

Agenda – Economy, Trade, and Rural Affairs Committee

Meeting Venue:	For further information contact:
Hybrid – Committee room 1&2 Senedd and video Conference via Zoom	Robert Donovan Committee Clerk
Meeting date: 27 October 2022	0300 200 6565
Meeting time: 09.30	SeneddEconomy@senedd.wales

Private pre-meeting (09.15–09.30)

Public Meeting (09.30–11.45)

1 Introductions, apologies, substitutions and declarations of interest

(09.30)

2 Paper(s) to note

(09.30)

2.1 Letter from the Minister for Rural Affairs and North Wales, and Trefnydd

(Pages 1 – 2)

Attached Documents:

The Trade in Animals and Related Products (Amendment and Legislative
Functions) Regulations 2022



2.2 Letter from the Minister for Rural Affairs and North Wales, and Trefnydd

(Pages 3 – 6)

Attached Documents:

The Animals and Animal Health, Feed and Food, Plants and Plant Health
(Amendment) Regulations 2022

3 Agriculture (Wales) Bill: Evidence session 5

(09.30–10.30)

Andy Richardson, Chair, Food and Drink Wales Industry Board

Gwyn Howells, Chief Executive Officer, Meat Promotion Wales

Simon Wright, Director of Food and Rural Economy, University of Wales

Trinity St David and Owner, Wright's Independent Foods Ltd

Break (10.30–10.40)

4 Agriculture (Wales) Bill: Evidence session 6

(10.40–11.40)

(Pages 7 – 48)

Jerry Langford, Public Affairs Manager (Wales), Woodland Trust

Anthony Geddes, National Manager for Wales, Confor

Attached Documents:

Woodland Trust – Evidence paper

Confor – Evidence paper

Research brief

5 Northern Ireland Protocol Bill Legislative Consent Memorandum

(11.40–11.45)

(Pages 49 – 73)

Attached Documents:

Legal Advice Note

Research brief

6 Motion under Standing Order 17.42(ix) to resolve to exclude the public for the remainder of the meeting

(11.45)

7 Private

(11.45–12.00)

(Pages 74 – 78)

Agriculture (Wales) Bill: Consideration of evidence

Discuss Northern Ireland Protocol Bill Legislative Consent Memorandum

Review draft Trade Monitoring Report

Attached Documents:

International Trade Monitoring Report

Ein cyf/Our ref: MA/LG/2452/22

Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee

Paul.Davies@senedd.wales

21 October 2022

Dear Paul,

The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022

I wish to inform the Committee I am giving consent to the Secretary of State for Environment, Food and Rural Affairs to lay The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 ("the draft Regulations") on 20 October 2022.

The draft Regulations will be made under the European Union (Withdrawal) Act 2018 and address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The retained EU law concerns the importation of animals and related animal products, or the transit of animals and animal products through Great Britain.

The draft Regulations modify European Union Directives, transfer functions of EU bodies within those EU Directives to the appropriate authority and amend the Trade in Animals and Related Products Regulations 2011 and the Trade in Animals and Related Products (Scotland) Regulations 2011 to update the legislative regime and implement the modifications and transfer of functions.

The Welsh Ministers will shortly be making equivalent regulations, which will create a number of regulation-making powers for the Welsh Ministers and amend the Trade in Animals and Related Products (Wales) Regulations 2011. However, I would like to draw to your attention to regulation 4(3) and 8(2) of the draft Regulations, which provide that if the Welsh Ministers give consent, the Secretary of State may exercise regulation making powers, as appropriate authority in relation to Wales.

Bae Caerdydd • Cardiff Bay
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Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Legislation made under the European Union (Withdrawal) Act 2018 is covered by a 'carve out' within the Government of Wales Act 2006 (Amendment) Order 2021, as such the creation of these 'concurrent-plus' functions would not impinge on the Senedd's ability to legislate in this area in future, if it so wished.

Similar functions in the sphere of Animal Health and Welfare have previously been approved on the basis there is a mutual interest for all administrations in the application of coherent disease prevention and the functions in the draft Regulations need to work for the whole of Great Britain. Furthermore, they are exercised in the context of a functioning Common UK Animal Health and Welfare Framework with clearly defined governance processes for cross-government engagement. Any policy changes or use of the powers will be discussed at the Animal Disease Policy Group, which is the governance body of this Common Framework, and where policy decisions are made by consensus.

