK, the importance of coordination mechanisms with other UK countries, including in relation to standards and protections for the agricultural sector, was also a strong theme emerging from the Committee's scrutiny work.

39. Certain provisions in the Bill may engage the UK Internal Market Act 2020 ("IMA 2020") which established new rules for the regulation of goods across the UK. It established the mutual recognition principle. This provides that if a good complies with rules relating to its sale in the part of the UK where it was produced or imported, it can be sold in any other part of the UK without having to meet the standards in those other parts, even if they are different.

40. This may be relevant in relation to section 32 of the Bill which confers powers on the Welsh Ministers to make provision about marketing standards (including labelling requirements) for agricultural products. For example, if hypothetically, regulations required eggs sold in Wales to be stamped, but no equivalent restriction was imposed on English businesses, the IMA 2020 would allow unstamped eggs from England to be lawfully sold in Wales. In addition, any differences in carcass classifications as between Wales and the rest of the UK under section 33 of the Bill may also engage the mutual recognition principle.

41. The farming unions raised the issue of internal divergence on standards and the role of the IMA 2020. Huw Thomas of NFU Cymru said:

“Obviously, Welsh Ministers can increase standards here....but, of course, products produced elsewhere, perhaps to lower standards in some of the other home nations, can still come in and they won't be able to prevent that happening. So, we could be undermined from within the home nations, but, of course, as has been said, with imports coming in as well. Once imports enter the UK, they will be in free circulation and Welsh Ministers won't be able to keep them out despite insisting on higher standards, perhaps, for our own domestic producers. So, it's just worth being mindful of that—as proud as we are of the standards, producing to that standard is something that can be undermined by actions taken elsewhere.”¹²

42. The LJC Committee also raised the issue of how the IMA 2020 would affect the effectiveness of the provisions in the Bill. The Minister's response said:

“Wales will be able to make its own standards with which the agricultural products listed in schedule 1 to the UK Internal Market Act must conform when they are marketed in Wales and the classification, identification and presentation of bovine, pig and sheep carcasses. Likewise, England, Scotland and Northern Ireland will have the power to make their own provisions in these subject matters.

As is the case in respect of the Environmental Protection (Single-Use Plastics Products) (Wales) Bill, we are clear that the Senedd can legislate free from the requirements of UKIMA [UK Internal Market Act 2020]. Therefore, the standards set in respect of agricultural products marketed in Wales will apply regardless of where in the UK those products come from.”¹³

43. The farming unions noted the importance of not having too much policy divergence and the vital role of the Common Frameworks to avoid cross-border friction while respecting devolved policy. FUW said it was important cross-border farms were “taken with us as well.” At the start of the Committee's Stage 1 scrutiny

¹² Economy, Trade and Rural Affairs Committee, 12 October 2022, Paragraph 97

¹³ LJC633-22 – 12 December 2022 - Paper 28 - Letter from the Minister for Rural Affairs and North Wales and Trefnydd

the Minister said she didn't believe there would be divergence in policies across the UK - countries were aligning on environmental measures - although in her first evidence session on 5 October she noted a possible change in direction in England. Dr Dobbs told the Committee *"there will be regulatory divergence at some point"*¹⁴, and Dr Petetin said what businesses wanted was similar standards in order to trade more easily, but pointed to areas such as gene editing and the proposed precision breeding Bill in England.¹⁵ The Minister stressed the importance of the Common Frameworks for marketing standards because of the integrated nature of food supply.¹⁶ On market intervention the Minister noted the role of the UK agriculture market monitoring group and policy collaboration group and said these mechanisms had been tested and worked well during the pandemic.

44. The academics who gave evidence pointed out the lack of transparency with the Common Frameworks, and the multiple working groups operating under them, with *"very little stakeholder engagement"* being problematic. Dr Dobbs said a unilateral commitment relating to a coordination mechanism would not be helpful, but suggested to *"perhaps include a reference to the commitments under common frameworks to engage and consult."*¹⁷

Engagement of human rights and equality impact assessment

45. Provisions of the Bill may engage two relevant rights established by the European Convention on Human Rights, incorporated into domestic legislation by the Human Rights Act 1998, namely: Article 8 (respect for private and family life) and Article 1, Protocol 1 (protection of property). The provisions in the Bill containing powers of entry, and powers to request information or documents may engage Article 8. The provisions relating to tree felling licences, and to agricultural tenancies, each may engage Article 1, Protocol 1 (A1P1).

46. The Bill's EM does not discuss human rights in any detail, save to briefly mention A1P1 in the context of compensation for revocation or amendment of a felling licence already granted. It was not clear to the Committee how far the Welsh Government had considered the European Convention on Human Rights in drafting the Bill. The Minister gave an assurance of being *"absolutely confident that Bill clauses are convention rights compliant"*, and said *"they're very necessary, they pursue a legitimate aim and are proportionate."* The Minister

¹⁴ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 322

¹⁵ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 324

¹⁶ Economy, Trade and Rural Affairs Committee, 5 October 2022, Paragraph 114

¹⁷ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 313-317

also referenced the full integrated impact assessment, including impact on the rights of the child, equality and human rights, but in response to a question on gender budgeting did not think that a full gender impact assessment had been done.¹⁸

Common Land Reform

47. Common land representatives are very concerned about access to future schemes and see the Bill as a missed opportunity.¹⁹ The farming unions acknowledged the problem and FUW said it would provide more detail in response to the SFS consultation.²⁰ Witnesses emphasised common land covers at least 10% of Wales's land mass, but is the "poor relation". Eleanor Jarrold of Mynydd Eglwysilan, Mynydd Meio and Craig Evan Leyshon Commoners Association told Members:

*"I want the common land of the country, but certainly the common land of south Wales, to be in situ, to be environmentally friendly, to be accessible for my, dare I say it, great-grandchildren. And surely, that's what this is all about; it's looking to the future."*²¹

48. Under the BPS claimants are treated as individuals when making their application. However under the SFS, farmers would be reliant on others farming that land to collectively achieve the actions and therefore payments: *"you have the opportunity for rogue elements to refuse access to schemes and everybody loses out from that benefit."*²² The need for a better governance structure was raised. It was suggested the Bill could empower "an external facilitator" to bring people together and hold them to account in terms of agreements.²³

49. Witnesses said the proposed SFS is not suitable for commons farmers who only have grazing rights to the common as they would be unable to achieve the required universal actions to access support. Members welcomed the Minister confirming on 16 November that a common land working group had been set up and wanted assurances it would include landowners. The Minister subsequently confirmed that invitations have been issued to a range of stakeholders with an interest and expertise in administering agricultural programmes on common

¹⁸ Economy, Trade and Rural Affairs Committee, 5 October 2022, Paragraphs 169-172

¹⁹ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraphs 341-346

²⁰ Written evidence – AGR27

²¹ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 345

²² Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 322

²³ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 323

land, including the farming unions and some individual commons associations, to ensure input direct from graziers.

50. The Minister said the group would initially consider the administrative elements of working with individual graziers and groups of graziers with grazing rights, and who depend on common land, and a more detailed remit would be developed with additional stakeholders invited as the working group progressed, if Welsh Government found that not all relevant interests were being represented.

51. The Minister added the purpose of the working groups was to explore the developing SFS proposals and the relationship with common land, to ensure the SFS is workable and accessible, and output will be used to refine SFS proposals in time for the final scheme consultation in 2023.

52. The Minister told Members on 16 November that she hoped it would inform whether Welsh Government needs to do anything bespoke and what flexibility they think they will need. She said for commoners with grazing rights only that will not be a barrier to them accessing support, but acknowledged there are “a lot of complexities.”²⁴ Until barriers to collaborative action can be addressed, including having clarity on who takes responsibility for enforcement, then some intractable common land issues will not be resolved. Members noted that there should be space on that working group not just for farmers but also boards of conservators representing historic owners who may be critical to overcoming this impasse. Although a working group to inform the development of the SFS is welcome, it is regrettable that this work was not started earlier in order to inform the development of the policy framework in the Bill itself.

Recommendation 6. The Minister should bring forward specific proposals to address the concerns of commoners regarding enforcement and access to support schemes, whether that be through amendments to the Bill at Stage 2 or other solid commitments arising from the work of the common land working group. The Committee looks forward to the Minister reporting back on the proposals arising from that group’s work and how they will be taken forward.

Renewable Energy

53. FUW is disappointed that the focus on farmers’ contribution in this area is lacking, despite increasing renewable energy being a ‘National Priority’ in the Natural Resources Policy alongside the net zero goal. It said future support schemes should examine the potential for renewables on areas of unproductive

²⁴ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 290

[land], rooftops of industrial buildings, farm sheds or every new building development.²⁵ Solar Energy UK also provided evidence on how solar technologies could help meet the SLM objectives and support the viability of the agricultural sector.²⁶ The Committee would like to see more emphasis given to this important opportunity for farmers as part of future support schemes.

Financial Implications and Costs

54. There was general consensus that the previous CAP budget should be the minimum given the wide ranging ambitions of the SFS, and the tailored approach, compared to the BPS. Farming unions argued the budget should be predominantly allocated to active farmers and have concerns that administrative costs could dilute this funding. FUW is calling for payment capping to make sure the funds go to family farms.²⁷ RSPB Cymru questioned whether the financial implications of the Bill fully reflect the costs of monitoring, reporting, investment in appropriate advice, guidance and support to deliver the Sustainable Farming Scheme successfully and the impact of rising costs.²⁸

55. RSPB Cymru²⁹, NFU Cymru³⁰ and Dr Petetin³¹ all called for the Bill to include a requirement for Welsh Ministers to prepare a multi-annual financial assistance plan to support farmers delivering SLM. NFU Cymru referred to section 4 of the AA 2020 on multi-annual financial assistance plans. The Minister said there was no possibility for her to make any commitment on this point without a confirmed budget, and she was working with cost estimates based on the assumption of the £278m envelope ring-fenced until the end of the current parliament.³² This message was also given to the Finance Committee in its scrutiny of the Bill.

²⁵ Written evidence – AGR27

²⁶ Written evidence – AGR48

²⁷ Written evidence – AGR27

²⁸ Written evidence – AGR45

²⁹ Written evidence – AGR45

³⁰ Written evidence – AGR37

³¹ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 275

³² Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraphs 374-376

3. Part 1 – Sustainable Land Management

Part 1 of the Bill establishes four Sustainable Land Management (“SLM”) objectives, places a duty on Welsh Ministers to exercise certain functions in ways which contribute to achieving them, and provides for a monitoring and reporting regime, including the setting of indicators and targets for the SLM objectives “to assess implementation, to provide an important evidence base, and to facilitate scrutiny and accountability.”³³

What the provisions in Part 1 do

56. 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.

57. 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.

58. Section 4 requires the Welsh Ministers to prepare and publish indicators and targets to measure progress towards achieving the SLM objectives. Section 5 sets

³³ Explanatory Memorandum

out the steps that must be undertaken in preparing or revising indicators and targets.

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

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

The framework and definition of Sustainable Land Management

61. The SLM framework is the Welsh Government's response to the WFG Act 2015 and the Environment (Wales) Act 2016 legislative framework. The Sustainable Farming and our Land consultation (2019) introduced the SLM framework as the principle goal of agricultural policy and future support.

62. The responses to the White Paper supported moving the focus from production to the provision of public goods. The strongest support for the proposals came from environmental groups or those with an interest in sustainable land management. Some highlighted the importance of cultural, social and economic objectives. Some felt the proposals did not go far enough to support food production.

63. During Stage 1 scrutiny, significant differences of opinion were expressed about how SLM should be defined, what the objectives should include, and the balance of emphasis on different policy objectives. Wales Environment Link (WEL) was among those who said the Bill would benefit from tighter definitions.

64. Farming unions raised concerns about the balance of funding between 'agricultural' and 'ancillary' activities relating to the agri-food supply chain, the focus on support for active farmers, whether there is sufficient emphasis on food production and food security, and the economic and social wellbeing of farming families and communities. FUW point to the goals of Tom Williams original 1947 Agriculture Act, as encapsulated in the 1957 Treaty of Rome, recognising "*the need for viable agricultural sectors and stable supplies of affordable food*".³⁴

65. NFU Cymru and FUW said the UN definition set out in paragraph 3.39 of the EM (Page 20), from which the SLM objectives are developed, is too narrow. FUW

³⁴ Written response – AGR27

says it “does not address or recognise the wider context farming both operates in, and contributes to.”

“The use of land resources, including soils, water, animals and plants, for the production of goods to meet changing human needs, while simultaneously ensuring the long-term potential of these resources and the maintenance of their environmental benefits.”

United Nations Definition of Sustainable Land Management

66. Both farming unions wanted the World Bank definition rather than the UN definition used in the EM, as NFU Cymru said it adds “the importance of food production and rural communities within that definition”.

“Sustainable land management is a knowledge-based procedure that integrates land, water, biodiversity, and environmental management to meet rising food and fibre demands while sustaining livelihoods and the environment.”

World Bank Definition

67. This proposal was tested with other witnesses. Environmental groups support the UN definition – RSPB Cymru called for it to be included on the face of the Bill³⁵ and WEL was ‘surprised’ that it was not.³⁶ Several stakeholders³⁷ are also calling for explicit reference to the Environment (Wales) Act 2016 definition of the Sustainable Management of Natural Resources (SMNR) (which carries 9 principles). WEL has also set out **6 tests** for the success of the SFS arising from the Bill.³⁸

68. The Nature Friendly Farming Network (NFFN)³⁹, LWA⁴⁰ and Dr Dobbs wanted the **UN 10 elements of agroecology** to be considered, highlighting an approach that was more “holistic and ambitious.”⁴¹ These 10 principles are diversity, knowledge sharing, building synergies, resource efficiency, recycling, resilience,

³⁵ Written evidence – AGR45

³⁶ Written evidence – AGR46

³⁷ Written evidence – AGR02; AGR43; AGR53

³⁸ Written evidence – AGR-46

³⁹ Written evidence – AGR-51

⁴⁰ Written evidence – AGR-54

⁴¹ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 253-257

human and social value, culture and food traditions, responsible governance, and circular economy.

69. The food supply chain representatives supported the UN definition but have called for inclusion of “resilient supply chains”.⁴² Simon Wright said *“we shouldn’t be looking for the ones [definitions] that allow us to get closest to business-as-usual. This is a process of change and of transition and that direction of travel needs to be defined within the Bill and the definitions need to do that job.”*⁴³ Gwyn Howells of Hybu Cig Cymru (HCC) suggested it was a missed opportunity not to have a bespoke Welsh definition on the face of the Bill that allowed people in Wales to connect with the vision.⁴⁴

70. NRW supports a statutory definition in the Bill, with the UN definition “as a starting point”, but fully aligned with the WFG Act 2015, and SMNR principles in the EA Act 2016: *“Strengthening the objectives to ensure that the SLM duty includes all aspects of SMNR would guarantee that the two pieces of legislation align and deliver for the people of Wales now and in the future.”*⁴⁵ NRW says a statutory definition would avoid a risk of potential drift in the SLM duty over time.

71. When questioned again on 16 November about the SLM definition, the Minister and officials noted that consultation in 2019 had begun with the UN definition as a framework. However it was the Minister’s view that the SLM definition and objectives set out in the Bill incorporated both UN and World Bank definitions, and overall would achieve the central aim of ‘keeping farmers on the land’. It was noted that this latter overarching objective was however not on the face of the Bill.⁴⁶

72. The Minister acknowledged the extent to which stakeholders had raised the issue of the SLM definition during evidence gathering, particularly given the amount of consultation undertaken prior to the Bill’s introduction – she said she was surprised.

Animal Health and Welfare within the framework

73. The British Veterinary Association (BVA) supports the SLM approach in the Bill *“as a means to incentivise public good”*, but called for more clarity on animal health and welfare “beyond the legal baseline” and said the weight given to it is

⁴² Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 12

⁴³ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 14

⁴⁴ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 16

⁴⁵ Written evidence – AGR53

⁴⁶ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraphs 17-19

“insufficient” given the proportion of livestock farming in Wales. The BVA wants to ensure there are no ‘loopholes’ in the animal health and welfare framework proposed.⁴⁷ The Minister pointed to the proposals in Part 5 and assured Members that animal health and welfare was “the thread that runs through all my policies.”⁴⁸ She confirmed that the veterinary pathway scheme in England was something to emulate for inclusion in the SFS. One Member also noted that a long-term vision for the eradication of bovine TB in Wales was a priority but that issue was not explicitly mentioned anywhere on the face of the Bill.

74. The BVA also proposes establishment of a UK wide body to coordinate animal health and welfare policy across the four UK administrations and facilitate partnership working between industry and government to tackle endemic disease and animal health and welfare challenges. The Minister referenced the Common Framework on Animal Health and Welfare as the mechanism to cover what the BVA is proposing.⁴⁹

Committee view

75. The Committee pursued the matter of the SLM definition with a range of stakeholders and with the Minister. The Bill contains sections or wording explaining the meaning of “agriculture” and “ancillary activities” on the face of the Bill, however there is no section or wording on the face of the Bill to explain explicitly to the reader that these four SLM objectives constitute the whole definition of “Sustainable Land Management” for the purposes of the Bill’s provisions. The EM (pages 14 and 17) also states that the Bill “establishes four SLM objectives” but does not set out an express definition of SLM. The majority of Members were satisfied with the Minister’s response and agreed that the four SLM objectives make up the over-arching SLM definition. The Committee notes that some stakeholders argued that the Bill presents an opportunity to develop a ‘bespoke’ Welsh definition of SLM. The importance of the objectives clearly linking back to recognised policy principles and related legislation – including the Environment (Wales) Act 2016 and the WFG Act 2015 – was a strong theme in evidence received. It should also be noted that this report details a number of specific reasoned arguments for further changes to the wording of the SLM objectives that make up the definition of SLM. It will be important that the SLM objectives are sufficiently detailed and specific to deliver all the Bill’s policy objectives.