It is important to note that the Secretary of State's ability to exercise this function depends upon the Welsh Ministers' consent. We envisage this would only happen in exceptional circumstances. This function is therefore appropriate and mirrors what already happens in other legislation and administrative processes in this policy area.

I would like to reassure this committee it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government where there is a clear rationale for doing so. On this occasion, therefore, I am giving my consent to these Regulations for reasons of efficiency and expediency in future policy change and adherence to international obligations, and cross-government coordination and consistency.

The regulations will be laid in draft before the UK Parliament on 20 October 2022 to come into force the day following a debate which will take place between 11 November and 01 December.

I have written in similar terms to the Chair of the Legislation, Justice and Constitution Committee.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Lesley Griffiths AS/MS

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

Ein cyf/Our ref: MA/LG/2595/22

Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee

Paul.davies@senedd.wales

18 October 2022

Dear Paul,

RE: The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022

I wish to inform the Committee that I have granted consent for the Secretary of State to exercise a delegated legislative power in a devolved area in relation to Wales. The former Minister of State for Farming, Fisheries and Food, Victoria Prentis MP, requested consent to make The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022. These Regulations will apply in relation to Wales, England, and Scotland with the exception of regulations 24 and 25, which apply in England only. The statutory instrument will be made under section 8 of the European Union (Withdrawal) Act 2018 and be subject to the draft affirmative procedure.

The Regulations propose amendments to retained direct EU law relating to official controls and animal and plant health, to ensure that the laws operate effectively following the withdrawal of the United Kingdom from the European Union. Please see Annex A for details of amendments.

It is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government and other devolved administrations where there is a clear rationale for doing so.

On this occasion, I am giving my consent to these Regulations, which make corrections and address operability matters in relation to, and on behalf of, Wales for reasons of efficiency and expediency, and to ensure consistency and coherence of the statute book. I do so whilst reserving the ability to diverge in future as per our devolved competence.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

This instrument addresses minor EU exit related deficiencies, further deficiencies not anticipated at the time of withdrawal from the EU and ensures the functioning of a GB-wide imports regime. It would therefore seem appropriate to exercise these functions jointly as they need to work for the whole of the UK, or Great Britain (where there is freedom of movement), to ensure there are common standards and to minimise disruptions to traders, local authorities, and inspection agencies alike.

I am copying this letter to the Counsel General and Minister for the Constitution, Minister for Climate Change and the Legislation, Justice, and Constitution Committee.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lesley Griffiths AS/MS

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

Annex A

Part 2 of the statutory instrument:

- **Amendment of Regulation (EU) No 2016/2031 - Penalties.** These provisions relate to the creation of offences and set down rules on appropriate penalties relating to plant pests and diseases and reinstates Article 108 of the Plant Health Regulations.

Part 3:

- **Amendment of Article 3 and Article 4 of the Official Controls Regulation (OCR)/ Regulation (EU) No 2017/625** to designate the 'Appropriate Authority' as a potential 'Competent Authority' more clearly.
- **Amendment to Article 48 of the OCR** amends OCR to enable the appropriate authority to adopt delegated acts to establish quantities under Article 48(g).
- **Amendment to Article 115 of the OCR** relates to contingency plans for food and feed by the 'Competent Authorities' or 'Appropriate Authority' and aims to remove reference to Article 55(1) of the General Food Law Regulations 178/2002 which was previously revoked.
- **Amendment to Article 128 of the OCR** relates to the powers of the 'Appropriate Authority' to make regulations to protect the biosecurity of GB if there is an outbreak in a third country.
- **Amendment to Article 139 of the OCR** aims to address a deficiency in the current OCR legislation by providing the 'Appropriate Authority' with the power to create penalties for non-compliance with the OCR and relevant supporting legislation.
- **Amendment to Article 150 of the OCR** extends the transitional periods provided for in that Article during which Directive 96/23/EC, which sets out the requirements for submission of up-to-date information regarding national residue monitoring programmes from trading partners approved to import products of animal origin into Great Britain, continues to apply.
- **Amendment to Annex 6 of the OCR** corrects an oversight in bringing high risk food and feed (HRFNAO) within the scope of the Transitional Staging Period as it was originally omitted in error.
- **Amendment to Annex 6 of the OCR** also allows for the Transitional Staging Period to be amended independently from changing the end date.