⁴⁷ Written evidence – AGRO4

⁴⁸ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 140

⁴⁹ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 140

Recommendation 7. The Minister is invited to consider the arguments set out in the Committee’s report for changes to the wording of the SLM objectives in the Bill, and to bring forward amendments at Stage 2, or to set out her rationale for not doing so.

The SLM Objectives (Section 1)

76. The four SLM objectives set out in section 1 of the Bill were generally welcomed, but with stakeholders suggesting some amendments and additional objectives. Farming unions called for explicit reference to economic resilience and viability of farming, and recognition of the capital costs of farming. FUW’s consultation response states: *“the lack of reference to farmer livelihoods means the Bill does not address the financial cost of being a low carbon footprint, enhanced ecosystem and increased biodiversity farm.”*⁵⁰

77. Forest Stewardship Council UK⁵¹ and Confor both support the objectives, the latter saying they *“clearly state the potential of the role of land manager”* and it is *“essential that the spirit of these operations is included in the SFS”*.⁵²

78. The Chair of the Food and Drink Wales Industry Board, Andy Richardson, referred to the objectives as “quite nebulous” saying there was no clear vision for the food industry.⁵³ Simon Wright agreed, saying the Bill needs to set a clear direction of travel and Welsh Government needs to know what it is measuring.⁵⁴ The Minister responded to this on 16 November, saying that there was a vision for food and drink, and that the Bill married the farming and food sectors in a way that had not been seen before, both under Objective 1 and in the support for ancillary activities set out in section 49(b).⁵⁵

79. While the detail of the SFS is not the focus of Bill scrutiny, the LWA raised concerns about farms with unsustainable business models and no transition path being able to meet the requirements to access universal action payments under the SFS, whereas other ‘highly sustainable’ farms might be excluded due to scale. LWA said that *“if Welsh Government believes that the proposals in SFS are compatible with the SLM objectives, as currently drafted; despite them*

⁵⁰ Written evidence – AGR27

⁵¹ Written evidence – AGR16

⁵² Written evidence – AGR40

⁵³ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 38

⁵⁴ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 44

⁵⁵ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 60

continuing to allow intensive livestock units; then it is clear that the definitions need to be strengthened.”⁵⁶

The SLM objectives and the Well-being of Future Generations (Wales) Act 2015

80. The link between the SLM objectives and the provisions of the **Well-being of Future Generations (Wales) Act 2015** (“WFG Act 2015”) is set out clearly in the wording of section 1 of the Bill. Section 1 sets out each of the four SLM objectives to be met, and for each one requires that:

“, and in doing so” —

- a. to meet the needs of the present without compromising the ability of future generations to meet their own needs”, and*
- b. to contribute to achieving the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).*

81. The LWA say there is ‘too much room for interpretation’, particularly with the first objective; that it should be made clear what the Wellbeing of Future Generations wording means in practice; and that targets for climate change mitigation and adaption; biodiversity enhancements; and reductions in nitrogen, phosphorus and pesticide pollution should be referenced. FUW⁵⁷ also raised questions about the link between the Well-being of Future Generations goals and the UN’s SLM principle.

First objective: To produce food and other goods in a sustainable manner

82. The farming unions and HCC would like this objective to recognise Wales’s responsibility globally to maintain and enhance food production.⁵⁸ The Country Land and Business Association Cymru (CLA Cymru) welcomed the inclusion of sustainably produced food ‘as an objective it has argued for throughout the consultation process leading up to the publication of the Bill’.⁵⁹ Several stakeholders including RSPB Cymru⁶⁰ and WEL⁶¹ wanted greater clarity on the

⁵⁶ Written evidence – AGR54

⁵⁷ Written evidence – AGR27

⁵⁸ Economy, Trade and Rural Affairs Committee, 12 October 2022, Paragraph 18

⁵⁹ Written evidence – AGR50

⁶⁰ Written evidence – AGR45

⁶¹ Written evidence – AGR46

definition of sustainable food production. NFFN⁶² and food supply chain representatives suggested reference to the wider food supply chain, to promote shorter supply chains and food sovereignty.⁶³ LWA said *“missing...are any references to the food system overall; access to healthy food; community prosperity or food sovereignty.”*...and goes on *“if we are to achieve true sustainability, then the Bill needs to either include objectives that refer to planning policy; local market development; food access, consumption and nutritional health; and overseas impact; or it should reference other legislation that covers these issues.”*⁶⁴ Simon Wright suggested an objective for community prosperity through nutritious food provision with reference to community health.⁶⁵ The Minister said on 16 November that the Bill’s objectives, list of purposes and support for ancillary activities provided “ample mechanisms” to support these food goals.⁶⁶

83. Confor welcomed the inclusion of “other goods”, but noted some ambiguity of the scale and potential importance of those products, which include timber and wood fibre.⁶⁷

Second objective: To mitigate and adapt to climate change

84. National Parks Wales said it was important not to miss the crossover between nature recovery and climate change.⁶⁸ NFFN said both must go hand in hand.⁶⁹ Stakeholders including National Parks Wales, RSPB Cymru, WEL and Dr Petetin called for more explicit language around biodiversity, species habitat and nature recovery in the Bill. See also below under section 8 of the Bill – List of Purposes for agricultural support – for more detail on this evidence from witnesses.

85. With regard to how the objectives interact with one another, the Committee wanted to see a recognition that actions to mitigate and adapt to climate change are not necessarily always beneficial in achieving biodiversity goals. Some climate actions, such as on renewables, may impact negatively on biodiversity – it is important that these are put on an equal footing.⁷⁰ RSPB Cymru’s response called

⁶² Written evidence – AGR51

⁶³ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 32

⁶⁴ Written evidence – AGR54

⁶⁵ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraphs 30-32

⁶⁶ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 29

⁶⁷ Written evidence – AGR40

⁶⁸ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 77

⁶⁹ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 81

⁷⁰ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 80

for biodiversity and climate change indicators and targets to be aligned with Wales's statutory commitments.⁷¹

Third objective: To maintain and enhance the resilience of ecosystems and the benefits they provide

86. Environmental groups proposed that to meet biodiversity commitments this objective should be strengthened. RSPB Cymru suggests rewording: *"to restore, maintain and enhance biodiversity (including habitats, species and sites designated for nature) and the resilience of ecosystems"*⁷². Cross-reference to the SMNR principles was also advised. Solar Energy UK *"strongly recommend that the Bill go further to maximise biodiversity alongside decarbonisation."*⁷³

87. NFFN and the LWA both said, in relation to the third objective and the list of purposes in section 8, that the Bill could make a specific reference to the DECCA approach to defining the attributes of ecosystem resilience used by Natural Resources Wales, which is: diversity, extent, connectivity, condition and adaptability. LWA said this would link the Bill better to the Environment (Wales) Act 2016. NFFN told the Committee: *"So, a more specific reference to that might quell some of the concerns that we might have, and bring more quality control to the aspects of nature recovery."*⁷⁴

88. Stakeholders said that biodiversity should not be the poor cousin to climate change. RSPB Cymru stressed to Members: *"this is our one chance."*⁷⁵ National Parks Wales also pointed to the challenges farmers faced with climate change, such as increased droughts and floods reducing their resilience, and said *"there needs to be more understanding of the real power of ecosystem restoration at the foundation of stable, resilient farming."*⁷⁶

Fourth Objective: 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

89. Farming unions advocated more emphasis on the integral role that farmers play, and to support them in delivering those objectives. The farming unions

⁷¹ Written evidence - AGR45

⁷² Written evidence - AGR45

⁷³ Written evidence - AGR48

⁷⁴ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 73

⁷⁵ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 75

⁷⁶ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 83

wanted an objective to recognise the importance of family farms and vibrant farming communities (through economic activity).

90. Ramblers Cymru “*wholeheartedly support the explicit inclusion of public access*” as the Bill has an important role to play in overcoming issues which “*represent significant barriers to increasing the public’s connection with, and understanding of, the natural environment.*”⁷⁷ The Minister said public access was very much part of the fourth objective, and it was the intention for the powers in Part 2 of the Bill to provide support to enhance access,⁷⁸ also noting the opportunity for stakeholders to respond to the SFS consultation with any concerns. The Minister also noted her support for farmers to be rewarded for their role in public education.

91. CLA Cymru argued that the provision of any additional public access by a land manager should be “*voluntary, incentivised, flexible, and permissive and should not create any new permanent right of access.*” It said the definition of public access should include new and enhanced access to land and to water through voluntary access agreements and other more area-based access. It pointed to the importance of infrastructure to support public access, and measures to suit local circumstances. CLA Cymru welcomed the inclusion of support for heritage within the Bill.⁷⁹

92. RSPB Cymru raised concern that as proposed this objective has the potential to cut across environmental considerations: “*This is because activities to conserve/enhance the countryside and cultural resources may include environmentally damaging practices e.g. inappropriate grazing levels or the burning of moorland vegetation etc.*”⁸⁰ RSPB Cymru recommended Welsh Government revisits this objective to ensure that it does not result in unintended negative consequences that would work against the delivery of SLM.

93. The fourth objective references the importance of sustaining, promoting and facilitating use of the Welsh language. Evidence from the Deputy Welsh Language Commissioner pointed to National Census figures which showed 43% of agricultural workers speak Welsh, compared to 19% of the general population.⁸¹ More recent National Census 2021 information, published in December, has shown a decrease in Welsh-speaking by local authority area, however figures for

⁷⁷ Written evidence – AGR43

⁷⁸ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 54

⁷⁹ Written evidence – AGR50

⁸⁰ Written evidence – AGR45

⁸¹ Written evidence – AGR26

the agricultural sector in Wales are not yet published. Both NFU Cymru and FUW have expressed concern that the Welsh language has not been specifically included in the list of purposes in section 8 of the Bill. The Deputy Welsh Language Commissioner called for three things to be made compulsory in the Bill:

- set specific indicators and targets for the Welsh language, which will dovetail with the objectives of the Cymraeg 2050 strategy;
- collect data on the Welsh language so that the situation of the language in the agricultural sector can be analysed; and
- include the Welsh language in the list of purposes for which Welsh Ministers are empowered to provide support.

94. The Minister confirmed she was having discussions with cabinet colleagues on aspects relating to the Welsh language, and recognised the proportion of Welsh speakers in rural and farming communities.

95. NFU Cymru called for a fifth objective *“to reflect the importance of a vibrant, economically active farming sector”* ...it should *“seek to safeguard rural livelihoods and communities, recognising the importance of sustainable and viable farming businesses and agricultural production to the rural economy.”* FUW agreed a fifth should be added *“which explicitly seeks to ensure the economic stability of farming families”*. The Minister said ensuring vibrant farming communities and economic resilience was at the heart of the Bill, and noted ongoing discussions with Plaid Cymru under the Co-operation Agreement on this. She said she would be open to the possibility of adding or refining the wording in this area, and to considering the Committee’s view in its report.

Committee view

96. Although the inclusion of ‘sustainable’ food production in the first objective is welcome, there is a view that the objective as drafted is too vague, and it is problematic that there is no definition of what “in a sustainable manner” entails. It was also noted that the objectives do not mention or recognise that productivity can and should also drive environmental gains and animal welfare.

97. The proposal from RSPB Cymru to amend the wording of the third objective is supported by the Committee as long as it comes with a guarantee that it will be tied in to the Sustainable Farming Scheme, and does not lead to divergence from the policy intent of the Bill.

Recommendation 8. The Minister should consider amending the third objective in section 1 on including nature recovery more explicitly in the Bill, in line with RSPB Cymru's suggested inclusion of new wording as outlined in this report, as long as the Minister can alongside this provide a guarantee that this objective will be tied in closely to the actions to be supported in the SFS, and that in her view such a change will not lead to any divergence from the policy intent of the Bill.

98. The Committee would also welcome the Bill having more clarity on the role of local procurement and how local supply chains will be supported by the Bill's provisions, as strong evidence was received from stakeholders suggesting this aspect of the policy intent of the Bill was unclear from the objectives as drafted.

Recommendation 9. The Minister should provide more clarity on how local procurement and local supply chains will be supported by the Bill.

99. The strong calls from stakeholders for the Bill to give more explicit emphasis to supporting strong and vibrant farming communities have been noted by Members. While the Minister has made clear that this is her policy intent with the Bill, the wording of section 1 could be reviewed to ensure that it is made much more explicit on the face of the Bill. The Committee notes the Minister has said discussions are on-going around this issue as part of the Cooperation Agreement with Plaid Cymru. At this point the Committee is not minded to support the addition of a discrete fifth objective, as long as the fourth objective can be strengthened to fully address stakeholders' concerns.

Recommendation 10. The Minister should bring forward amendments to strengthen the fourth objective, so that more explicit emphasis is given to the policy intent to support strong and vibrant rural communities and to address stakeholders' concerns.

100. The Committee notes the key asks from the office of the Welsh Language Commissioner. Protecting and promoting the Welsh language should be explicit throughout this Bill, and the Committee wants to see this clearly woven through the legislation.

Recommendation 11. The Minister should bring forward amendments to the Bill to strengthen its provisions for sustaining and promoting the Welsh language: this may include by adding it to the list of purposes in section 8, and committing to include specific indicators and targets in order to better measure outcomes.

The Duty to deliver the SLM Objectives (Section 2)

101. Section 2 of the Bill as introduced places a duty on Welsh Ministers in relation to the SLM Objectives, and as to how they must exercise the functions referred to in section 2(2) (i.e. functions to provide support for agriculture and ancillary activities, and to regulate such activities. Section 3 of the Bill provides for exceptions to that duty, which exclude the functions relating to modifying legislation for payments under the CAP and the BPS.

102. There were strong calls for the SLM objectives to be delivered as a ‘job lot’, and that there should be ‘no cherry-picking’⁸². There were calls from a number of stakeholders for Ministers to have a duty to deliver the objectives in a balanced way⁸³ with suggested wording to: “exercise the function in the way that best contributes to achieving those objectives **(taken together)**”.⁸⁴ The Minister said the objectives are “complementary”, going 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”*.⁸⁵

103. The Committee also notes calls from environmental organisations to tighten up the definitions in this part of the Bill, and to borrow from the WFG Act 2015 approach to Welsh Ministers ‘maximising contributions’ and ‘taking all reasonable steps to do so’.⁸⁶

Committee View

104. The Committee has considered the views of stakeholders on the duty to deliver the objectives. It notes concerns that there should be no risk in the future of ‘cherry picking’ of the objectives. Members agree that there should be no hierarchy between the different objectives, and the goal should be to consider them all with equal weight in order to deliver them all.

Recommendation 12. The Minister should amend section 2 to: a) make it clearer that there is no hierarchy to the SLM objectives, and that they must be delivered in a balanced way to achieve the overarching SLM policy goals and b) in amending section 2 should consider wording from the Well-being of Future

⁸² Economy, Trade and Rural Affairs Committee, 20 October 22, Paragraph 17

⁸³ Written evidence – AGR02; AGR43

⁸⁴ Economy, Trade and Rural Affairs Committee, 20 October 22, Item 3, Wales Environment Link – Briefing Paper

⁸⁵ Economy, Trade and Rural Affairs Committee, 5 October 22, Paragraph 8

⁸⁶ Written evidence – AGR46

Generations (Wales) Act 2015 that places a duty on Welsh Ministers to ‘maximise their contributions’ and to ‘take all reasonable steps to do so’.

105. Confor supports the duty, but notes that the functions appear to exclude the delivery of sustainable forestry and afforestation targets. Confor suggested amending 2(1) to include the function of:

“(b) (iii) agro forestry, afforestation on farm as part of or ancillary to the operation of the agricultural holding and management of existing woodland and forestry.”⁸⁷

Indicators and Targets (Section 4)

106. RSPB Cymru wants clarity on the face of the Bill on these indicators and targets - it believes the types of indicators to be “critical.”⁸⁸ WEL suggested they should include, but not be limited to, sectoral greenhouse gas emissions, species condition and extent, global responsibility, carbon sequestration.⁸⁹ NRW said the indicators and targets must be ambitious to ensure that financial assistance is guaranteed and budgets secured post-EU. Revising them must take account of WFG Act 2015 indicators and the latest State of Natural Resources report (SoNaRR). It said:

“the current approach outlined, of at least one indicator and target per objective of SLM, means that the relationship between SLM, Environment (Wales) Act and 2016 and Well-being of Future Generations Act (2015) and wider agendas for Wales will be tenuous.”⁹⁰

107. FUW also had concerns the current approach risks skewed or flawed results as a result of ‘extraneous factors’. CLA Cymru also raised this point. FUW argued that if SoNaRR is used then it should be incumbent on Government to give equal credence to reports on food production and security, such as the UK Food Security Report - to avoid a reporting imbalance leading to actions that fail to protect the viability and sustainability of farming families.⁹¹

108. National Parks Wales highlighted multiple indicators are necessary for the 3rd objective which is complex: “...you have to have indicators of water as well as

⁸⁷ Written evidence – AGR40

⁸⁸ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 58

⁸⁹ Written evidence – AGR46

⁹⁰ Written evidence – AGR53

⁹¹ Written evidence – AGR27

land health...as a minimum, you need to have an indicator that relates to each of those five elements, if you're going to really track progress effectively."⁹² This point was also strongly supported by Dr Petetin and Dr Dobbs. Dr Dobbs said that limiting the number of indicators per objective would also minimise the potential to scrutinise progress.⁹³ Dr Petetin also stressed the importance of collecting localised data, not just pan-Wales.⁹⁴

109. The Minister told Members on 5 October that too many indicators and targets would become "unwieldy" and lose meaning.⁹⁵

110. Farming unions and National Parks Wales agreed with RSPB Cymru's point that some indicators need to be longer-term. NFU Cymru said they should be *"realistic and achievable within the defined timescale"*.⁹⁶ FUW said it is essential indicators and targets are chosen in consultation with industry, *'borne out of sound science'*.⁹⁷ Confor said targets must be appropriate and account for "external regional influences" affecting compliance.⁹⁸

111. The Deputy Welsh Language Commissioner called for an indicator and targets to be included in the Bill to measure progress with the fourth objective (Welsh Language): *"Without the necessary detail in the Bill, there is a risk of losing focus on the sustainability of the Welsh language in future, by relying on the discretion of Ministers."*⁹⁹

112. When asked about the timing of the SLM statement, the Minister said that the proposed timing was set for 31 December 2025 to allow enough time for due consideration and consultation on the indicators and targets.¹⁰⁰

Preparing and revising indicators and targets (Section 5)

113. Section 5 sets out that in preparing or revising a statement on SLM indicators and targets, Welsh Ministers must have regard to certain other national indicators, and must consult with the Future Generations Commissioner and "any other persons they consider appropriate" (section 5(3)(b)).