Part 4:

- **Amendment of Regulation (EC) No. 999/2001 - The prevention, control and eradication of transmissible spongiform encephalopathies.** Regulation 16 of the proposed 2022 Regulations amends legislation relating to the prevention, control, and eradication of certain transmissible spongiform encephalopathies (TSEs) to ensure the legislation continues to operate effectively in Great Britain.
- **Amendment to Annex 2 to Commission Decision 2007/777/EC and Amendment of Annex 1 to Commission Regulation (EC) No 119/2009,** which are missed consequential amendments that are required now that the Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022 has removed information in third country lists from legislation.
- **Amendment of Annex 1 to Commission Regulation (EC) No 798/2008** to remove Belarus from the list of approved trading partners for poultry meat.
- **Amendments to retained Regulation (EC) No. 1/2005 on the protection of animals during transport and related operations.** Regulation 17 makes corrections to Regulation 1/2005 to ensure obligations of Annex II are applicable. Annex II of Regulation 1/2005 sets out the obligations of transporters, organisers, and keepers in relation to journey logs for export, import and transit journeys of livestock and

unregistered horses from or via GB regardless of the purpose of the journey, where the journey is over 8 hours.

- **Amendment of Commission Implementing Regulation (EU) No 2020/625.** The purpose of this amendment is to ensure the transitional provision in Article 3 of Regulation 2020/625 (relating to the import of sesamum seeds) applies in relation to any imports which may enter GB which fall within the scope of that provision.

Part 5:

- **Amendment of the Plant Varieties and Seeds Act 1964: England and Wales** address a policy gap that has been identified within the 1964 Act in relation to a lack of regulation making powers in respect of fruit, vegetable, and ornamental planting material.

Part 6:

- **Amendment to Regulation 38 of The Trade in Animals and Related Products Regulation (TARP) England.** The TARP amendment deals with the ability to charge fees for border checks on animal related goods and will also require an amendment to TARP Wales - this deficiency will be corrected in a regulation made by the Welsh Ministers.
- **Amendment to regulation 2 of the Animal Health (Miscellaneous Fees) (England) Regulations 2018.** An amendment is being made to update the definition of third country.

Agriculture (Wales) Bill

Economy, Trade, and Rural Affairs Committee

Consultation

<https://business.senedd.wales/mgConsultationDisplay.aspx?id=489&RPID=1031467995&cp=yes>

1. INTRODUCTION

- 1.1. Coed Cadw -The Woodland Trust is the UK's largest woodland conservation charity, working for a UK rich in native woods and trees, for people and wildlife. In Wales we have over 26,000 supporters. We own and manage over 100 sites in Wales covering 2,897 hectares (7,159 acres). Our estate is mostly woodland but does include some land on which we maintain grazing through farm business tenancies.
- 1.2. We have a small landowner advisory team who work with landowners to facilitate new woodland creation and the restoration of ancient woodland. We advocate use of Welsh Government grants but also provide some direct support for small scale new woodland creation through our tree pack, farm trees and MOREwoods schemes. These schemes use funding from corporate partnerships.
- 1.3. We support the joint statement produced with other environmental NGOs by Wales Environment link which includes six tests of whether the Bill enables sustainable food and farming that co-delivers on the following:-
 1. *Restores and maintains farmland wildlife and the environment,*
 2. *significantly reduce harmful emissions that are contributing to climate change,*
 3. *stops using imported animal feeds linked to destroying the natural world overseas,*
 4. *develops opportunities to diversify food production for local markets.*
 5. *supports opportunities for community ownership, new entrants, better public access and engagement in land use decisions, and*
 6. *sets and effective regulatory baseline, backed by fair and clear civil and legal sanctions, that all farmers, land managers and landowners must comply with.*

2. PART 1 – SUSTAINABLE LAND MANAGEMENT

The objectives

- 2.1. We support the definition of the four SLM objectives, the need for transformational change and Welsh Ministers having a duty to deliver this. The four objectives taken together provide a reasonably definition of what SLM is and we would not want to see this limited by narrower definitions.
- 2.2. We think the commitment to the delivery of SLM must be the fundamental principle underlying the Bill. The test for all wording should be that it supports this.
- 2.3. These 4 objectives seem consistent with the definition of sustainable management of natural resources (SMNR) in the Environment (Wales) Act, and we suggest there should be explicit reference to this.

“using natural resources in a way and at a rate that maintains and enhances the resilience of ecosystems and the benefits they provide. In doing so, meeting the needs of present generations of people without compromising the ability of future generations to meet their

needs, and contributing to the achievement of the well-being goals in the Well-being of Future Generations Act.”¹

- 2.4. Producing food remains a key role but alongside other essential requirements from the land – climate change mitigation water resources, timber, biodiversity, landscape and recreation. This requires the seeking the synergies rather than meeting one objective at the exclusion of others.
- 2.5. We do not think the SLM objectives can be delivered without effective regulation. We would like to see the Bill include a duty for Ministers to bring forward and maintain a clear summary of National Minimum Standards for agriculture. We suggest continuity with the existing GEAC requirements is beneficial but would also like to see a further consultation that would allow some updating and modifications, for example updating regulatory standards for hedgerows and trees on farms.
- 2.6. We think there are 3 reasons why this is needed: -
- Private landowners who are in receipt of public funding must not only comply with the law and be seen to be complying with the law.
 - regulatory compliance is an important fairness baseline, preventing those most dismissive of impacts on others from gaining competitive advantage.
 - There is a need for adequate investment in monitoring and enforcement that has been sadly lacking in relation to water quality.
- 2.7. Setting out National Minimum Standards for agriculture would be an opportunity to clarify the regulation of trees in agroforestry. A baseline requirement is that of felling consent, but we envisage that the vast majority of agroforestry operations would be within the felling licence exemption regime. 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 and we strongly recommend that scattered tree cover on farms does NOT need to be made subject to regulation under the UK Forest Standard.

The Duty

- 2.8. We interpret Section 2(2) to indicate that the Duty on Ministers does not extend to cover forestry and other non-agricultural land-uses.
- 2.9. We think it is crucial that the Duty on Ministers is to deliver all four objectives in a balanced way and not trading one off against another, as described in the Explanatory Memorandum
- 28 “exercise the function in the way that best contributes to achieving those objectives (taken together)”.*

We suggest the “taken together” is fundamental and reflects the intent of Wellbeing for Future Generations Act. We think the commitment to the co-delivery of multiple objectives and explicit support for land sharing need to be an essential foundation of policy.

- 2.10. We are very glad to see that agroforestry is defined as an agricultural activity. It may be necessary to clarify the dividing line between forestry and agroforestry as an agricultural activity, especially to clarify regulatory provisions.

Monitoring and Reporting

- 2.11. We agree with the importance of SLM reporting and monitoring and the need for evidence-based indicators for each SLM objective.

¹ <https://naturalresources.wales/media/678317/introducing-smnr-booklet-english.pdf>

- 2.12. We would like to see an explicit requirement for a balanced basket of indicators and targets. Targets based on individual indicators should be avoided and are contrary to the need to take all objectives together in a balanced way. Focus on individual indicators risk favouring quantity over quality with perverse and unintended consequences.
- 2.13. We note – 5 (2) that Welsh Ministers must have regard for the State of Natural Resources Report and for Natural Resources Policy published under the Environment Act but note that under section 5 (3) there is no explicit requirement to consult NRW in addition to the Future Generations Commissioner. Given the nature of the SLM objectives we think it essential that Ministers consult their principle environmental adviser and regulator.
- 2.14. Could it be clarified that data gathered from farmers for SLM reporting will be available to NRW to inform the State of Natural Resources Report (SoNaRR)?
- 2.15. We note that SoNaRR explicitly reports on forestry and ask to what extent this report on forestry should match what is covered by SLM reporting on agriculture?