⁹² Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 62

⁹³ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 265

⁹⁴ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 263-266

⁹⁵ Economy, Trade and Rural Affairs Committee, 5 October 2022, Paragraph 17

⁹⁶ Written evidence – AGR37

⁹⁷ Written evidence – AGR27

⁹⁸ Written evidence – AGR40

⁹⁹ Written evidence – AGR26

¹⁰⁰ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 66

114. NFFN and WEL want consultation with a greater range of stakeholders, not just the Future Generations Commissioner, pointing to success in co-production of the SFS.¹⁰¹ NFU Cymru said the farming sector needed to be consulted.¹⁰²

115. Confor asked why NRW was not a statutory consultee.¹⁰³ WEL said NRW should be, and Ramblers Cymru also said including NRW was important for their advisory role in relation to public access, along with local authority consultation through the WLGA.¹⁰⁴

116. NRW said it is a decision for Welsh Ministers, but notes its role in advising Welsh Government, saying it would seem “prudent” for it to be consulted on revising indicators and targets.¹⁰⁵ The Minister said Ministers would take advice on a case by case basis but it was important to maintain flexibility, as there was a duty that Welsh Ministers MUST report, and consultation with and advice from key stakeholders could change. The indicators and targets were not static and likely to change over time. She was however happy to clarify that farming unions, environmental organisations and agricultural land workers would be among those included in consultation under section 5(3)(b).¹⁰⁶

117. NFFN said reporting against objectives should be backed up with on-the-ground monitoring, which has been lacking in existing schemes. NFFN and RSPB Cymru encouraged benchmarking, including of biodiversity and carbon performance; WEL said this is critical.¹⁰⁷ Confor welcomed the duties, but asked what is the role of the Environmental and Rural Affairs Monitoring and Modelling Programme (ERAMMP) in monitoring and reporting.¹⁰⁸

Committee View

118. The Committee understands the calls for other statutory consultees to be included on the face of the Bill, as currently it is only the Future Generations Commissioner that is named, with a catch-all for Ministers to then choose to consult “any other persons they consider appropriate.” Members accept the Minister’s point that requirements for consultation and advice will change over time, but welcome for the record her undertaking that certain groups should and will be consulted, as has been demonstrated in the process of developing the Bill

¹⁰¹ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraphs 52-59

¹⁰² Written evidence – AGR37

¹⁰³ Written evidence – AGR40

¹⁰⁴ Written evidence – AGR43

¹⁰⁵ Written evidence – AGR53

¹⁰⁶ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraphs 63-64

¹⁰⁷ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraphs 52-59

¹⁰⁸ Written evidence – AGR40

and SFS to date. It should be noted that this Bill is legislating for a long-term support framework, and the approach taken by future Minister(s) may differ. While such undertakings to consult are welcome, they are not legally binding on the Minister, or any successive Minister.

Sustainable Land Management Reports (Section 6)

119. Sections 6(8) and 6(9) provide for a first (baseline) SLM report to be published for a reporting period running from the coming into force date for section 2 until 31 December 2025, with subsequent reports every five years. NFFN supports the reporting to demonstrate value for money and for transparency, however as already noted they also called for better on-farm monitoring. Dr Dobbs suggested interim reports would be useful, as there was an acknowledgement that some outcomes will take a very long time to be demonstrated. Confor recommended an obligation to report on why successful outcomes have been achieved, and NRW said thought should be given to how timescales for reporting are aligned with reporting cycles for the WFG Act 2015 and Environment (Wales) Act 2016. Members support the recommendation for interim reports to be provided.

Recommendation 13. The Minister should bring forward an amendment to provide for interim reports that account for the time taken for different objectives to be achieved, and also consider whether the wording of section 6 should be amended to require reports to outline why successful outcomes have been achieved, rather than just why they have not been (sections 6(4) and section 6(5)).

Recommendation 14. The Minister should consider how the reporting timescales are aligned with reporting cycles for the Wellbeing of Future Generations (Wales) Act 2015 and Environment (Wales) Act 2016 and bring forward any necessary amendment to section 6 of the Bill to account for this.

Steps to be taken in preparing reports (Section 7)

120. NRW said that instead of having “regard to most recent state of natural resources report”, consideration should be given to changing the wording in section 7 to refer to “the Current Assessment of Sustainable Management of Natural Resource.” It said:

“The Current Assessment includes information published in previous versions of the State of Natural Resources Reports where the body of evidence has not changed during reporting periods. This will ensure that Welsh Ministers have regard for the

*current state of Natural Resource and not limiting their scope to those areas covered in the most recent State of Natural Resources report.*¹⁰⁹

Recommendation 15. The Minister should consider bringing forward an amendment to the wording of section 7 - as proposed by NRW in its consultation response - to ensure that the full scope of consideration is given to the state of natural resources reports (SoNaRR) in preparing the SLM report.

¹⁰⁹ Written evidence - AGR53

4. Part 2 – Support for Agriculture etc.

Part 2 of the Bill confers powers on Welsh Ministers to provide support to the agriculture sector and sets out a list of purposes for which that support can be provided, including for “ancillary activities”. It provides powers to modify existing legislation for agricultural support, setting eligibility criteria for future support, and for market intervention. It would place a duty on the Welsh Ministers to report on the effectiveness of any support given. There is also provision for dispute resolution aimed at helping certain tenant farmers to access support.

Chapter 1 - Welsh Ministers’ power to provide support

What the provisions in Chapter 1 of Part 2 do

121. Section 8 confers a power on the Welsh Ministers to provide support for, or in connection with, agriculture and ancillary activities that take place in Wales. It sets out a non-exhaustive list of ‘purposes’ for which such support may be provided, which can be amended by regulations. The purposes aim to support the achievement of the SLM objectives. Support may be provided by way of a scheme, or by other means.

122. Section 9 provides further detail on the support which may be given under section 8. It sets out that support may be provided financially or otherwise, and may 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).

123. Section 10 confers a power on the Welsh Ministers to make regulations about the publication of certain information in connection with any support provided under section 8. For example, the recipients of any support provided.

124. Section 11 provides the Welsh Ministers with regulation making powers to make provision about checking whether eligibility criteria for support under section 8 are met. It provides for enforcing compliance and monitoring the extent to which the purposes of support have been achieved, and the investigation of suspected offences.

125. 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.

126. Section 13 requires the Welsh Ministers to prepare an Impact Report every five years to assess the impact and effectiveness of support provided under section 8.

127. Section 14 requires the Welsh Ministers to have regard to certain matters during the preparation of an Impact Report.

Overview

128. Farming unions stress the importance of targeting support at active farmers. The Minister confirmed that funding should be for active farmers under the SFS.¹¹⁰ NFU Cymru was critical that the list of purposes for support in section 8 of the Bill are ‘primarily environmental’ and said it is inaccurate to assume that supporting farmers to deliver environmental outcomes alone can ensure the delivery of wider outcomes for society. In oral evidence NFU Cymru called for an additional power to support for *“rural vitality...food security...and farm productivity.”*¹¹¹ FUW said the success of the Framework Bill will depend on whether schemes are *“sufficiently attractive to all sectors, areas and farm types and are adequately funded.”*¹¹²

129. Confor said forestry needs a fair share of the budget if afforestation targets are to be met. It welcomed the reference to maximising sequestration and storage of carbon. Clarity is required over the reference or measurement system used to assess this: *“Some products may leave the farm gate and have long lifespans as locked material and these are not acknowledged in our current carbon accounting systems.”*¹¹³

¹¹⁰ Economy, Trade and Rural Affairs Committee, 5 October 2022 Paragraph 54, 16 November 2022, Paragraph 94

¹¹¹ Economy, Trade and Rural Affairs Committee, 12 October, Paragraphs 36-37; Written evidence AGR37

¹¹² Economy, Trade and Rural Affairs Committee, 12 October, Paragraph 45; Written evidence AGR27

¹¹³ Written evidence - AGR40

130. National Trust were asked about lessons learnt from the Llyn project and Glastir about the advice and support to be provided to farmers to access the SFS. National Trust said *“I think the advisory support function within the scheme and how the Bill is enabling that are critical.”*¹¹⁴

Support for Ancillary Activities (Section 8(1) and Section 49)

131. Many stakeholders welcomed powers in section 8(1) for the Welsh Ministers to support ancillary activities to improve the wider supply chain and help farmers get their products to the market. Shorter supply chains and food sovereignty were benefits identified.

132. Both farming unions were concerned that the breadth of ancillary support powers under section 49(a) could direct support away from active farmers. NFU Cymru wanted the scope of the definition narrowed to only include *“producers of agricultural products”* and *“the class of ancillary activities at [section] 49(b) tightened so that the products referenced are derived from Welsh agriculture as opposed to just ‘agriculture’”*.¹¹⁵ FUW was also concerned about the breadth of the definition and possibility of it being widened further under section 50.¹¹⁶

133. However the Woodland Trust welcomed this power to extend support to wider nature conservation on land used for agriculture. It said many of these ancillary activities are *“necessary to maintain the sustainability of agricultural production”*.¹¹⁷

134. 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 that divorcing the various elements was not advised. Simon Wright suggested ‘complementary’ was a better word than ‘ancillary’:

“Because what we’re talking about here is creating the right legislative economic context for agriculture to be able to fulfil these objectives, but also to survive and thrive economically. That’s the purpose of these ancillary aspects. I think it’s important that they’re not seen as divorced. I know that there’s some comment about how many resources will be given to ancillary and how many will be given directly to farmers, but it’s part of the same picture. What we’re trying to do is create an

¹¹⁴ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 296

¹¹⁵ Written evidence – AGR37

¹¹⁶ Written evidence – AGR27

¹¹⁷ Written evidence – AGR02

*economically sustainable environment for this going forward. So, I think that's quite important.*¹¹⁸

135. The Minister told Members that support for ancillary activities would have to add value to farm businesses and she did not want to divert support away from the farmers.

Meaning of “ancillary activities” (Section 49)

136. Section 49 defines “ancillary activity” for the purposes of the Bill. In the second evidence session with the Committee on 16 November, the Minister made it clear that support was very much for active farmers under the definition in section 49(b), not to take money out of the pot for them, and many farmers were looking for support to diversify. The Minister and officials explained that, as is set out in the regulatory impact assessment, the meaning of ‘agriculture’ and the meaning of ‘ancillary activity’ should be taken together, not in isolation, so that 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.”*¹¹⁹

137. Whilst the Bill does not prevent this, there is nothing in the drafting of sections 8 and 49(b) to target or limit the support in line with the policy intent. Following the exchange in Committee on 16 November it was suggested that the Minister consider reviewing the wording of this aspect of the Bill to remove the confusion over a fundamental aspect of the support provisions. The narrower definition may also raise concerns for food supply chain representatives who had considered the scope of support available to support activities beyond the farm gate to be broader.

138. Confor wanted timber and wood fibre included in the ancillary activity definition because: ... *“we talk about food security - we’ve continued to not talk about timber security, fibre security. These products are as instrumental in our everyday life as food ... [but] ... we import 85 per cent of the timber that we use in this country.”*¹²⁰ The Minister rejected this – she said the Bill was not a Forestry Bill – the wider timber and forestry sector fell outside the Bill’s scope, but it was being used as a legislative vehicle for specific provisions on felling licence powers. The

¹¹⁸ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 61

¹¹⁹ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 96

¹²⁰ Written evidence – AGR40

Committee recognises Confor's point as valid and important, but sees it as an issue to be taken up with the Minister outside the scope of this Bill.

139. NRW also said the wording about 'taking action on land' could cause confusion, noting the lack of status of the Bill's definitions in other pieces of legislation such as forestry, planning and tenancy. It said *"in many cases, taking action on land used for agriculture to (i) create and manage habitats, or for other purposes relating to nature conservation and (iii) to maintain and enhance the resilience of ecosystems, does not necessarily require a change in land use but a scale at which current activities are undertaken...* it said including these as an 'ancillary activity' separates the integrated purposes of SLM and *"maintains the dichotomy of either food production or environmental management."*¹²¹ NRW notes that in the EM (page 50, paragraph 3.159) that environmental land management is referred to as a non-agricultural activity where it is in many cases 'agriculture', albeit at a more extensive scale or level.

Committee View

140. Members question whether the meaning of support for ancillary activities has been made clear enough in the Bill, given concerns raised by stakeholders despite having been involved in co-design. During evidence sessions, with food supply chain representatives for example, there was an assumption that this support would be provided beyond the farm gate, to those involved in the processing, packing and distribution of products, but who were not farmers themselves. It is important that "ancillary activities" are clearly defined in the Bill as relating to agriculture if that is the policy intent.

Recommendation 16. The Minister should provide further clarity on the scope of support for "ancillary activities" as defined in section 49 of the Bill, for the benefit of those involved both directly in agriculture and indirectly in the agri-food supply chain. The Minister should also confirm whether she intends to bring forward amendment(s) to the wording of section 8(1) and/or the definition of "ancillary activity" in section 49, to enhance understanding and for the avoidance of doubt.

Recommendation 17. The Minister should review the wording of 'taking action on land' in section 49 and bring forward any necessary amendment to remove any confusion or issues arising from lack of status with other relevant legislation.

¹²¹ Written evidence – AGR53

List of Purposes (Section 8)

141. Section 8 of the Bill would give powers to Welsh Ministers to provide support “for or in connection with agriculture in Wales and ancillary activities that take place in Wales.” The list of purposes for which support can be provided is set out in section 8(2). The Committee received extensive evidence about the list of purposes, including how they link back to the SLM objectives in section 1 of the Bill.

142. NRW said including adaptation to climate change should be considered as particularly important to delivering SLM.¹²²

143. NFFN said ambiguity around the definition of sustainable food production needs tightening up; NFFN also said it should include financial support for infrastructure, machinery and equipment which link to the SLM objectives, as farming is such a capital-intensive industry.¹²³ NFFN and food supply chain representatives also wanted potential payments to farmers for education on where food comes from, how it impacts nature and climate and its role in supporting vibrant rural communities.¹²⁴

144. NFU Cymru said section 8(2)(a) should be amended to “*encouraging the production of food in an environmentally, economically, socially and culturally sustainable manner*”, and that any regulations to amend the list of purposes (made under section 8(4)) should be consulted on.¹²⁵

145. Confor also noted that “*food production*” is expressed in section 8(2)(a) (“*encourage the production of food in a sustainable way*”), whereas elsewhere in the Bill it is combined as “*produce food and other goods*”.¹²⁶

146. RSPB Cymru said it was “*a pretty comprehensive framework*” but it depends on how it translates into the SFS. RSPB Cymru and National Parks Wales strongly agreed that restoration of nature must be listed as a priority and included on the face of the Bill: “*there needs to be direct reference to restoring nature and biodiversity within as a purpose.*” Environmental groups called for the ‘DECCA’ ecosystem approach: diversity, extent, connectivity, condition and adaptability.

¹²² Written evidence – AGR53

¹²³ Economy, Trade and Rural Affairs Committee, 20 October 22, Paragraph 65

¹²⁴ Economy, Trade and Rural Affairs Committee, 20 October 22, Paragraph 65

¹²⁵ Economy, Trade and Rural Affairs Committee, 12 October 2022, Paragraph 37

¹²⁶ Written evidence – AGR40

147. WEL is concerned that as written the list of purposes are not future-proofed and do not support community ownership.¹²⁷ WWF would like to see *‘improving community access to local goods’* added, to support the development of Community Supported Agriculture (CSA).¹²⁸

148. The Tenant Farmers Association (TFA) and farming unions feel the list is too narrowly focused on environmental purposes, and that criteria relating to both economic efficiency and social/cultural impact need to be included. NFU Cymru said: *“rural vitality and food security should be included.”*¹²⁹

149. The Chair of the Food and Drink Wales Industry Board called for reference to the role of innovation in how land and supply chains are managed.¹³⁰

150. Ramblers Cymru said on section 8(2)(h) - ‘maintaining’ public access – that landowners’ compliance with the Highways Act 1980 requirements should be part of the regulatory baseline and eligibility checks to qualify for support.¹³¹

151. Welsh language is not included in the list of purposes and NFU Cymru and FUW are among those calling for its inclusion, noting that the agriculture sector has the highest proportion of Welsh speakers. The Minister indicated on introduction of the Bill that it was her intention to rectify this by amendment.

152. The Minister said the list of purposes was not exhaustive and could be amended over time by regulation. James Owen said the list would be ‘brought to life’ in the SFS, for example in support for capital infrastructure projects and innovation. On the calls for nature recovery to be given equal weight to climate provisions, the Minister said it was implicit in the delivery of all four objectives in a holistic way, as there was no hierarchy, with a ‘whole farm’ approach. Although the Minister also acknowledged that climate action measures could sometimes work against biodiversity goals.