3. PART 2: SUPPORT FOR AGRICULTURE ETC.

- 3.1. We think it is vital that the power to provide support is expressly subject to the overarching requirement of achieving the SLM objectives in a balanced way, as explained in the Explanatory Memorandum:

“As set out under the SLM framework, the power to provide support must be exercised in the way the Welsh Ministers consider best contributes to achieving the SLM objectives, so far as consistent with the proper exercise of that function.”
- 3.2. We note that the list of current purposes (p34) does largely match up with the list of outcomes given for the SFS.
- 3.3. One discrepancy is that the SFS outcome is **maximising carbon storage**, whereas the Agriculture Bill purpose includes reference to sequestration. The SFS wording, focusing on carbon storage, is preferable and clearer. Increasing sequestration does not in its self necessarily contribute anything to climate mitigation and can be used to justify continued emissions.
- 3.4. We note that this list of purposes is not definitive and may be subsequently changed. Again the Explanatory Memorandum provide reassurances: *“Any support given must contribute towards achieving the SLM objectives”* and we understand this to be written into Section 2 of the Bill.
- 3.5. The clarification -13 (3) - of how the Impact Report relates to the Sustainable Land Management Report is welcome.
- 3.6. We would like to see an expectation that agricultural support effectively addresses issues identified in SoNaRR. Given the preponderance of farmland in Wales, we suggest there does need to be an explicit link between these reports and the State of Natural Resources Report, and to whatever biodiversity target reporting the Welsh Government introduces in light of its recent commitment to targets for biodiversity.
- 3.7. We welcome the power to extend support to using land as farm woodland or for agroforestry and to ancillary activities relating to nature conservation and ecosystem resilience on land used for agriculture. (Sections 48 & 49)
- 3.8. We note that section 11 gives Ministers powers to make provision about checking eligibility for support but does not require Ministers to bring forward the necessary regulations. We think there must be a commitment to do this – see our para 2.5 – 2.7.

Part 2 Chapter 2 - powers to modify legislation relating to financial and other support

- 3.9. The powers to enable Welsh Ministers to continue operation of existing farming support beyond 2020 appear to be indefinite? The Explanatory Memorandum states that these powers are to replace time limited powers in the Agriculture Act 2020 but we are not clear whether these replacement powers are themselves time limited?

3.146 These powers will replace the time limited powers to modify Rural Development, in the AA 2020, which may be needed to provide support alongside any new scheme(s) set up under the Bill.

- 3.10. This implies that Ministers may have the power to run two support schemes in parallel for an indefinite period. This is of concern given that the duty to achieve SLM does not apply to the provisions of sections 15 and 16.

Part 2 Chapter 4 Agricultural Tenancies

- 3.11. It has been made clear to us that the typical legal requirements and duration of tenancy agreements will make it difficult for tenants to benefit from the SFS. In particular tenants are unlikely to be able to take actions to meet the proposed 10% tree cover threshold for qualification for universal payments under SFS.
- 3.12. Under legal definitions of agricultural activity generally used for tenancy agreements, tenants generally do not have the right to plant trees and do not have responsibility for existing trees. They generally do have responsibility for the maintenance of hedgerows and this may offer some with a way in to SFS.
- 3.13. An ideal situation might be where there is incentive for landlords to invest in tree and habitat cover as part of the resources and capital asset of the land, whilst enabling tenants to benefit from SFS payments towards the costs of maintaining those assets.

PART 3 - MATTERS RELATING TO AGRICULTURE AND AGRICULTURAL PRODUCTS

No comments

4. PART 4 FORESTRY

- 4.1. Our interest is in the protection and restoration of ancient woodland and ancient trees. Ancient woodland is by far the richest woodland habitat and only covers 4.5 % of Wales. Most is in poor ecological condition and the evidence points to continuing decline. There is an on-going problem of ancient woodland decline, and it is not credible to claim that this is entirely due to historic practice.
- 4.2. The Welsh Government in its updated Programme for Government 2021 commits to “Strengthen the protections for ancient woodlands.” There is nothing currently in law that requires the protection and restoration of ancient woodland.
- 4.3. We support the new powers proposed and the power to add conditions to felling licences could be helpful for ancient woodland conservation, especially in relation to limiting the scale of felling, preventing damage to ancient woodland features such as veteran trees and facilitating the removal of invasive non-native tree species. 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.

- 4.4. We would like to see felling licence conditions used where needed to ensure the requirement for the protection of ancient woodland features in line with the minimum requirement of UK Forest Standard (UKFS)²:
- that *'features of ancient woodland remnants are protected'* and *'retained'*? and
 - that in terms of restocking, that applicants must, *'in ancient semi-natural woodlands, avoid introducing non-native species unless they would maintain or enhance the ecological function of the woodland'* (with the onus to applicant to demonstrate this)
- 4.5. The public information on felling licence applications that is provided by NRW³ does not currently include information on whether woods are ancient or have other protected status and does not include the outcome of the licence applications or any information on felling licence conditions. It is not possible to assess the impact of felling from information on this register.
- 4.6. We ask whether the Bill can be amended to ensure monitoring and reporting on the impact of felling consents that is equivalent to the requirements for reporting on the achievements of the SLM objectives and the support scheme impact report?
- 4.7. We would like to see support through SFS for the care and protection of ancient and veteran trees.
- 4.8. Ideally we would like to see other measures to protect ancient and veteran trees and small areas of ancient woodland, especially those of special heritage importance.

PART 5 WILDLIFE

No comments

5. PART 6 – GENERAL

Purpose and intended effect of the legislation:

- 5.1. We welcome the updating of the definition of agriculture and we support the definition of “ancillary activity” split into business actions and environmental that include:

49 (a) *taking action, on land used for agriculture—
to create and manage habitats, or for other purposes relating to nature 15
conservation,
to mitigate and adapt to climate change, or
to maintain and enhance the resilience of ecosystems;*

And described in the Explanatory Memorandum:

3.301 “The environmental actions that form part of the definition of “ancillary activity” capture steps which may be taken to assist in the achievement of the SLM objectives on land used for agriculture. These steps may not directly produce an agricultural product, but capture many of the wider actions that many farmers in Wales already undertake. Examples could include natural flood defence, energy management plans and ecosystem creation such as beetle banks.”

² <https://naturalresources.wales/guidance-and-advice/environmental-topics/woodlands-and-forests/uk-forestry-standard/?lang=en>

³ <https://naturalresources.wales/permits-and-permissions/tree-felling-and-other-regulations/forestry-public-register/felling-licence-register/?lang=en>

5.2. We point out that many of these ancillary activities are necessary to maintain the sustainability of agricultural production

5.3. Glad to see specific inclusion of agroforestry in clause 48 on the meaning of “agriculture” and related references:-

48 (1) (f) using land as farm woodland or for agroforestry;

5.4. We think 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.

6. 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?;

6.1. The barriers to entry for agricultural tenants noted above

7. 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)?

7.1. We support the view presented by Wales Environment Link that secondary legislation should mostly require affirmative motions to ensure scrutiny and debate and democratic process.

8. Whether there are any unintended consequences arising from the Bill?

8.1. No comments

9. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)?

9.1. The need to cost out the administrative costs is reasonable but we think attempts to value benefits of the changes to forestry regulation using traditional CBA have been pretty pointless

9.2. The costs of not doing what the Bill sets out to do would be calamitous, the benefits of doing so are huge, but are unquantifiable by established financial procedures.

9.3. The benefits include not continuing to degrade agricultural capacity and sustainability; trying to mitigate further climate instability; arresting biosphere collapse, and positive outcomes in the delivery on public benefits, for example relating to wellbeing, and increasing the nations stock of national capital.

9.4. More prosaically the fundamental benefit of the proposed forestry regulation measures is to create a level playing field. rather than a race to the bottom with no effective constraint on the minority of people willing to do the most damage and impose impacts on others.