Committee View

153. The Committee notes the strong calls from stakeholders for some amendments to the list of purposes, and invites the Minister to consider these arguments carefully with a view to bringing forward amendments to address their concerns. In particular the Committee thinks that ‘innovation’ is a significant

¹²⁷ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 68

¹²⁸ Written evidence – AGR32

¹²⁹ Written evidence – AGR37

¹³⁰ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 75

¹³¹ Written evidence – AGR43

omission from the list, as is the Welsh language, and it is minded to support the inclusion of community access and education about food systems in the list. It is important that the SLM objectives in section 1 of the Bill align fully and explicitly with the list of purposes set out in section 8.

Recommendation 18. The Minister should bring forward amendments to the Bill to address the points raised by the Committee about omissions from the list of purposes in section 8, or provide a rationale for not including additional elements.

Support for new entrants, succession and community food schemes

154. Several stakeholders felt the Bill as drafted lacks provision to support succession, new entrants and alternative community ownership models. This includes support for community collaboration and supporting local food production and local businesses.¹³² WEL suggested the Bill should place a duty on Welsh Government to include these in scheme design. WEL also said the Bill should support preventing the problem of land being sold off to the highest bidder. NFFN is calling for better financial support for new entrants in a capital-intensive industry and efforts to understand why succession is an issue. NFU Cymru seeks inclusion of on-farm productivity and helping new entrants into the industry in section 8 of the Bill. The Minister said she looked forward to seeing ideas from the working group on new entrants on how to support them.

155. TFA Cymru is disappointed to see no reference to County Council Smallholding Estates in the Bill *“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 County Council Smallholdings as key for new entrants, but said 30% have been lost in the last 30 years. It believes the Bill should have powers for Ministers to scrutinise and sign off rural estate plans and their proposals for disposals (part or whole) to ensure best value. The Minister told Members:

“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, and I think it is fair to say 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

¹³² Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 70

how we can have a much more co-ordinated approach, really, across all the local authorities.”¹³³

Recommendation 19. The Minister should bring forward amendments to the Bill to take account of the needs of new entrants, and report back to the Committee on other actions that will be taken as a result of the work of the new entrants working group.

Income stability and food security

156. The food supply chain representatives and farming unions said the new framework needs more emphasis on food security. Food security was considered widely, e.g. through environmental improvement and also prioritising imports/exports to add value. NFU Cymru and FUW said productivity and sustainability can co-exist, for example through making systems more efficient. WEL and WWF Cymru preferred the term ‘food sovereignty’ to food security - tackling the misalignment between Welsh production and consumption.¹³⁴ WEL said more clarity is needed in the Bill about how the actions join up to provide income stability through nature-friendly farming. NFFN said the idea that nature-friendly farming is at odds with food security is an “outdated notion”.¹³⁵ RSPB Cymru stated that the BPS had actually decreased the stability of farm incomes, and that environmental methods with reduced inputs (e.g. feed, fertiliser) can increase it.¹³⁶

157. Food sector representatives said food security is a complex issue, but there is a hidden public health cost to subsidised food – Dr Dobbs and Dr Petetin supported this, noting that it was an element missing from the Bill.¹³⁷ NFFN cautioned on defining what was meant by ‘food security’:

“...We’ve intensified farming over the last 50 years, and it hasn’t solved the food security issue. We’ve got public health issues in Wales: 60 per cent of adults are overweight or obese; 9 per cent of Wales experiencing low food security; one out of five worrying about food running out. We waste 400,000 tonnes of food every year...one in six wildlife species are threatened with extinction. And for every £1 we spend at the till, there is a hidden cost of £1 as well that we have to then pay through taxpayers’

¹³³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 156

¹³⁴ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 83

¹³⁵ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 87

¹³⁶ Written evidence – AGR45

¹³⁷ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 254 and 257

*money, mainly due to public health and environmental issues. So, again, this notion that direct income support might lead to cheap food—it's only superficially cheap. We pay for it in hidden ways. So, we shouldn't use the term 'food security' lightly, and we should have a strict definition and principles behind it."*¹³⁸

158. RSPB Cymru, LWA and Simon Wright have all pointed to opportunities with the Food (Wales) Bill, e.g. on circular food economies and public procurement – to embed principles and align policy around sustainable food production and deliver these alongside the Agriculture (Wales) Bill.

159. Simon Wright highlighted the importance of horticulture which he says needs special regard, and offered “massive opportunities”.¹³⁹ LWA supported this but raised concerns that small fruit and vegetable farms could miss out on support via the SFS (see section 11 of the Bill, below) ¹⁴⁰ RSPB Cymru argued that food insecurity is linked less to production but factors including food waste, diet choice and food poverty.¹⁴¹

160. RSPB Cymru suggested 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 and to help farmers diversify.¹⁴² It is noted that AA 2020 contains a duty on the Secretary of State to report to the UK Parliament on food security in the UK.

161. RSPB Cymru said the conversation in committee pointed to the need for a food plan or strategy, a proposal that was supported by the food chain representatives.¹⁴³ NFU Cymru's response calls for a mechanism for reporting on domestic food production,¹⁴⁴ and academics also supported more focus on food security and sovereignty in the Bill.

162. In the second evidence session with the Minister she said the Bill “*absolutely supports food security specifically through the powers to support and through the sustainable land management objectives*”, and contained “*ample mechanisms*” in relation to food sovereignty.¹⁴⁵

¹³⁸ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 88

¹³⁹ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 88

¹⁴⁰ Written evidence – AGR54

¹⁴¹ Economy, Trade and Rural Affairs Committee, 20 October 2022, RSPB Briefing Paper

¹⁴² Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 91

¹⁴³ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraphs 95-98

¹⁴⁴ Written evidence – AGR37

¹⁴⁵ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 29

Committee View

163. Members note the extensive evidence they received on the opportunities the Bill presents to support a vision for sustainable food production and greater diversification. The Committee will be exploring food policy further as part of its scrutiny of the Food (Wales) Bill.

Recommendation 20. The Minister is invited to consider the evidence from stakeholders for the Bill to be strengthened further to promote horticulture and maximise opportunities for diversification, and to consider how the Bill's objectives align with stakeholder views on the Food (Wales) Bill.

Further Provision – particularly Third Party Schemes (Section 9)

164. Environmental groups and the Nature Friendly Farming Network (NFFN) welcomed support for third-party schemes. The National Parks Wales and NFFN both cited some Irish schemes – such as the **Burren Programme** and the **Pearl Mussel Project** – as successful examples, and the Committee considered these in more detail. The schemes were said to have high uptake due to a high proportion of funds going to the farmers (80% plus) with relatively small overheads or implementation costs. The National Parks Wales highlighted these schemes could be applied to Welsh designated landscapes where there is opportunity to set higher levels of nature recovery and fully incentivise farmers.¹⁴⁶ In the first Ministerial session on the Bill, a Welsh Government official said it was “*a power around futureproofing*”, citing the example of a scheme where Dŵr Cymru works with farmers in the Brecon Beacons on a catchment scale to improve water quality.¹⁴⁷

165. The farming unions were more cautious, raising concerns about a lack of clarity on these provisions. They said farmers are wary of third-party schemes because historically a higher proportion of funding has gone to administration of these schemes rather than direct support. They also highlighted the risk of a postcode lottery.¹⁴⁸ FUW also said food producers may be reticent to provide sensitive business information to third party operators. FUW said reference to Third Party expenditure should be part of the monitoring and reporting arrangements.¹⁴⁹

¹⁴⁶ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 136

¹⁴⁷ Economy, Trade and Rural Affairs Committee, 5 October 2022, Paragraph 181

¹⁴⁸ Economy, Trade and Rural Affairs Committee, 12 October 2022, Paragraph 119

¹⁴⁹ Written evidence – AGR27

Power to make provision about publication of information about support (Section 10)

166. FUW strongly believes that there should be full transparency relating to the financial support provided by Government under any new scheme(s) and the associated proportional splits pertaining to factors such as bureaucracy, administration and direct support.¹⁵⁰ NFU Cymru saw merit in considering a de minimis threshold of £1,250, with information on recipients of sums below this threshold published in an anonymised format only.¹⁵¹

Powers to make provision about checking eligibility for support, etc. (Section 11)

167. Confor noted that under sections 11(1)(b) and 11(1)(c) – on consequences of non-eligibility and enforcing compliance – reference should be made to ‘proportionate and reasonable’. It stated that grant reclaims under Glastir were neither of these, subsequently alarming many farmers who withdrew from projects involving fencing due to the potential scale of fine/penalty.¹⁵² NFU Cymru said checks should not be conducted in an insensitive or heavy-handed manner, and any checks and penalties applied should be proportionate. FUW also stressed they must take account of circumstances outside the farmers’ control, and never as a result of policy change after the onset of a scheme.¹⁵³

168. LWA agreed in principle with the powers but are concerned about eligibility criteria for future support: the 3 hectare requirement of the SFS will “*exclude many excellent sustainable farms, particularly fruit and vegetable farms.*” It said there is a misunderstanding about horticulture costs and turnover, citing its research, and suggested the Bill “*requires an examination and understanding of all agriculture sectors, including those that are underrepresented in Wales, such as horticulture.*”¹⁵⁴

Monitoring and Reporting on Support (Sections 12-14)

169. FUW said the provisions of sections 12-14 of the Bill are significant for scrutiny and transparency, given its previous concerns about value for money in RDP

¹⁵⁰ Written evidence – AGR27

¹⁵¹ Written evidence – AGR37

¹⁵² Written evidence – AGR40

¹⁵³ Written evidence – AGR37 and AGR27

¹⁵⁴ Written evidence – AGR54

scheme delivery.¹⁵⁵ NRW¹⁵⁶ noted that there is no timescale set out for acting on the findings of the Impact report which could affect post-implementation. In reporting on the impact of support to farmers, a Member suggested that this should be looking at productivity, recognising also the environmental benefits of better productivity.

170. It has already been noted under section 4 above, that stakeholders (farming unions, RSPB Cymru and National Parks Wales) all had concerns about the timescales for reporting, as some measures will take longer to demonstrate outcomes.

171. TFA Cymru believed the Impact Report covers the same ground as the SLM reports and that instead there should be one overarching report. It called for publication every three years (instead of every five years as is the case with the Impact Report). Dr Dobbs said the Impact report *“basically replicates to a certain extent what the SLM report will do—not entirely, but it will feed directly into it, obviously”* and suggested that interim reports were needed, with a recognition that some outcomes *“will not manifest within five years.”* She added: *“it’s useful; the question is what happens with it.”*¹⁵⁷ The farming unions were concerned the reporting would involve significant administration costs.¹⁵⁸ The Minister noted the importance of the Impact Report as an essential mechanism to show where support was being provided, and was content with the reporting timescales to gauge progress.¹⁵⁹

Recommendation 21. The Minister should give consideration to amending the Bill to include a timescale for acting on the findings of any Impact Report prepared under section 13 of the Bill.

Chapter 2 - Powers to modify legislation relating to financial and other support (Sections 15 – 19)

What the provisions in Chapter 2 of Part 2 do

172. Section 15 provides the Welsh Ministers with the power by regulations to modify legislation governing the BPS (of the CAP) in relation to Wales.

¹⁵⁵ Written evidence – AGR27

¹⁵⁶ Written evidence – AGR53

¹⁵⁷ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 310

¹⁵⁸ Written evidence – AGR37 and AGR27

¹⁵⁹ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraphs 127-130

173. Section 16 provides the Welsh Ministers with the power by regulations to modify legislation relating to the financing, management and monitoring of the CAP in relation to Wales.

174. Section 17 provides the Welsh Ministers with the power by regulations to modify legislation relating to apiculture (beekeeping) in relation to Wales.

175. Section 18 provides the Welsh Ministers with the power by regulations to modify legislation relating to support for rural development (of the CAP) in relation to Wales.

176. Section 19 provides that nothing in Chapter 2 of Part 2 affects powers to modify the same subject areas (i.e. the BPS etc.) under separate legislation.

Transition plans and a ‘sunset’ provision

177. Farming unions and environmental organisations agreed there must be no cliff-edge of financial support. RSPB promoted a tapered approach, not the linear approach the Department for Environment, Food and Rural Affairs (DEFRA) favours in England¹⁶⁰, and provided further information on how this gradual taper might work.

178. 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. RSPB’s written response said *“if we are to successfully transition to and maintain SLM its vital the Bill does not establish powers to retain and modify CAP legislation and BPS payments; and that all functions relating to the CAP and BPS cease when Welsh farming fully transitions to the SFS”*.¹⁶¹

179. In contrast the farming unions warned against a sunset provision highlighting the importance of having all the tools available to allow stability in case of a crisis. NFU Cymru say CAP legacy schemes should not be phased out until replacement schemes can provide the same level of stability. It would not support any proposal to amend the Bill to place a time limit, and called for *“maximum flexibility”*.¹⁶² When asked about the sunset provision the Minister told the Committee it had been considered but she had decided on balance not to

¹⁶⁰ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraphs 108-110

¹⁶¹ Written evidence – AGR45

¹⁶² Written evidence – AGR37

include it and would exercise the powers when the SFS was ready, not before 2025.¹⁶³

180. In responding to LJC Committee on this point, the Minister said:

*"I have announced my intention to continue with the Basic Payment Scheme to 2023 to provide support for farmers as we work together to transition to the Sustainable Farming Scheme. We will not make changes until we can demonstrate a new system is adequately designed, we have undertaken the relevant impact assessments and we are confident it is administratively practicable. Evidence being gathered through Co-design will feed into a wider evidence base (alongside other evidence workstreams) and help shape future scheme design. I will consult on the final scheme and how we transition in 2023. A final decision on the proposals and, therefore, regulations which form the scheme will be made after the consultation in 2023."*¹⁶⁴

181. The Committee is not advocating a sunset provision.

182. TFA Cymru also called for additional powers available to Welsh Ministers to introduce consolidated BPS payments as a lump sum to assist with retirement from the industry. The Minister said she had not considered this use of BPS and had no plans in that regard, although James Owen noted officials would be able to advise the Minister on the outcomes of a related DEFRA scheme in England.¹⁶⁵

Chapter 3 - Intervention in agricultural markets

What the provisions in Chapter 3 of Part 2 do

183. 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 the prices achievable for Welsh agricultural products.

184. Section 21 specifies the powers available to Welsh Ministers while an exceptional market conditions declaration has effect. This may include financial support to agricultural producers in Wales whose incomes have been, are being,

¹⁶³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 207

¹⁶⁴ LJC Committee 12 December 2022, Paper 28

¹⁶⁵ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 209

or are likely to be adversely affected by the declared exceptional market conditions.

185. Section 22 confers powers on the Welsh Ministers to modify retained direct EU legislation relating to public market intervention or aid for private storage, so far as it has effect in relation to Wales. ‘Public market intervention’ is the purchasing, storing and reselling of certain goods once prices have risen and ‘private storage aid’ is paying producers to store products for an agreed period to remove them from the market.

186. TFA Cymru wanted assurance that market intervention will include natural phenomena like drought, flood and disease as well as economic phenomena impacting upon markets. It said it should cover not only “acute” hardship but also “chronic” long-lasting difficulties like endemic disease or structural changes in agricultural markets.¹⁶⁶ Simon Wright was concerned about how these powers would be used stating “*given what we’ve experienced in the last three years, we could be constantly in exceptional market conditions.*”¹⁶⁷ The National Trust argued that these powers should be used proportionally to avoid suppressing industry responses to risk and the impacts of climate driven food market volatility or failure.¹⁶⁸

187. The FUW argued the Bill should require co-ordination across the UK on market intervention, given that divergence will distort the market.¹⁶⁹

188. Dr Dobbs warned against any unilateral requirements for Welsh Ministers in the Bill to ensure coordination with other countries. Instead she suggested the Bill could require Welsh Ministers to apply common framework processes. The Minister said the Common Framework on Agricultural Support was the appropriate mechanism.¹⁷⁰ James Owen noted, with regard to “acute” and “chronic” difficulties, the power for a ‘rolling extension’ if needed and other powers that could be used.¹⁷¹

189. TFA Cymru, FUW and NFU Cymru said the Welsh Ministers should consider costs and availability of inputs as well as the “*prices achievable for one or more agricultural products*”.¹⁷²

¹⁶⁶ Written evidence – AGR01

¹⁶⁷ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 151

¹⁶⁸ Written evidence – AGR38

¹⁶⁹ Written evidence – AGR27

¹⁷⁰ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 213

¹⁷¹ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 215

¹⁷² Written evidence – AGR01; AGR27; AGR37

190. The Minister said that “*any large-scale business disruption that is obviously not the fault of the farmer*” would be considered for intervention, including extreme weather, and that it would be important to coordinate with other UK countries.¹⁷³

191. The Minister’s response¹⁷⁴ to the LJC Committee’s letter states that the Welsh Government is planning to end Public Intervention and reform Private Storage Aid schemes in Welsh legislation in 2023. It says Public Intervention schemes are an inefficient form of market support and have high associated costs. It is planning to remove the requirements for operators to lodge a security for Private Storage Aid contracts and for the Rural Payments Agency to conduct interim inspections of products in such schemes.

Chapter 4 - Agricultural tenancies

What the provisions in Chapter 4 of Part 2 do

192. Section 23 amends section 19A of the Agricultural Holdings Act 1986 (“the 1986 Act”). The effect of this amendment is to confer a regulation making power on Welsh Ministers to provide certain agricultural tenants with a route to resolve disputes with landlords about restrictive clauses in their tenancy agreements, which may prevent them from accessing financial assistance provided under the Bill.

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

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

194. Restrictive clauses in some tenancy agreements may prevent tenant farmers from accessing future support schemes. The 1986 Act includes no dispute resolution provisions allowing AHA tenants to challenge restrictive clauses.