9.5. We raised similar points in our response to the consultation on the Audit Wales program⁴.

9.6. Our suggestions on where the audit program could have impact, included the following

- *Guide and demonstrate how the pursuit of targets and financial analysis should reflect and be balanced by application of the goals, principles and ways of working set out in the Well-being of Future Generations Act and the Socio-economic Duty. Examples could include establishing financial checks and balances that fully cost impacts on stakeholders, public benefits and natural capital values, and prevent the rush to renewable energy installations or afforestation do not damage biodiversity and drive up inequality.*
- *Enforce quality requirements for the auditing and reporting of carbon emissions, sequestration and storage*

⁴ **Audit Wales:** [Seeking Views on the Auditor General’s Work Programme](#) - March 2022

- *Implement the recommendations of the Dasgupta Review - Provide guidance and examples of the accounting for dependences and impacts on Nature in project and service financial assessments, and the accounting for of climate and nature related financial risk.*

9.7. We supported the Auditor General’s proposal to look at agricultural and rural support, noting that:

The issues raised above about valuing natural capital and ecosystem services are relevant to this, enabling farmers and other landowners to receive recognition and income for non-market benefits that they provide to society. There are significant risks that public funding does not support public benefit outcomes and that scheme complexity and inflexibility results in perverse outcomes.

Agriculture (Wales) Bill 2022

CONFOR EVIDENCE TO THE ENVIRONMENT TRADE & RURAL TRADE COMMITTEE

1. Introduction

Representing Forestry and the Wood using sector.

Confor is the not-for-profit organisation for the UK's sustainable forestry and wood-using businesses.

Through our 1,500 members, we represent a workforce of over 67,000 in the UK, employed across the whole forestry and wood supply chain from landowners and tree nurseries to forest managers, harvesters, wood fuel suppliers, sawmills, and wood panel businesses.

We represent 90% of tree nurseries, 95% of wood processors including wood panel manufacturers, and our members look after 90% of the total managed woodland in the UK. Our members are located in rural areas and provide good career opportunities where often these are scarce. As the net zero agenda provides new opportunities for the sector to expand and innovate, we are more committed than ever to combine a thriving green economy with sustainability.

2. Confor response to the Agriculture Bill

Our responses to the Agriculture Bill are drafted alongside the 6 main parts of the bill.

2 SUSTAINABLE LAND MANAGEMENT

Objectives

- 2.1 Confor supports the four objectives set out for SLM within the structure of the bill. The definitions clearly state the potential of the role of land manager and going forward it is essential that the spirit of these operations is embedded into enabling legislation within the SFS
- 2.2 The reference to other goods within the definition is welcome but we feel there is some ambiguity of the scale and potential importance of those products which include timber and wood fibre.
The value of achieving multiple outcomes must be fairly measured against the risks of pursuing single interest management outcomes.

- 2.3 The structuring of the 3rd objective “to maintain and enhance the resilience of ecosystems and the benefits they provide” especially noting 1(6) factors relevant to the resilience of ecosystems is of significant interest when engaging in discussions regarding land use change.

Many of the barriers to land use change reflect the interpretation of the wording “Maintain & Enhance” but do not acknowledge the degraded landscapes that are experienced across significant areas of habitat in Wales. Whilst restoration of these landscapes may be possible the risk of further degradation or likelihood of management regime change are not factors that are considered by regulators in the wider context of delivering an improving landscape in Wales.

Duty

- 2.4 We support the obligations placed on Welsh Ministers in delivering their duty under the bill but notes that the functions appear to exclude the delivery of sustainable forestry and afforestation targets.
- 2.5 We support the emphasis created by the wording within 2(1) “Welsh Ministers must exercise each function referred to in this section in the way they consider best contributes to achieving the sustainable land management objectives” if coupled with an amendment to function which includes:
- (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.

Monitoring and Reporting

- 2.6 We agree that clear and accurate measurement, and reporting of SLM measures, is essential for the delivery of the objectives of the bill.
- 2.7 Targets must be appropriate and account for external regional influences that may make compliance simple in one area and complex or impossible in another.
- 2.8 Why is Natural Resources Wales not listed as a statutory consultee to preparation or revision of indicators or targets?
- 2.9 We welcome the obligation placed on the Welsh Government to prepare and publish a report setting out the assessment of cumulative progress and delivery of objectives, including reasons for failure, non determination and contribution to overall objectives. We recommend this also include an obligation to report on why successful outcomes have been achieved.
- 2.10 What is the role of Environment and Rural Affairs Monitoring & Modelling Programme in setting and monitoring these standards and as a major evidence provider in Wales should their importance be recognised more specifically within the bill?