¹⁷³ Economy, Trade and Rural Affairs Committee, 5 October 2022, Paragraph 62; 16 November 2022, Paragraphs 213-214

¹⁷⁴ Economy, Trade and Rural Affairs Committee, 12 January 2022, Paper to Note 2.6

195. The Welsh Government consulted on tenancy reform in 2019 following the work of the Tenancy Reform Industry Group (TRIG), an industry advisory group. Several proposals were taken forward through the AA 2020, and these are not subject to the 2024 sunset provision. There was a further proposal, which received support in the tenancy reform work, but was not included in the AA 2020. This was to enable tenants to refer to arbitration or third party determination requests for the landlord's consent to undertake restricted activities in their agreement or vary the tenancy terms. The relevant purpose is to enable AHA tenants to access Welsh Government financial assistance, in particular future agricultural schemes. The Welsh Government deemed it would be appropriate to take the proposal forward through the Bill. The **summary of responses** to the Bill's White Paper states (page 4):

"The importance of protecting tenants was raised by respondents, including in accessing support and in ensuring that they are adequately rewarded for stewardship of the land. A more peripheral theme included landlords, who expressed the importance of aligning support and making it compatible with the specific requirements of the landlord. There was broad support, however, regarding the importance and value of dispute resolution frameworks contained within the proposals."

196. Evidence to the Committee showed clear differences of opinion on whether the Agricultural Tenancies provisions in Chapter 4 of the Bill should also address FBT tenancies created under the 1995 Act as well AHA tenancies under the 1986 Act.

197. FUW said the Bill proposals in their current form represent a "*particular and acute problem for tenants*" which the Bill doesn't address and will disenfranchise them in a way that breaches the Wellbeing Act. It was concerned the powers could potentially cause aggravation between tenants and landlords.¹⁷⁵ NFU Cymru welcomed section 23, which makes provision for AHA tenants, but noted tenant farming members who believe similar provision should be made for FBT tenants under the 1995 Act. It said that it continues to have "*serious reservations*" about farmers' ability to access the SFS based on information published by Welsh Government to date.¹⁷⁶ NRW said the inclusion of dispute resolution is a "step forward" but raises practical issues of timing and cost.¹⁷⁷

¹⁷⁵ Written evidence – AGR27

¹⁷⁶ Written evidence – AGR37

¹⁷⁷ Written evidence – AGR53

198. TFA Cymru stressed it is a “*major omission*” the Bill does not extend to FBTs to help those tenant farmers access future support. It said 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 of farm tenancies.¹⁷⁸ Confor also said: “*FBT’s cover around 300,000 hectares of Welsh farmland and it (is) an oversight to not consider them as part of this legislation.*”¹⁷⁹

199. Section 23 of the Bill amends section 19A of the AHA 1986, but Confor said: “*section 19a fails to fully address grounds for appeal by the tenant to landlord objection where consent is required and does not whilst some concerns may be raised over availability of land to let being diminished the status quo should be one of equal capacity to manage the land for SMNR outcomes.*”¹⁸⁰

200. Confor supports the dispute resolution process, as many tenant farmers are “*excluded from afforestation schemes at present due to the terms of their AHA.*” Confor said:

*“Whilst it may be the case that some landlords will seek to enter into alternative land use schemes, the existing tenanted sector is essential to maintain the cultural, social and farming heritage of Wales. Tenant farmers will still be limited in their ability to engage with the SFS and principally deliver the requirement for 10% tree cover. This feels like a grave oversight in creating opportunities for both Landlords and Tenants to benefit from the SFS and lead in creating partnership models that may be of benefit to the wider industry.”*¹⁸¹

201. In contrast to the position of the farming unions, Confor and NRW, the Minister said there are “*already sufficient mechanisms in place*” for FBTs, unlike AHAs which the Bill does address. In Committee on 16 November it was explained in detail how the two tenancy acts were “*differently drawn*” and the reasons for amending the 1986 Act. It is Welsh Government’s view that changes to the 1986 Act will bring it into line 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.*”¹⁸²

¹⁷⁸ Written evidence – AGR01

¹⁷⁹ Written evidence – AGR40

¹⁸⁰ Written evidence – AGR40

¹⁸¹ Written evidence – AGR40

¹⁸² Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 266

202. TFA Cymru also said the definition of ‘agriculture’ in the Bill only impacts the internal operation of the Bill. It believes the Bill should amend the definition of agriculture which applies to agricultural tenancies (both AHA tenancies and FBTs) by amending the 1986 Act definition. Similarly it believes the ‘rules of good husbandry’, which apply to farm tenancies to maintain “a reasonable standard of efficient production”, should be updated for wider environmental gain or public benefit to align with the Bill. TFA Cymru said these reforms would help tenants gain access to new schemes.

203. Members heard that although a farm tenancy working group has been set up it was not established in time to inform the Bill’s development. Instead it will be consulted for Government amendments to the Bill. With regard to whether the definition of agriculture in the 1986 Act would act as any barrier to access to the SFS, the Minister told the Committee: *“the definition of ‘agriculture’ in that Act is non-exhaustive, so we didn’t consider it would act as a barrier to farmers being able to access.”*¹⁸³

204. In responding to LJC Committee on issues of access to the SFS, the Minister also referred to the findings of a report from Baroness Kate Rock, Chair of the Independent Tenancy Working Group sponsored by DEFRA, saying:

*“We understand some tenants may find their ability to take up optional actions constrained by the terms of their tenancy agreement. We are exploring how landlords and tenants could collaborate to enter mutually beneficial agreements, similar to the examples included in the **Rock Review**.”*¹⁸⁴

Committee View

205. There is clearly a difference of opinion between the Welsh Government and stakeholders on whether the Bill’s provisions as drafted are adequate to meet the needs of farmers operating under both types of agricultural tenancies to access future support. While the Committee notes the Minister and officials’ evidence on this point, and that there is an ongoing Welsh Government consultation process with a Tenant Farmers Working Group, it would still welcome further clarification of how the concerns of tenant farmers in relation to the scope of the provisions in Chapter 4 are being addressed. This should include whether the Minister intends

¹⁸³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 233

¹⁸⁴ LJC Committee, 12 December 2022, Paper 28

for them to be addressed through further amendment to the Bill or by other means.

Recommendation 22. The Minister should report back to the Committee on how the concerns of tenant farmers about the dispute resolution provisions in the Bill are being addressed. This should include confirming whether the Minister intends to bring forward amendment(s) to Chapter 4 of the Bill, or otherwise consulting with the Committee on her rationale for an alternative approach.

5. Part 3 - Matters relating to agriculture and agricultural products

Part 3 makes provision for the collection and sharing of data, marketing standards and carcass classification. With the exception of new sections 26 and 27, the provisions in this part are currently contained in the Agriculture Act 2020, but are due to ‘sunset’ at the end of 2024.

Chapter 1 - Collection and sharing of data

What the provisions in Chapter 1 of Part 3 do

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

207. Section 25 defines “agri-food supply chain” and persons “in” and “closely connected” with an agri-food supply chain.

208. Section 26 confers power on the Welsh Ministers to require a person who carries on a “relevant activity” (and is not “in” or “closely connected” with an agri-food supply chain) to provide information about matters connected with that activity.

209. Section 27 defines “relevant activity” for the purposes of Chapter 1.

210. Section 28 specifies that information requirements imposed under sections 24 and 26 must specify the purposes for which such information may be processed. The list of purposes are provided.

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

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

213. Section 31 confers power on the Welsh Ministers to make regulations providing for enforcement of a requirement imposed under section 24 or 26. The regulations may make provision about penalties for non-compliance and appeals.

Overview

214. The provisions in Chapter 1 of Part 3 of the Bill relating to data collection are carried over from Schedule 5 to AA 2020, with the exception of provision under two new sections 26 and 27. These sections relate to the powers to gather evidence from those involved in a “relevant activity” in the agri-food supply chain. A “relevant activity” is defined in section 27 for these purposes by reference to the definitions of ‘agriculture’ and ‘ancillary activity’ in sections 48 and 49 of the Bill. NRW identified the need for transformative change in the agri-food sector and said that for effective solutions, data from across the agri-food supply chain is needed – it would like to see *“the ability for Welsh Ministers to require information to be provided to assist NRW in meeting its SMNR duty and for statutory reporting requirements to be included in section 28(4).”*¹⁸⁵

215. FUW provided a detailed response on the benefits of better data collection, reduced duplication, and enhanced use of data already collected, as well as the need for consistency between UK databases.¹⁸⁶

216. The Committee has concerns about how information might be shared with third parties and the future proofing of the legislation in light of the UK Government’s expressed desire to amend current data protection legislation in the UK (“Data Protection Legislation”) - the implications for farmers were explored. Both FUW and NFU Cymru expressed concern about the exercise of the powers, and said they would like to see more data protection safeguards in the Bill.¹⁸⁷ It should be noted that the provisions on data protection in the AA 2020 (paragraph 19 of Schedule 5) do not appear in the Bill. Both farming unions also highlighted that as the future of Data Protection Legislation is unknown, the Bill needs to offer protection and are calling for clarity on the destination of the data. The concern was highlighted about the possibility in future of data being shared internationally to countries with lower data protection standards.¹⁸⁸

217. TFA Cymru believed that sufficient protection could be built into any data publication requirements without a “complicated framework” on the face of the

¹⁸⁵ Written evidence – AGR53

¹⁸⁶ Written evidence – AGR27

¹⁸⁷ Written evidence – AGR27; AGR37

¹⁸⁸ Written evidence – AGR37

Bill. However it said it would like clarity on how the Welsh Government will use the information.¹⁸⁹

218. The Minister **wrote** to the Committee on 24 October to confirm her view on the sale of data to third parties, and the future of data protection legislation in the UK. She confirmed the Bill's data collection provisions are compliant with UK GDPR and overarching data protection legislation. The Minister said there is no provision within the Bill which prevents the sale of collected information to third parties (although highlighted it is not the policy or intention of the Welsh Government to sell data onto third parties). She went on to say: *"The Bill's data sharing provisions are very detailed and include several limitations and safeguards relating to the purposes for which data can be collected and how the data is to be processed."*

219. The Minister has pointed to the duty on Welsh Ministers to consult on any information requirements beforehand, but says Welsh Government may need data on productivity and price information of products too at all stages of the food chain – it wants to help the risk of market volatility. James Owen also confirmed there would be an impact assessment regarding any effect on liability insurance of farmers. He said Welsh Government wanted to accumulate and verify data already held with farmers, and as part of the SFS to ask them to do a carbon assessment for performance data relating to access to the scheme.

Enforcement of information requirements (section 31)

220. Stakeholders stressed the requirement to provide data should not be overly burdensome. Some including FUW argued that farmers should attract a payment for this data collection. The Minister was clear she absolutely does not want to burden farmers unnecessarily as a huge body of data is already collected, promising *"we won't bring in bureaucracy for bureaucracy's sake."*¹⁹⁰

221. FUW and NFU Cymru stated data provision penalties should be proportionate. Inaccuracies arising from automated data collection (like satellite imagery) must not result in automatic penalties, which FUW said has been a problem with Glastir.¹⁹¹ The Committee was told that the provisions would allow any enforcement to be proportionate, and that the regulations will follow the affirmative procedure. It was also confirmed to Members that it would be explicit when it was not the individual but the system that was at fault, and it had been

¹⁸⁹ Written evidence – AGR40

¹⁹⁰ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 313

¹⁹¹ Written evidence – AGR27

made clear during consultation that the Bill would recognise things that were outside farmers' control.¹⁹²

Committee View

222. Following the evidence session with the Minister and officials on 16 November, Members still had some concerns about Welsh Government's understanding of the magnitude of the responsibility and risks of putting such data collection and sharing provisions in the Bill. Asking farmers to check and verify data is still burdensome, and they will be collecting baseline environmental data that is valuable, revealing and commercially sensitive. The Committee notes that the Legislation, Justice and Constitution Committee has also raised this issue with the Minister following its scrutiny of the Bill.

Recommendation 23. The Minister should note the concerns raised by the Committee about the data collection provisions in Part 3 of the Bill, and 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.

Recommendation 24. The Minister should confirm whether Welsh Government is willing to amend the Bill to include a commitment to a review of the operation of the data collection regime under the provisions in the Bill, after five years.

Chapter 2 - Marketing Standards: Agricultural products

What the provisions in Chapter 2 of Part 3 do

223. Section 32 confers powers on 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.

224. The LJC Committee has also reviewed these provisions, noting the effect that the Retained EU Law (Revocation and Reform) Bill 2022 may have on the provisions, and that there is also an issue of accessibility as it is necessary to refer to the EU provisions themselves to understand the description of the products covered by the Schedule.

¹⁹² Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraphs 312-324

Chapter 3 - Classification etc of certain carcasses

What the provisions in Chapter 3 of Part 3 do

225. Section 33 confers powers on the Welsh Ministers to make regulations about the classification, identification and presentation of certain carcasses by slaughterhouses in Wales.

226. The provisions in Chapters 2 and 3 are included in the AA 2020 and due to ‘sunset’ at the end of 2024. NFU Cymru and the academics highlighted that common frameworks will need to be engaged regarding these provisions to ensure Wales is not disadvantaged by products with lower standards entering the market. In the context of the provisions of the Internal Market Act 2020, NFU Cymru urged Welsh Government to work with the other home nations to resist a “race to the bottom” on standards.¹⁹³

227. TFA Cymru said the Bill must contain a duty for Welsh Ministers, when setting these standards, to have regard to ensuring primary producers in Wales are not disadvantaged. Either in comparison to producers in other parts of the UK single market or through UK Government trade agreements. RSPB Cymru suggested the Bill should commit Welsh Ministers to undertake impact assessments of future trade deals on Welsh agriculture¹⁹⁴ and Dr Petetin and Dr Dobbs agreed.¹⁹⁵

228. The Minister said on 16 November that the marketing standards powers are necessary to update legislation, so they will give Welsh Ministers the opportunity if they wish to make products more aligned in comparison to EU-wide rules, and to make changes if appropriate that are different to other parts of the UK.¹⁹⁶

229. Hybu Cig Cymru (HCC) said that Schedule 1 to the Bill, which lists agricultural products relevant to the marketing standards provisions, does not include sheep meat. HCC said it is a ‘cut and paste’ from the EU Common Market Organisation regulation, and commented that the sheep meat industry was always the “poor relation” in the EU. It hoped the Bill would be re-drafted to include sheep meat.¹⁹⁷ The Bill’s EM (page 53) states that “More recently, powers have been included in EU law to make provision for sheep meat, although regulations for this have not yet been implemented in Wales.”

¹⁹³ Written evidence – AGR37

¹⁹⁴ Written evidence – AGR45

¹⁹⁵ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 299-301

¹⁹⁶ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 335

¹⁹⁷ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 139

230. The Committee wrote to the Minister on 28 November to seek clarification on this drafting detail in the Bill. The Minister's response on 19 December 2022 stated the list of agricultural products is:

"the product of many years of discussions between the European institutions and industry. The mirroring of this list in Welsh legislation is not intended to reflect the importance of these products in comparison to others without particular marketing standards requirements."

231. The response goes on to state that the list in Schedule 1 of the Bill is *"deliberately non exhaustive to allow for future proofing of the agriculture sector and does not prevent other products being added"*. In making any changes to marketing standards regulations the Minister noted that these would have to be *"carefully considered to avoid creating barriers to trade and discussed in detail with the other governments of the UK"*. The Minister's response confirmed that:

*"The UK nations are currently working together on sheep carcass classification regulations to make standards more effective. The Welsh Government is collaborating with DEFRA and the Scottish Government to develop regulations which are designed to improve the efficiency of the market in sheep meat. While this will not affect the marketing standards of the end product sold to the consumer, it will mean farmers and processors can expect a consistent price based on the quality of their produce."*¹⁹⁸

Recommendation 25. The Minister should bring forward an amendment to the Bill to commit Welsh Ministers to undertake impact assessments of future trade deals on Welsh agriculture.

¹⁹⁸ Economy, Trade and Rural Affairs Committee, 12 January 2022, Paper to note 2.15

6. Part 4 – Forestry

Part 4 of the Bill seeks to amend the Forestry Act 1967 to create a power to add environmental conditions to tree felling licences and powers to amend, suspend or revoke licences once granted. These powers would be exercised by Natural Resources Wales (NRW).

What the provisions in Part 4 do

232. Section 34 is an overview provision which explains 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 NRW as the “appropriate forestry authority” for Wales, to impose conditions on the granting of a tree felling licence if it appears to NRW that it would be expedient 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.

233. Section 36 inserts a new subsection (3A) into 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.

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

235. Section 38 inserts a new section 24E into the Forestry Act 1967 to provide for compensation to be payable in certain circumstances following the receipt of a notice given under section 24C or 24D.

236. Section 39 inserts new subsections into section 25 of the Forestry Act 1967, which provide for appeals to be brought against decisions taken to suspend, amend or revoke licences under new sections 24C and 24D.

237. Section 40 amends section 17 of the Forestry Act 1967 to provide that the penalty for offences committed in respect of land in Wales is an unlimited fine.

238. Section 41 makes several consequential amendments to the Forestry Act 1967. These amendments are a result of changes made to that Act by sections 35 to 39 of the Bill.

Overview

239. The EM emphasises the importance of sustainable woodland management, and explains that currently the Forestry Act does not allow conditions to be added to felling licences to ensure the integrity of protected sites, protected species or other sensitive elements of the environment. It says this could lead to NRW issuing a licence that may negatively impact the environment and could contravene other environmental legislation such as the Conservation of Habitats and Species Regulations 2017.

240. Forestry sector stakeholders welcome some of the provisions in Part 4 of the Bill, but have raised concerns about others, in particular section 35 – the power to attach environmental conditions to felling licences – and section 37 – where licences can be varied, suspended or revoked by NRW where there has been no breach. When asked about the powers on environmental conditions, Confor told Members:

“I do not believe they are proportionate and I do not believe that they are the appropriate way to achieve this outcome.”¹⁹⁹

241. Confor argued that the current licensing regime is “effective in its operation” and questioned the rationale for the approach being taken in Wales: *“The specific problem that the legislator appears to be trying to address here is incompetent or illegal felling. It would be wholly unjust to penalise the professional industry because of rogue operators.”* It went on:

“Further evidence must be provided by Welsh Government and other stakeholders to detail where the failures are, and whether the current system supported by compliance with the UK Forestry Standard (UKFS) is failing. If licences are subject to uncertainty that will be transferred to commercial contracts with consequences for the timber supply chain which is very much at the heart of Wales’s Green Recovery and the decarbonisation of construction and housing.”²⁰⁰

¹⁹⁹ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 166

²⁰⁰ Written evidence – AGR40

242. Confor also said it is *"imperative to understand the drivers of [woodland habitat] declines"* and conservation improvements seen through certification through the **UK Woodland Assurance Scheme** would be *"jeopardised by the tightening of felling licences"..."It would be far better to develop positive solutions to these concerns such as developing on farm and urban tree management plans which take account of important habitat such as veteran trees and red squirrels."*

243. Confor's evidence also stated that the SFS has created a further disconnect between farming and forestry and this is exacerbating a two-tier system for farming and forestry. It said this urgently needs to be addressed *"if we are to be successful in bringing woodlands into management and meeting our afforestation targets."*²⁰¹ Confor said consistency on implementation was very important, and called for *"further investment and significantly more engagement with the industry before this goes forward."*²⁰²

244. The Minister sees the Bill as the earliest opportunity to reduce the impact of felling licences on the nature crisis and climate emergency.²⁰³ NRW supports the provisions as providing *"the tools to enable compliance with the Conservation of Habitats and Species Regulations 2017 and the need to bring forestry permitting in line with other permitting regimes."*²⁰⁴ NRW noted some of the proposed changes, such as the ability to amend felling licences, have also been requested by the forestry industry. It also said increasing the fine to a level 5 unlimited fine will have a deterrent effect.

245. The Committee has noted that NRW is both the issuer of licences and regulator, and a landowner subject to its own licensing conditions. The Minister was questioned on the appropriateness of this arrangement, and about assurances on how NRW would exercise its powers proportionately. The Minister pointed to the high level guidance that NRW had already **issued**, and said that she knew NRW's plan was to *"really engage with stakeholders in the development of their external and internal guidance going forward"*, and that they would be ready when the powers commenced in January 2024.²⁰⁵

246. The Institute of Chartered Foresters' response identified a low level of trust in the forestry sector between the private and public sectors and private sector and

²⁰¹ Written evidence – AGR40

²⁰² Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 185

²⁰³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 353

²⁰⁴ Written evidence - AGR53

²⁰⁵ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 349

regulators. The Institute *“supports Government in delivering against the Bill, but it is noted that overall, the delivery of sustainable forestry and afforestation targets are not integrated. An increased focus on bringing existing woodlands into management is also needed.”*²⁰⁶ The Institute offered to convene an advisory group of its Members in Wales to engage further on the details of the legislative proposals.

247. The Woodland Trust also said introducing National Minimum Standards would be an opportunity to clarify the regulation of trees for agroforestry. It said Tree Preservation Orders, the Hedgerow Regulations, species protection legislation, plant health regulations and planning regulations may all impinge on the management or removal of trees on farms – it strongly recommended that scattered tree cover on farms does not need to be made subject to regulation under the UK Forest Standard.

248. The Woodland Trust said it is necessary to *“redefine the previously sharp separation of agricultural land and woodland as separate land uses and recognise the extent to which tree cover can significantly overlap with agricultural land use.”*²⁰⁷

Environmental Conditions of Tree-felling licences (Section 35)

249. The Forest Stewardship Council UK (FSC UK) and the Continuous Cover Forestry Group (Wales) (CCFG) supported these provisions: *...“which allow for conditions to be applied to felling licences for the purpose of conserving or enhancing natural beauty, or conserving flora, fauna, geological or physiographical features, or natural habitats.”*²⁰⁸ FSC UK believed them to be “consistent with FSC **Principle 6** (Environmental Values and Impacts) and **Principle 9** (High Conservation Values).”

250. The Woodland Trust supported the power for NRW to attach environmental conditions to tree felling licences, which it said should be used in a way that was *“proportionate to the risk of conservation harm, reflecting both the sensitivity of the site but also, frankly, the record of the applicant.”*²⁰⁹ The Woodland Trust said it is not clear how NRW will use the powers, however, as pointed out by the Minister, NRW has published a paper on how it intends to implement the powers.

²⁰⁶ Written evidence – AGR42

²⁰⁷ Written evidence – AGR02

²⁰⁸ Written evidence – AGR16

²⁰⁹ Economy, Trade and Rural Affairs Committee, 27 October 2022, Paragraph 168

The Minister told the Committee this would be part of the statement of policy intent for this part of the Bill going forward.

251. Confor opposed the provisions, saying they would likely push owners into either illegal felling or abandoning forest management altogether. It said the Welsh Government can better address illegal and incompetent felling through existing legislation including, where relevant, planning legislation. Confor also said if the changes are to take place then the Welsh Government and others should provide further evidence and this issue should be dealt with via separate legislation:

“The loss of trees and woods to bad practice by developers is of significant concern but this could be addressed through planning legislation far more effectively. Increasing the cost and complexity of all management operations in privately owned woodlands by creating conditioned felling licences (especially where licences are currently only valid for 2 years) is highly likely to push owners into either illegal felling or abandonment of management all together. This would have a highly detrimental effect on habitat and biodiversity outcomes.”²¹⁰

252. Confor “strongly recommend that if the Bill is enacted in its current form, felling licences must return to being for a 5-year period in line with England, Scotland and Wales prior to 2013 and Long-Term Management plans must be substantially reviewed to make them fit for purpose.”²¹¹

Monitoring and reporting on the impact of felling consents

253. The Woodland Trust also called for an amendment to ensure 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. On this point the Minister said the Welsh Government would need to continue to work with NRW on consents and ensure data collection is aligned, and to ensure NRW has the resource to respond to licence applications.

254. The Minister told the Committee that a post-implementation review of the legislation would be conducted within three years of commencement, and that the Welsh Government needed to continue to work with NRW and stakeholders to ensure an agreed way forward on what relevant data is required and collected.

²¹⁰ Written evidence – AGR40

²¹¹ Written evidence – AGR40

She stressed the importance of a balance, between monitoring and ensuring NRW also have the resource to be able to respond to felling licence applications in a timely manner.²¹²

Amendment of tree felling licences by agreement (Section 36)

255. Confor was “broadly in support” of the proposals contained within sections 36 and 37:

“The failure to be able to amend felling licences once issued has meant that an external agreement was necessary between the landowner and regulator if an amendment was required. This was generally effective but not an optimum solution where land ownership had changed and the new owners sought to go in a different management direction.”²¹³

256. The CCFG supported greater flexibility around licences, for natural regeneration purposes.²¹⁴

Varying, suspending or revoking tree felling licences (Section 37)

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

258. 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. Confor said it should not 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. Confor argued this “catch all” category must be removed because: “...given the inconsistent performance of the regulator there is significant fear of misuse of these powers.”... It warned that:

“This has potential to create a substantial impact to timber harvesting as exemplified by the situation in the Republic of Ireland with the ‘objection without consequence’ which ground

²¹² Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 351

²¹³ Written evidence – AGR40

²¹⁴ Written evidence – AGR49

the whole Irish forestry and timber sector to a halt and required urgent intervention by the Government."²¹⁵

259. The Institute of Chartered Foresters also queried the rationale for the section 37 powers. It expressed concern about 'operational viability' and more 'burdensome' licensing applications, and said it *"suspects that the approach to amending, suspending, or revoking felling licences requires further consideration, with thorough sector consultation, to ensure that the amendments deliver against needs and complement developments within the agricultural sector."*²¹⁶

260. The Bill's EM emphasises that NRW currently 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.

Compensation (Section 38) and Appeals (Section 39)

261. The Bill also provides for appeals, and compensation in connection with suspension or revocation of licences. Confor welcomed the appeals process and compensation provision detailed in Section 38, put forward for landowners who successfully overturn suspension or revocation of a notice. However it noted that *"this will not recompense the landowner for any drop in timber value as a result of an inappropriate suspension which may take months to resolve. Within this year's timber market that could reflect up to a 50% decrease in international commodity prices."*²¹⁷

Penalty for felling without licence (Section 40)

262. The Bill also amends the Forestry Act to increase the maximum fine for illegal felling from a level 4 fine (£2,500) to a level 5 fine (unlimited). Confor was in support of this provision. NRW said:

"It is hoped that increasing the fine to a level 5 unlimited fine will have a deterrent effect. It also brings the Forestry Act 1967

²¹⁵ Written evidence – AGR40

²¹⁶ Written evidence – AGR42

²¹⁷ Written evidence – AGR40

in line with other regimes where NRW has a regulatory role e.g. the Wildlife & Countryside Act 1981.”²¹⁸

Ancient Woodland and Veteran Trees

263. WEL broadly welcomed the powers in Part 4 saying they “*could be helpful*” for ancient woodland conservation but has 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.*”²¹⁹ 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. The Woodland Trust told the Committee:

“...in theory, it might be useful for us to argue that meeting those statements on ancient woodland would be useful to put in felling licence conditions, except that we’d accept that trying to achieve those objectives through regulation alone is not really realistic. It requires an entire support framework policy, and ancient woodland restoration is a public good, it’s a public benefit, not a commercial benefit, and, if it is going to be required of private owners, that does deserve some public funding. So, it’s a complicated picture. So, it is quite difficult for me to work out how NRW are actually going to progress this and where the felling licence conditioning bit fits in.”²²⁰

264. RSPB Cymru supported the Woodland Trust’s concerns about protections for semi-ancient woodland.²²¹ FSC UK also said in implementing the provisions it hoped NRW will “*recognise the need to maintain or enhance areas and features that FSC considers to be of High Conservation Value, including statutory nature conservation sites, ancient semi-natural woodland, plantations on ancient woodland sites, other priority habitats, critical ecosystem services, and cultural values.*”²²² Given that the Minister has identified the Bill as an opportunity to make legislative provisions on forestry felling licences, Members queried whether

²¹⁸ Written evidence – AGR53

²¹⁹ Written evidence – AGR46

²²⁰ Written evidence – AGR02; 27 October meeting, Paragraph 183

²²¹ Economy, Trade and Rural Affairs Committee, 20 October 2022, Paragraph 178

²²² Written evidence – AGR16

provisions relating to ancient woodland and veteran trees should also have been considered for inclusion.

Committee View

265. Members note the specific concerns raised by the commercial forestry sector on the licensing provisions, and it is understandable that the sector could feel some apprehension about the new powers the Bill will give to NRW. The Minister gave assurances that NRW was developing full internal and external guidance to ensure a consistent and proportionate approach to implementing these powers, to be published to align with commencement of the provisions. The Minister has also confirmed that a post-implementation review of the legislation will be conducted within 3 years, and that she will work with NRW and stakeholders to agree a collection of relevant data following commencement in order to monitor the impact of the forestry provision within the Bill. The Minister confirmed that the Welsh Government has powers to give a direction to NRW in respect of the implementation of these powers if deemed necessary.²²³

266. We welcome the high-level guidance published by NRW on how it will use its new powers. We also welcome the commitment that internal guidance and further engagement with stakeholders are planned before the powers are due to commence in January 2024.

267. Members had queried why provisions relating to tree felling licences were included in an Agricultural Bill. The Minister told us that the Bill is the earliest opportunity to reduce the impact of felling licences on the nature crisis and climate emergency. Stakeholders also queried why certain other related woodland issues, such as greater protections for ancient woodland and veteran trees, were not included in the Bill. We would appreciate more clarity on how the Minister sees these other woodland management issues being addressed.

Recommendation 26. The Welsh Government, Natural Resources Wales and the forestry sector should continue to work together on guidance and mutual understanding around the new powers set out in Part 4 of the Bill.

Recommendation 27. The Minister should set out how she sees the other woodland management issues raised during Stage 1 scrutiny being addressed, including greater protections for ancient woodland and veteran trees.

²²³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraphs 359-361; Letter to LJC Committee, 12 December 2022, Paper 28

Recommendation 28. The Welsh Government and Natural Resources Wales should work at pace to identify and agree the data that will need to be captured to assess the effectiveness of the new provisions in Part 4 of the Bill.

7. Part 5 – Wildlife

Part 5 of the Bill would create new offences under the Wildlife and Countryside Act 1981 so that a person who uses a snare to capture a wild animal, or a person who uses a glue trap to capture a vertebrate, will commit an offence.

Overview

268. Strong views were expressed, and there are significant differences of opinion about, the provisions to ban the use of snares and glue traps. If passed, Wales would be the first UK nation to introduce an outright ban. As stated in the Bill's EM, DEFRA has announced it will be consulting on the use of snares for fox control, and the Scottish Government has also committed to a review on the use of snares, with a ban as one of the options to be considered. The Scottish Government has also announced its intention for a total ban on glue traps, "although they await suitable legislation to take this forward". The full rationale for pursuing a total ban on use of snares and glue traps in Wales is set out in Chapter 7 of the EM.

269. The evidence gathered by the Committee raised some important questions about the possible implications of a total ban in both cases. An alternative approach of licensing was considered to address some specific circumstances relating to protecting priority species in the case of snares, and public health in the case of glue traps. The Committee sought additional information on these points and raised them in its final evidence session with the Minister.

What the provisions in Part 5 do

270. Section 42 is an overview provision which sets out the purposes for which this Part of the Bill amends the Wildlife and Countryside Act 1981 (the "1981 Act").

271. Section 43 amends section 11(1) of the 1981 Act to make it an offence to:

- set in position in Wales any snare, or other cable restraint, which is of such a nature and so placed as to be likely to cause bodily injury to any wild animal coming into contact with it;

- use in Wales for the purpose of killing or taking any wild animal any snare, or other cable restraint, whether or not of such a nature or so placed as aforesaid;
- set in position in Wales any glue trap which is of such a nature and so placed as to be likely to catch any animal coming into contact with it; and
- use in Wales for the purpose of killing or taking any (non-human vertebrate) animal any glue trap, whether or not of such a nature or so placed as aforesaid.

272. Section 44 amends section 11(2) of the 1981 Act 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 to a wild animal of that type).

273. Section 45 makes a series of consequential amendments to the 1981 Act. These amendments are connected to the changes made to that Act by sections 43 and 44 of the Bill.

Overview and summary of evidence

274. Responses to the Committee’s consultation on the general principles of the Bill included 23 from individuals or voluntary organisations supporting the Bill’s provisions on prohibiting the use of snares. Many of these individual responses called for the provisions in the Bill to go further to include possession, manufacture and sale, and to include all snares “*including so-called “humane” snares*”²²⁴ which some respondents stressed should not be “rebranded”²²⁵ as humane cable restraints (HCRs). Comments included “*all snares are indiscriminate*”²²⁶, several noting that they catch non-target species, including pets, saying they “*cause too much suffering*”²²⁷ and described snares as “*out-dated and barbaric*”²²⁸ One respondent noted snares were for sale in the local area. Several responses, including from an animal rescue centre and a badger

²²⁴ Written evidence – AGR09

²²⁵ Written evidence – AGR24; AGR36

²²⁶ Written evidence – AGR07; AGR34

²²⁷ Written evidence – AGR08; AGR34

²²⁸ Written evidence – AGR07; AGR10; AGR11

conservation group, included images of dead and injured animals caught in snares.²²⁹

275. Animal Aid pointed out that *“approximately 1.7 million animals are caught in snares every year”* and that *“Defra-commissioned research found that as many as 68% of animals caught in snares are not the intended target.”*²³⁰

Animal Aid’s evidence set out a comprehensive list of animal welfare organisations that support a ban on snares, and also pointed out that “several conservation organisations that are responsible for vast areas of land do not use snares,” including RSPB Cymru, the Woodland Trust, and Wildlife Trusts. They also *“contend that there can be no justification for the shooting industry’s claim that snares are an important tool in game bird management.”*²³¹

276. The Committee also received detailed responses raising concerns about the impact of a total ban as proposed in the Bill, and instead proposing some licensing for snares and/or glue traps, including from Countryside Alliance (CA), British Association for Shooting and Conservation (BASC), the Game and Wildlife Conservation Trust (GWCT), the British Pest Control Association (BPCA), National Pest Technicians Association (NPTA) and UKHospitality Cymru. On 9 November the Committee held two panel sessions to gather oral evidence on the animal welfare aspects of the Bill from a range of witnesses both supporting and opposing the provisions in Part 5 of the Bill. GWCT and BASC provided further written briefing to Members with views challenging some of the oral evidence that was heard.

277. The BVA’s evidence stated in relation to both snares and glue traps that:

“Before lethal control is considered, prevention methods or deterrents should be implemented, and finally, if lethal control of pests is considered necessary, methods that minimise suffering, fear and pain should be used. Both glue traps and snares significantly compromise animal welfare for the period during which animals are trapped, and there are welfare concerns associated with methods of killing of trapped animals. They are also indiscriminate and may capture wild

²²⁹ Written evidence -AGR24; AGR55: NASC evidence paper

²³⁰ Written evidence – AGR41

²³¹ Written evidence – AGR41

and domestic species for which their use is not intended, resulting in death or significant injury to these animals.”²³²

Snares

278. A ‘free running snare’ can legally be purchased and used to trap and restrain an animal, often prior to it being killed by a person. It is predominantly used by farmers and gamekeepers to control wildlife such as foxes, rabbits, rats, grey squirrels and mink. It is also used by some to catch wildlife for its fur, or rabbits for food.

279. A 2012 DEFRA report found at any one time, and depending on the season, between 17,200 and 51,600 fox snares are in use in Wales. It found that rabbit snares are not used as extensively. It reported that 60% of snare users had caught non-target species at some time.