3 SUPPORT FOR AGRICULTURE

- 3.1 We welcome the support of agriculture and ancillary activities but highlight that the support must be equal and proportionate for other land-based system. Historically forestry has covered approximately 14% on the land and has received as little as 2% of the RDP budget. If the Senedd is committed to delivering on the climate change afforestation targets as specified by the UK Climate Change Committee, then secured long term funding will be required.
- 3.2 We note that food production is expressed in 8(2)(a) where elsewhere in the bill it is combined as “produce food and other goods”
- 3.3 Under section 11(1) (b & c) – reference should be made to proportionate and reasonable. Grant reclaims under Glastir was neither of these subsequently alarming many farmers who withdrew from projects involving fencing due to potential scale of fine/penalty.
- 3.4 We welcome the reference to maximising sequestration and storage of carbon. Clarity is required over the reference or measurement system that is 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.

4 AGRICULTURAL TENANCIES

- 4.1 We support the Section 23 of the Bill which will amend Section 19A of the Agricultural Holdings Act 1986 (AHA) to allow a tenant farmer the ability to object to a refusal from their landlord for consent to enter a scheme introduced under the financial assistance provisions of the Bill. Section 19A also provides for AHA tenants to object to their landlords’ unreasonable refusal to allow consent for activities required to comply with a statutory duty. We note that many tenant farmers are excluded from afforestation schemes at present due to the terms of their AHA.
- 4.2 We seek to raise that the bill fails to address the issues for the Farm Business Tenancy holders who could remain excluded from engagement in schemes. FBT’s cover around 300,000 hectares of Welsh farmland and it an oversight to not consider them as part of this legislation.
- 4.3 S19a 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.
- 4.4 As a general comment, 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.

5 MATTERS RELATING TO AGRICULTURE AND AGRICULTURAL PRODUCTS

5.1 No comments on this element of the bill

6 FORESTRY

6.1 In response to S35 Confor, its members, and the overwhelming response from the professional forestry sector is that the felling licence system is effective in its operation. Where concerns are raised about felling it is often surrounding illegal felling, felling under Planning Law (linked to planning permissions) or a breach of the existing environmental conditions that all felling as already obliged to comply with under the Forestry Act 1967.

6.2 We would welcome an informed debate on this matter and do not feel that the previous Senedd debate or members undertook due diligence when approving consent to change the Forestry Act. If it is considered to require amendment, this should be dealt with through separate legislation. Lessons could be learned from the example of the Scottish Forestry Act (2018) which covered similar issues.

6.3 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.

6.4 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. 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.

6.5 Whilst the ENGO sector and some single interest lobbyists have called for more stringent regulations to protect woodland habitat from further declines, it is imperative to understand

the drivers of these declines, which often are caused by neglect and failure to manage. What is clear, is that sustainable management is identified as the one area where, with a high degree of confidence the State of Natural Resources report considered the status of woodland to be improving through certification under UKWAS. This type of conservation management would be jeopardised by the tightening of felling licenses. 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.

- 6.5 We 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.
- 6.6 The SFS has created a further disconnect between farming and forestry and this is exacerbating a two-tier system for farming and forestry. This urgently needs to be addressed if we are to be successful in bringing woodlands into management and meeting our afforestation targets.
- 6.7 We are broadly in support with the proposals contained within S36 & S37 of the bill to Amend, Suspend or Revoke felling licences. 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.
- 6.8 We are highly concerned regarding the implication of S24D “Suspension, amendment or revocation of tree felling licence where no breach of condition”. Where a licence has been applied for which requires public and regulatory consultation, it should not be possible for suspension due to the impact on Natural Beauty or geographical or physiographical features to be contrived. The occurrence of Flora or Fauna or impact on habitat would have to be of one of the major statutory designations and should therefore fall within compliance of other legislation. We assert that this “catch all” category must be removed as given the inconsistent performance of the regulator there is significant fear of misuse of these powers.

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

- 6.9 We welcome the appeals process and compensation provision detailed in S38 24E put forward for landowners who successfully overturn suspension or revocation of a notice
- 6.10 We are in support of S40 of the bill creating and unlimited fine for illegal felling.

7 WILDLIFE

7.1 No comments on this element of the bill

8 GENERAL PROVISIONS

8.1 No comments on this element of the bill

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Agenda Item 7

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