280. Snares are currently regulated under the 1981 Act to limit suffering of the animals trapped and to prevent the snaring of certain species. In 2015 the Welsh Government published a **Code of best practice on the use of snares in fox control** (“CoP”) - a statutory code under the Animal Welfare Act 2006. However, the Senedd Climate Change, Environment and Rural Affairs Committee concluded from its 2017 **work on snares** that there were no guarantees that the CoP had been widely adopted.

281. Two petitions calling for a ban on snares in Wales have been considered by the Senedd’s Petitions Committee in recent years. Petition P-06-1159 raised 6,514 signatures and Petition P-05-715 raised 1,405.

282. The Welsh Government’s summary of responses to the Bill’s White Paper states (page 68), *“Overall, respondents felt that the use of snares should be banned outright.”* Amongst those respondents who did not call for an outright ban on snares, many supported the introduction of tighter controls around their use. A small number of respondents felt the proposals should not impinge on the ability of farmers to use snares as a means of protecting livestock or on pest control.

283. GWCT provided extensive evidence and data to the Committee and strongly disputed the evidence provided by animal welfare groups. GWCT argued that HCRs are scientifically proven to be both humane and selective, meeting the

²³² Written evidence – AGR05

requirements of the Agreement on International Humane Trapping Standards (AIHTS) for restraining traps, when used according to the CoP.²³³

Protection and restoration of Priority Species

284. GWCT argued that banning snares as a method of fox control could endanger priority species listed under **section 7 of the Environment (Wales) Act 2016** (e.g. black grouse and curlew). It stated the ban would breach the duty in the Environment (Wales) Act 2016 for Welsh Ministers to take all reasonable steps to maintain and enhance the section 7 priority species. The GWCT said there are no examples of successful curlew conservation without the use of HCRs and *“there are no viable, effective alternative solutions available which could fill the void left if HCRs were not licensed”*. Their evidence states:

“With afforestation increasing in Wales, it is likely ground nesting Section 7 Priority species will face enhanced predation pressure in the future – making it even harder to effectively reduce that pressure enough to fledge young. The evidence supplied within this paper highlights the role of HCRs in this conservation struggle. Livecapture cage traps have been demonstrated to be ineffective for fox capture in the UK, with severely lower catch success compared to HCRs. Additionally, the other alternative option, WCS collarum live capture fox traps are less successful and less selective. In both cases it is completely unknown whether either option would pass standards set within the AIHTS for restraining traps, and due to their nature it is highly dubious whether they would pass.”²³⁴

285. Meanwhile welfare groups highlighted that snares catch section 7 priority species, such as otter, brown hare and pine marten, and by not banning them the Welsh Ministers could breach their duty.²³⁵ RPSCA Cymru also cited other countries - Ireland, Spain, Poland and the Czech Republic – that had been able to ban the use of snares but *“also have a thriving conservation programme for those specific animals.”²³⁶* He said *“I don’t believe that that has affected their conservation issues, but it has improved their welfare, and that’s why we have supported the Welsh Government’s proposals.”²³⁷*

²³³ Written evidence – AGR05

²³⁴ Written evidence – AGR05

²³⁵ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 63

²³⁶ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 64

²³⁷ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 70

Support for a licensing approach over a ban

286. GWCT, Countryside Alliance and BASC proposed that HCRs become licensed, with conditions attached. GWCT²³⁸ set these out as being:

- To receive a licence individuals would complete mandatory training and accreditation allowing them to purchase and use HCRs; and
- Manufacturers should only produce HCRs that conform to the design specified in the CoP [code of practice] (including a built-in breakaway link at the eye and stop set to allow a minimum noose of circumference 26cm).

287. BASC, Countryside Alliance, the BPCA and NPTA all supported snares or ‘humane cable restraints’ being kept in the suite of measures available, as a “useful tool” for predator control.²³⁹

288. GWCT argued that a licensing approach would help enforcement by making illegal practice more obvious, and argued that making it an offence to not comply with the existing CoP would “*give authorities a much stronger position and would help avoid poor practice.*” It said Welsh Government is trying to ban what is already illegal activity by criminals and that “*Better resourced Wildlife Crime Officers and a licencing system which makes it easier to prosecute illegal activity are more likely to successfully end criminal activity.*”²⁴⁰ RSPCA Cymru said it used live traps when it was necessary to catch foxes, and did not support a licensing approach for snares, seeing it as a loophole that would make enforcement more difficult.²⁴¹

289. GWCT’s evidence noted that although the Bill’s White Paper indicated an intention to regulate snares, there was no consultation on the later commitment to introduce a ban, and it believes that evidence from the 887 responses to LACS’s public campaign for a ban “*seemed to unfairly weight the argument*”. It described both these points as “*highly concerning*”. The response also identified issues around a lack of training for farmers to comply with the CoP, bearing in mind that an argument for introducing a ban is non-compliance with it.

290. Countryside Alliance (CA) also urges a ban of non-code complaint snares and adoption of a HCR that complies fully with AIHTS. CA was asked to set out the

²³⁸ Written evidence – AGR05

²³⁹ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 135

²⁴⁰ Written evidence – AGR05

²⁴¹ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 70

impact of the proposed ban on snares on rural communities, the environment and businesses, and said:

“The value really in monetary value, we’re looking at shooting being worth £75 million to the rural economy in Wales and shooting provides a 365-day-a-year tourism opportunity for Wales. The sheep sector’s worth some £270 million to the Welsh economy and the poultry sector is worth some £95 million.”²⁴²

291. CA went on to say that beyond monetary value there was concern about the impact on biodiversity, and by removing this vital tool in the box for predator management “we are looking at a catastrophe”:

“So, there is a monetary value; there is more so an environmental value, and if we’re looking at Wales from a green tourism aspect—for example, people come to Wales to see our wildlife and to see our birds, and the threat of the curlew extinction should not be taken lightly.”²⁴³

292. CA was strongly of the view that the CoP was being adhered to. Although there “is obviously room for improvement”, CA thought the “the level of compliance is really, really high”²⁴⁴ – and that because of Covid-19 it had not had enough time to ‘bed in’. It was noted that plans for training farmers had been affected by the pandemic. CA also stressed that a lot of evidence presented about damage caused by snares related to old-style snares: “it’s really important to point out, though, that the development of the modern cable restraint is now far removed from the sort of crude and indiscriminate snares of the past.”²⁴⁵

293. When asked about the proposals for continued use under licence of what GWCT and others describe as ‘modern humane cable restraints’, the Minister was clear: “I don’t think that things have moved on enough. There’s no evidence that’s been presented to me and, I don’t think, to officials. I’d just go back to what I said: it’s identical in every way.”²⁴⁶

294. The Committee was keen to pursue the argument about how a total ban, as opposed to a licensed approach, might impact on conservation projects for

²⁴² Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 129

²⁴³ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 131

²⁴⁴ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 150-155

²⁴⁵ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 150-152

²⁴⁶ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 160

priority species in Wales. NRW and RSPB Cymru both confirmed they did not use snares. NRW said:

“NRW does not use snares or glue traps on the Welsh Government Woodland Estate. NRW’s general licences do not include the use of snares, so we do not actively permit them. In some cases, predator control may be a requirement for species management on protected sites and within species conservation projects, although in such cases we do not stipulate the method of control.”²⁴⁷

295. RSPB Cymru welcomed the ban and said it expected it would have been extended to include sale. It stated that:

“The RSPB does not use snares because they are non-selective and risk catching non-target mammals such as hares, badgers and deer. In addition, we do not consider that snares are a humane way of controlling predators. Where deemed necessary, and where non-lethal methods are judged to be unsuitable or ineffective, the RSPB may control predators on RSPB reserves and as part of some projects, but not through snaring. The RSPB believes that landscape-scale habitat restoration is necessary to sustainably reduce predation impacts on ground-nesting birds. We don’t expect the measures in the Bill to negatively impact on RSPB’s conservation work.”²⁴⁸

296. In its second evidence session with the Minister the Committee specifically asked about concerns raised about restoration projects for priority species, including ground-nesting birds such as curlew. The Minister responded by saying *“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.”* When asked what specific assessments had been done as to what the removal of snares would do to the population numbers, the Minister said it had looked at evidence from a Curlew Action project in Scotland, using cameras, where livestock were found to be the biggest destroyer of nests. The Minister added:

“We certainly looked, as I say, at curlews, and we had a discussion with NRW around the use of snares to protect

²⁴⁷ Written evidence – AGR53

²⁴⁸ Written evidence – AGR45

curlews from foxes, for instances. What came forward, I think, was that the most efficient method of fox control was rifles, with thermal imaging scopes at night, particularly during the winter and the early spring."²⁴⁹

297. It was noted that this method was not suitable for use at all times of the year when birds are nesting, as BASC and Countryside Alliance had explained in their oral evidence²⁵⁰, due to dense cover, but the Minister replied there was still “a suite” of measures available, including electric fences.²⁵¹

Proposals to extend the ban to cover possession, manufacture or sale

298. Several animal welfare groups and the British Veterinary Association (BVA) called for the snare ban to be extended to include the manufacture, possession and sale of snares (in addition to their use). League Against Cruel Sports (LACS)²⁵² highlighted that the Bill’s White Paper had noted a ban on both the sale and use of snares would be sought if evidence showed the voluntary code of best practice was not being adhered to. LACS said widening the ban would make snares less readily available and help with enforcement. It said people should not be able to profit from the sale of snares which cause suffering. LACS provided detailed evidence on the arguments to extend to sale and manufacture in Wales, and to tighten up on possession for enforcement purposes “as with prescribed poisons” under the 1981 Act. LACS’s evidence also questioned the role of the Internal Market Act 2020 in relation to the potential to ban sale of snares in Wales. The National Anti-Snaring Campaign (NASC) also said the wording of the legislation should be “*Ban on the manufacture, sale or use of snares.*”²⁵³

299. NASC acknowledged difficulty legislating around ‘possession’, but said:

“...I think it’s completely right for the gin traps that are still being used 60 years afterwards, but what is a snare? People use snares that are made up of garden wire. Is a cable tie a snare? I would have thought there was some difficulty legislation-wise with possession. But, otherwise, obviously, I completely support including sale and manufacture. You wouldn’t want to see snares being sold in garden centres here, you wouldn’t want to

²⁴⁹ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 176

²⁵⁰ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 140-142

²⁵¹ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 178

²⁵² Written evidence – AGR36

²⁵³ Economy, Trade and Rural Affairs Committee, 9 November 2022 – evidence paper

*see a manufacturing unit making them, so it's quite appropriate that that's included."*²⁵⁴

300. The Minister also highlighted this point about what constitutes a snare in relation to the proposal to include a ban on 'sale', saying there are lots of "unsophisticated snares" made up of materials that could be used for different purposes, so there would be enforcement difficulties for banning the sale, for example to ban the sale of wire.²⁵⁵

301. The BVA supported *"the responsible use of the most humane control methods available"*, and *"support the proposal for a power to enable increased controls covering the manufacture, sale and use of snares and glue traps."*²⁵⁶

Extending the ban to other kinds of traps

302. The Committee asked animal welfare organisations if they thought the ban should be extended to other kinds of traps, such as Larsen and ladder traps that may catch corvids and raptors. Simon Wild of NASC said that he *"wouldn't want to muddy the waters"* or see any delay in the legislation to ban snares, but saw it as something for future consultation.²⁵⁷ RSPCA Cymru agreed:

*"We'd agree that this piece of legislation is quite revolutionary in what it's doing. As I said, Wales would be the first country to ban snares. I think let's get that in place and then have a consultation and get evidence on how that is working. Because obviously this is going to be down to enforcement. It's all very well putting legislation in place, but enforcement is going to be crucial. We've seen that before with the code of practice on snares, which, let's face it, hasn't really worked in actually improving animal welfare or, indeed, enforcement of that particular piece of legislation. So let's get this in place and then look at how to build on that in the future."*²⁵⁸

303. LACS also did not want to risk a delay to enactment of the provisions in the Bill on snares, but saw it as offering a "tried and tested approach" to use when looking at a future ban on other types of trap.²⁵⁹

²⁵⁴ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 17

²⁵⁵ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 166

²⁵⁶ Economy, Trade and Rural Affairs Committee, 9 November 2022 – evidence paper

²⁵⁷ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 26

²⁵⁸ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 28

²⁵⁹ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 29

Wording of provisions in Sections 43-45

304. LACS was concerned that the wording ‘sets in position’ may not cover all instances of the use of a snare, potentially posing a challenge for enforcement: *“For example, there have been cases in which defendants have claimed that snares have been left in situ but not set.”* LACS said *“To avoid ambiguity and unintended loopholes arising, it would be preferable to amend sections 43(ba) and (bb) of the Bill to read ‘sets in position or otherwise uses’.”*²⁶⁰

Definition of a ‘snare’

305. The Committee received evidence about the definition of a snare, and about different types of ‘snares’, ‘cable restraints’, ‘humane cable restraints’ and ‘code-compliant’ snares/restraints versus ‘non-compliant’ snares/restraints. As already noted above, a device or mechanism capable of restraining an animal can potentially be fashioned in a number of different materials. There is no express definition of a snare contained in the 1981 Act.

306. NASC said the definition in the legislation should be: *“Any wire or other loop designed to catch an animal by its neck, foot or any other part of its body.”*²⁶¹ However LACS warned that a definition could create inadvertent loopholes if too narrow.

307. In her second evidence session with the Committee on 16 November, the Minister told Members that sections 42-45 of the Bill had been very carefully drafted to avoid loopholes or unintended consequences:

*“We deliberately didn’t define snares in the Bill, as the intent is a blanket ban on any device that fits the description of a snare or of a cable restraint. I think if we’d have defined snares, that could have created a loophole to avoid the ban, so we deliberately didn’t do that. I think the wording of the Bill has been chosen and very, very carefully drafted to ensure that there are no intended consequences that would prevent the use of humane implements that, obviously, are used as well—the rescue poles, for instance, that the RSPCA use.”*²⁶²

308. The Minister went on to address the wording “humane cable restraints”:

²⁶⁰ Economy, Trade and Rural Affairs Committee, 9 November 2022 – evidence paper

²⁶¹ Economy, Trade and Rural Affairs Committee, 9 November 2022 – evidence paper

²⁶² Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 158

“Officials included ‘cable restraints’ in the definition as snare user groups use the term ‘humane cable restraint’ interchangeably with ‘code-compliant snare’. We need to be very clear that they are exactly the same device and they’re not different in any way. The code-compliant snare was developed 10 years ago and it’s been used by the industry from just before I came into the portfolio actually—probably about seven years now. So, any claim that there have been recent developments in snare design making it more humane or more efficient have not been evidenced. We’ve asked to see that and, for me, there is no evidence that has persuaded me that’s the case.”²⁶³

Penalties

309. A person guilty of an offence under Part 5 of the Bill is liable to a maximum of 6 months imprisonment or an unlimited fine, which the Bill’s EM states “is in line with those of the Wildlife and Countryside Act 1981”. In oral evidence, LACS raised the question of whether a guilty person should be tried under the Animal Welfare (Sentencing) Act of 2021 which raised the maximum prison sentence to five years.²⁶⁴ NASC also called for increased sentences for repeat offenders.²⁶⁵ RSPCA Cymru commented that parity on penalties was something to be looked at:

“if you’re convicted of kicking a cat downstairs you could get up to five years, but if you’re convicted of setting a snare and a cat gets caught in that and dies horribly over a long period of time, your sentence is much, much lower. So, I think that is something that perhaps the Senedd should be looking at in the future to try and get parity between these two very different sentencing regimes, depending on whether it’s a wild animal offence or a domestic animal offence.”²⁶⁶

310. When asked about the sentencing regime on 16 November, the Minister said:

“That Act [The Animal Welfare (Sentencing) Act 2021] dealt with increasing penalties for offences under the Animal Welfare Act 2006. This Bill will create new offences under the Wildlife

²⁶³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 158

²⁶⁴ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 37

²⁶⁵ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 38

²⁶⁶ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 39

*and Countryside Act 1981, so I'm content that the punishment for those convicted of using a snare to capture a wild animal or using a glue trap would be in line with those of the Act, which as you say is imprisonment for a term not longer than six months or an unlimited fine. So, this offence really is to deal with the setting of snares and other cable restraints."*²⁶⁷

Committee View

311. A clear majority of Committee Members are persuaded by the evidence supporting a total ban on snares. However two Members noted that a blanket ban removes any opportunity to use snares as a method of predator control for species restoration, including projects funded by Welsh Government.

Recommendation 29. A clear majority of the Committee support the provisions of Part 5 of the Bill 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

312. Glue traps consist of a surface coated with non-drying adhesive designed to trap rodents such as mice and rats. The EM states they are frequently used by members of the public and professional pest controllers. It also states people may be committing an offence under the *Animal Welfare Act 2006* if they are then unable to kill the animal humanely. **RSPCA reports (25 May 2022 briefing)** that approximately 73% of glue trap instances (seen by the RSPCA) trapped non-target species such as pets and wild animals, including birds.

313. The UK **Glue Traps (Offences) Act 2022** received Royal Assent in Spring 2022. The Act (from April 2024) bans the use of glue traps in England, apart from on an exceptional basis. It provides that licences to use glue traps may only be issued to professional pest controllers where there is no suitable alternative to preserve public health or safety. The Scottish Government **recently announced** its intention to completely ban the sale and use of glue traps (without exemption), but highlighted implications of the *UK Internal Market Act 2020*.

314. In its **25 May briefing** RSPCA Cymru urged Welsh Government to work with the other UK countries to ensure a ban can apply to both the sale and use of glue traps in the future. Glue traps were not included in the Bill White Paper. However,

²⁶⁷ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 168

following the intention to introduce a ban in England, the EM states Welsh Government officials engaged with stakeholders between November 2021 and January 2022. The two major pest control trade bodies in the UK, the British Pest Control Association (BPCA) and the National Pest Technicians Association (NPTA) support a ban on the general public (including amateur pest controllers) being able to use glue traps. However they have called for an exemption for professional pest controllers. They believe glue traps can be a faster method where there is a threat to public health and where speed is a priority (e.g. hospitals). Both organisations acknowledged the rarity of these circumstances. They said if a licensing scheme is used, it must not slow down rapid action. More views on this consultation exercise by Welsh Government can be found on page 87 of the EM.

315. UKHospitality Cymru, while recognising the animal welfare concerns and opposing any amateur use of glue traps, also wanted professional pest controllers to be able to use glue traps as a ‘last resort’ to deal with rodent infestations in food premises:

“As a trade association, UKHospitality Cymru does not actively use glue boards, however, we do represent a large number food businesses operators who employ pest control organisations and individual pest control technicians who use them periodically in accordance with the relevant codes of practice.

We have consulted with members who are of the opinion that glue boards should only be used as a last resort and only where there is a risk to health and where other methods have proved to be ineffective. We believe that public health would suffer should a complete ban on glue traps be introduced. Rodents would, in some situations, become extremely difficult to control and treatment programmes prolonged unnecessarily. This may result in the closure of members’ businesses either temporarily or permanently.

We recognise that glue boards, if not used correctly, can cause suffering and our members rely on the competency of our pest contractors and the relevant codes of practice to ensure the most humane practises are used. Our members do not use the boards themselves or allow amateur use of the boards.”²⁶⁸

²⁶⁸ Written evidence – AGR29

316. In evidence to the Committee, the NPTA highlighted limitations of alternative methods - including behavioural resistance - and concerns about the dangers of rodenticides and them increasingly becoming unavailable for use.²⁶⁹ The BPCA said if a ban is introduced then rodent management programmes will take longer in crucial areas, meaning temporary closures (minimum of 2 weeks) of sensitive sites, such as small food and hospitality businesses; hospitals and care homes wards; food factories and preparation areas; and critical infrastructure and government buildings. Ian Andrew of BPCA said:

“Absolutely, we can capture and deal with rats and mice without glue traps, if you’re willing to have hospital wards closed, school canteens closed, small businesses closed, for up to two weeks. If that’s the level of acceptability, then absolutely we can deal with rodent infestations through rodenticides, while we still have them, and through break-back traps. What we cannot do, however, is deal with an infestation quickly without the glue trap. It’s the only means of rapid capture.”²⁷⁰

Suggestion of an alternative licensing system for professional use

317. Ian Andrew of BPCA said that members of the professional trade bodies were competent to use glue boards effectively and that a licensing system would be relatively straightforward to implement:

“We have an European definition of [a professional pest controller] that covers the training, the qualifications, the continued professional development and the competence levels of professionals, which, certainly, the BPCA members would adhere to. I think that that level of trust—it depends how bureaucratic, and I’m sure that the last thing you want is a bureaucratic licensing system, but if it was Natural Resources Wales, for example, they are accustomed to licensing professional pest controllers for the bird licensing and for the gull licensing. So, there are models in place.

Equally, there are models where you could license ourselves and NPTA to actually do the licensing scheme for you; that would reduce your bureaucracy. As I say, it is, absolutely, about

²⁶⁹ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 207-212

²⁷⁰ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraph 177

ensuring that those who are using them are trained, qualified and competent in their use.”²⁷¹

318. In contrast, the EM states some pest control services have a self-imposed ban on the use of glue traps and say they are “able to capture the pest in all circumstances”.

319. Animal welfare bodies argue 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. The Minister highlighted the prohibition of electric shock collars is through banning their use (not sale) under the Animal Welfare (Electronic Collars) (Wales) Regulations 2010.

320. Following compelling evidence from the pest control trade bodies on the possible implications of a total ban for public health, the Committee **wrote** to Public Health Wales to seek further information, in advance of a second evidence session with the Minister.

321. In its **response**, Public Health Wales (PHW) agreed there were detrimental effects of pests, such as the transmission of infectious diseases, and *“therefore, it is in the interest of public health to have effective pest control measures where there is a risk.”* PHW said it is *“a matter of using the most humane and effective option”* but was *“not able to comment on the merits of alternative methods of pest control and would look to experts in this field of practice to advise.”* PHW do not monitor activity so were not able to provide information on the deployment of glue traps in public buildings in Wales. In a second evidence session with the Minister 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.²⁷² Members were told that Rentokil had provided evidence that they did not use them for pest control, and they were contracted to deal with public health settings. This did not chime with the evidence the Committee received from NPTA and BPCA on 9 November. The Minister also told Members on 16 November that DEFRA had had “some real issues” with developing a licensing regime for England, and she believed a ban was the right approach for Wales.²⁷³

322. The Minister **responded** to the Committee’s request for more information on use of glue traps by local authorities and by NHS contractors in local health boards on 7 December. The letter said *“It is undeniable rodents can pose a*

²⁷¹ Economy, Trade and Rural Affairs Committee, 9 November 2022, Paragraphs 182-183

²⁷² Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 181

²⁷³ Economy, Trade and Rural Affairs Committee, 16 November 2022, Paragraph 183

serious public health risk in spaces which humans occupy. It is also reasonable to assume there are situations requiring a rapid solution such as, in hospitals, around the young and otherwise vulnerable, and in any form of food service.”

However the Minister went on to say that animal welfare was a priority for Welsh Government and glue traps were not humane even in the hands of professionals. She went on:

“Adequate, efficient, and more humane forms of rodent control are available and in regular use in Wales. Such methods reduce the risk of capture or death of non-target animals as well as improving animal welfare standards. Pest control operators in the UK with a self-imposed ban on the use of glue traps are able to capture problem rodents in all circumstances. That experience is echoed abroad in countries where glue boards have been banned and alternative control methods adopted quickly.”²⁷⁴

323. The Minister pointed to extremely limited use of glue traps in Wales, and said that in consultation no local authority had stated they were an essential method of rodent control. She also noted DEFRA’s difficulties with implementing a licensing scheme for professional pest controllers *“most notably with the fact there is no Standard Occupational Classification (SOC) Code for pest controllers and no qualifications or licence is needed to work in that type of role. Therefore, determining a legitimate application for a licence to use a glue trap would prove very problematic, rendering the definition of who is exempt in the regulations very difficult.”²⁷⁵*

Committee View

324. Having considered the Minister’s letter alongside other evidence received, the Committee does not object to the proposals in the Bill on prohibiting the use of glue traps.

Recommendation 30. The Committee supports the provisions in Part 5 of the Bill to prohibit use of glue traps.

²⁷⁴ Economy, Trade and Rural Affairs Committee, 12 January 2023, Paper to note 2.2

²⁷⁵ Economy, Trade and Rural Affairs Committee, 12 January 2023, Paper to note 2.2

8. Part 6 – General

This part of the Bill provides, amongst other things, for the Welsh Ministers to make provisions to give full effect to the Bill. It provides for definitions of “agriculture” and “ancillary activities” for the purposes of the Bill, and for the amendment of those definitions by subordinate legislation. Part 6 also deals with interpretation, giving effect to Schedules, coming into force provisions and the short title of the Bill.

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

326. Section 47 makes general provision about regulations made under the Bill, and sets out the applicable Senedd procedure for such regulations.

327. Evidence was sought on the appropriateness of regulation-making powers and procedure to be used (negative versus affirmative). WEL’s view was that regulation should “mostly” be subject to the affirmative procedure.²⁷⁶ As noted at the start of this report, the Legislation, Justice and Constitution Committee considered the Bill on 21 November and the Minister provided a response outlining her intentions for use of the powers. The Bill EM states (Table 5.1 on page 90) that most powers will be subject to the affirmative procedure. The exceptions to this are the powers in sections 15-18 relating to modifying existing agricultural support (BPS, CAP, apiculture, Rural Development and public market intervention and private storage aid) and in section 46 for consequential, transitional etc. provision. On sections 15-18 the EM states these are “largely technical/procedural in nature” and/or to make changes to current detailed scheme rules contained in retained EU law.

²⁷⁶ Written evidence – AGR46

Definition of Agriculture

328. Section 48 defines “agriculture” for the purposes of the Bill. As noted at the start of the report (Chapter 2, Paragraph 23), there were strong views on the appropriateness of the “agriculture” definition being amendable by subordinate legislation under section 50. FUW said: *“any amendment to the definition of agriculture must be subject to intense scrutiny in order to ensure that genuine active farmers are not excluded and that peripheral activities are not encompassed in a manner which would reduce the funding available for grass roots farming activities and food production.”*²⁷⁷ NFU Cymru said there should be a duty to consult on section 50.²⁷⁸

329. NRW said there is a possibility that the terms ‘farm woodland’ and ‘agroforestry’ in the definition of agriculture could cause confusion.²⁷⁹ It said the Agriculture Act 1967 defines “woodland” as including *“all land used primarily for the growing of trees”* and Welsh Government’s **natural resources policy** states that *“We also need greater integration between woodland and other land uses and a removal of the historical, artificial distinction between farmland and woodland management”*. NRW said it would appear that the policy intent is to bring the two land uses together in terms of the various functions given to Welsh Ministers under this Bill. However, *“when it comes to exercising powers under other pieces of legislation (such as forestry, planning and tenancy) the Bill’s definitions have no status, which could lead to confusion.”*

330. Section 49 defines “ancillary activity” for the purposes of the Bill. Section 8(1) above, on support for “ancillary activities”, sets out views on section 49.

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

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

333. Section 52 gives effect to Schedules 2 and 3 which contain a series of consequential amendments and repeals.

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

²⁷⁷ Written evidence – AGR27; AGR37

²⁷⁸ Written evidence – AGR37

²⁷⁹ Written evidence – AGR53

335. Section 54 provides that the short title of the Bill is the “Agriculture (Wales) Act 2023”.

Schedules

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

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

338. 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”).

339. With the exception of clarifying the content of Schedule 1, noted in Part 3 above, the Committee has no substantive comments on sections 51 to 53 of the Bill, or the Schedules.

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
29 September 2022	James Owen, Deputy Director, Land Management Reform Division Welsh Government
	Hannah Fernandez, Lead Policy Official, Land Management Reform Division Welsh Government
	Fiona McFarlane, Policy – Forestry, Land Management Reform Division Welsh Government
	Claire Lawson, Policy – Snares and glue traps, Land Management Reform Division Welsh Government
	Dorian Brunt, Senior Lawyer, Legal Services Department – Rural Affairs Welsh Government
	William (Bill) Cordingley, Government Lawyer, Legal Services Department – Wildlife Welsh Government
5 October 2022	Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd Welsh Government
	James Owen, Deputy Director, Land Management Reform Division Welsh Government
	Hannah Fernandez, Lead Policy Official, Land Management Reform Division Welsh Government
	Dorian Brunt, Senior Lawyer, Legal Services Department – Rural Affairs Welsh Government

Date	Name and Organisation
	William (Bill) Cordingley, Government Lawyer, Legal Services Department – Wildlife Welsh Government
12 October 2022	Dylan Morgan, Deputy Director and Head of Policy National Farmers’ Union Cymru Huw Thomas, Political Adviser National Farmers’ Union Cymru Dr Hazel Wright, Senior Policy Officer Farmers’ Union of Wales Libby Davies, Senedd and Parliamentary Affairs Officer Farmers’ Union of Wales
20 October 2022	Arfon Williams, Head of Land and Sea Policy RSPB Cymru Rhys Evans, Sustainable Farming Lead Wales Nature Friendly Farming Network Alexander Phillips, Policy & Advocacy Specialist WWF Cymru (representing Wales Environment Link) Dr Jonathan Davies, Senior Ecologist, Nature Recovery Brecon Beacons National Park Authority (representing National Parks Wales) George Dunn, Chief Executive Tenant Farmers Association Andrew Tuddenham, Land Use & Farming Adviser National Trust John Lloyd, Committee member National Sheep Association Cymru Eleanor Jarrold, Secretary Mynydd Eglwysilan Mynydd Meio and Craig Evan Leyshon Commoners’ Association
27 October 2022	Andy Richardson, Chair Food and Drink Wales Industry Board Gwyn Howells, Chief Executive Officer Hybu Cig Cymru Simon Wright, Director of Food and Rural Economy and Owner University of Wales Trinity St David Wright’s Independent Foods Ltd Jerry Langford, Public Affairs Manager (Wales) Woodland Trust

Date	Name and Organisation
	<p>Anthony Geddes, National Manager for Wales Confor</p>
<p>9 November 2022</p>	<p>David Bowles, Head of Public Affairs RSPCA Cymru</p> <p>Billie-Jade Thomas, Senior Public Affairs Officer - Wales League Against Cruel Sports</p> <p>Simon Wild, Campaigns Director National Anti-Snaring Campaign</p> <p>Collin Willson, Welsh Branch President British Veterinary Association</p> <p>Glynn Evans, Head of Game and Gundogs British Association for Shooting and Conservation</p> <p>Rachel Evans, Director for Wales Countryside Alliance</p> <p>Ian Andrew, Chief Executive British Pest Control Association</p> <p>John Hope, Technical Manager National Pest Technicians Association</p> <p>Dr Ludivine Petetin, Reader in Law Cardiff University</p> <p>Dr Mary Dobbs, Senior Lecturer, School of Law and Criminology Maynooth University</p>
<p>16 November 2022</p>	<p>Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd Welsh Government</p> <p>James Owen, Deputy Director, Land Management Reform Division Welsh Government</p> <p>Hannah Fernandez, Lead Policy Official, Land Management Reform Division Welsh Government</p> <p>Dorian Brunt, Senior Lawyer, Legal Services Department - Rural Affairs Welsh Government</p> <p>William (Bill) Cordingley, Government Lawyer, Legal Services Department - Wildlife Welsh Government</p>

Annex B: List of written evidence

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

Reference	Organisation
AGR 01	TFA Cymru (Tenant Farmers Association)
AGR 02	Woodland Trust
AGR 03	RSPCA Cymru
AGR 04	British Veterinary Association
AGR 05	GWCT Wales (Game & Wildlife Conservation Trust)
AGR 06	NPTA (National Pest Technicians Association)
AGR 07	Christine Topping
AGR 08	Andrew Pedrazzoli
AGR 09	Peter Morrow
AGR 10	Julia and Neil Anderson
AGR 11	Brigid Glanville
AGR 12	Kay Oliver and Bill Upda
AGR 13	Rose Shortland
AGR 14	Janet M Griffith
AGR 15	Jane Hurley
AGR 16	FSC (Forest Stewardship Council)
AGR 17	Michael Burrridge
AGR 18	Shaun Ankers
AGR 19	S Smith
AGR 20	Rob Bowles

Reference	Organisation
AGR 21	Susanna Feder
AGR 22	WAWC (Wild Animal Welfare Committee)
AGR 23	Ros Berrington
AGR 24	Ceredigion Badger Group
AGR 25	Lianna Jones
AGR 26	Welsh Language Commissioner
AGR 27	FUW (Farmers' Union of Wales)
AGR 28	Wild Moors
AGR 29	UKHospitality Cymru
AGR 30	AIC Cymru (Agricultural Industries Confederation)
AGR 31	BASC (The British Association for Shooting and Conservation)
AGR 32	WWF Cymru
AGR 33	Four Paws
AGR 34	Michele Presacane
AGR 35	NSA Cymru (National Sheep Association)
AGR 36	League Against Cruel Sports
AGR 37	NFU Cymru (National Farmers' Union)
AGR 38	National Trust Cymru
AGR 39	Alliance for Welsh Designed Landscapes / Campaign for National Parks
AGR 40	Confor
AGR 41	Animal Aid
AGR 42	Institute of Chartered Foresters
AGR 43	Ramblers Cymru
AGR 44	Plantlife
AGR 45	RSPB Cymru
AGR 46	Wales Environment Link
AGR 47	Wildlife Trusts Wales

Reference	Organisation
AGR 48	Solar Energy UK
AGR 49	Continuous Cover Forestry Group (Wales)
AGR 50	CLA Cymru (Country Land and Business Association)
AGR 51	Nature Friendly Farming Network
AGR 52	Size of Wales
AGR 53	Natural Resources Wales
AGR 54	Landworkers' Alliance Cymru
AGR 55	Michael Sharratt

Additional Information

Title	Date
RSPB (Cymru): Briefing papers	20 October 2022
Wales Environment Link: First impressions briefing paper	20 October 2022
Woodland Trust: evidence paper	27 October 2022
Confor: evidence paper	27 October 2022
Countryside Alliance: Briefing papers	9 November 2022
Game and Wildlife Conservation Trust: Briefing papers	9 November 2022
National Anti-Snaring Campaign: Summary of key points to support oral evidence	9 November 2022
British Pest Control Association: Briefing note	9 November 2022
Letter from the Minister for Rural Affairs and North Wales, and Trefnydd: Welsh Government's follow-up to questions regarding UK GDPR – Agriculture (Wales) Bill Evidence session 1: 5 October	9 November 2022
Letter from the Minister for Rural Affairs and North Wales, and Trefnydd: Corrections to the Explanatory Memorandum	9 November 2022
Letter from the Chair to Public Health Wales: Proposals to prohibit the use of glue traps in Wales	24 November 2022

Title	Date
Letter from Public Health Wales: Proposals to prohibit the use of glue traps in Wales	24 November 2022
Letter from the Chair of the Legislation, Justice and Constitution Committee to the Minister for Rural Affairs and North Wales, and Trefnydd	25 November 2022
Letter from the Chair to the Minister for Rural Affairs and North Wales, and Trefnydd: Part 3 and Schedule 1	28 November 2022
RSPB Cymru – supplementary paper on transition	30 November 2022
Letter from the Minister for Rural Affairs and North Wales, and Trefnydd: Glue Traps	7 December 2022
Letter from the Minister for Rural Affairs and North Wales, and Trefnydd: Part 3 and Schedule 1	19 December 2022