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Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/LG/3171/20

Mick Antoniw MS  
Legislation, Justice and Constitution Committee  
Ty Hywel  
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28 September 2020

Dear Mick,

### **Welsh Government's Supplementary LCM (Memorandum No 4) on the Agriculture Bill**

Thank you and members of the Legislation, Justice and Constitution Committee for your scrutiny of the amendments made to provisions relating to Wales in the Agriculture Bill during the House of Lords' amending stages. I committed to write to the Committees and Members of the Senedd should there be any further amendments requiring the legislative consent of the Senedd prior to the plenary debate.

Introduced in the House of Commons, the Agriculture Bill completed Report Stage in the House of Lords on 22 September. We expect the Bill to receive Royal Assent by the end of October.

I can inform the Committee three further government amendments were made to the Bill. Under Standing Order 29.1(i) and 29.2(iii), the Welsh Government is required to lay a LCM in the Senedd normally no later than 2 weeks after those amendments are tabled or agreed, but due to the advanced stage of the Bill and therefore the lack of time available for normal Senedd scrutiny, I am writing to outline the amendments made. Full details can be found in Supplementary Legislative Consent Memorandum no.4.

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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.

## Amendment to Schedule 5 (and related provision) with regard to references to retained direct EU legislation

After the amendment was made to paragraph 5, Welsh Government Legal Services identified another potential issue with the provision, arising from the different possible interpretations of Article 138 of the Withdrawal Agreement and its implications on EU legislation relating to rural development, and the Common Agricultural Policy more generally.

Amendments have been tabled in relation to RDP, Common Market Organisation and Apiculture which confirm the specified legislation does become retained EU law on IP completion day, and ensure the powers given to the Welsh Ministers in Schedule 5 are operable;

A narrow financial assistance power has been included which allows the Welsh Ministers to pay those people who have ongoing agreements under the current RDP scheme after the EU funding has been exhausted. This power is designed to allow the Welsh Ministers to continue to fulfil their contractual obligations if Technical Measures cannot be agreed with the EU pursuant to Article 138(5) of the Withdrawal Agreement to bring the programme to an end. It is limited in scope, and can only be used to give financial assistance to those who have ongoing, existing agreements/contracts;

A regulation-making power to amend retained EU legislation in relation to Apiculture has been included. This ensures in the future, the retained EU apiculture framework could be amended to implement a new scheme. A technical amendment will be tabled at Third Reading on October 1 to confirm this regulation-making power is subject to the negative procedure;

These are now Clauses 17 (continuing EU programmes: power to provide financial assistance), Clause 18 (retained direct EU legislation), Clause 55 (interpretation), Clause 59 (financial provision), Clause 60 (extent) and Schedule 5 – Paragraph 4.

## Food Security

Clause 19 (Duty to report to Parliament on UK food security) places a duty on the Secretary of State to report to Parliament on data relevant to UK food security. During scrutiny, Committees raised concern around the reporting frequency on food security, I accepted more frequent reporting may be necessary given the potential pace of development in this area. This clause was also subject to much debate during the House of Lords passage.

A UK Government amendment has been made to increase the reporting frequency of the Secretary of State from every 5 years to every 3 years with a requirement to lay the first report under clause 19 on or before the “relevant day” as defined in the Bill.

## Power to make consequential and transitional provision

Clause 50 (power to make consequential etc. provision) provided for a general and broad power by regulations to make supplementary, incidental or consequential provision in connection with any provision of the Bill (including powers to modify primary legislation, retained direct EU legislation or subordinate legislation).

The clause is amended to create two new provisions. One (Clause 57) deals with supplementary, incidental or consequential provision (and comprises what was section 50(1) to (4), as amended at House of Lords Report stage), the other (Clause 58) deals with transitional etc., provision (and comprises what was section 50(5) and (6), as amended at House of Lords Report stage).

In summary, officials requested these amendments be made at Report stage so the Welsh Ministers, and not the Secretary of State, may exercise the powers to make consequential

and transitional provision under what was clause 50(1) and 50(5) in relation to certain additional provisions, as requested (as well as the provisions previously covered).

The Secretary of State may not make consequential or transitional provision which could be made by the Welsh Ministers in respect of those provisions, with one exception. The Secretary of State may make consequential provision in respect to sections 36 and 37 (organic products), if the Secretary of State has first consulted the Welsh Ministers. This means the Welsh Ministers and the Secretary of State have concurrent powers to make consequential provision so far as relating to Wales in respect of sections 36 and 37. Further detailed briefing on these amendments will follow.

#### Non-Government Amendments made at House of Lords Report Stage

There have been further amendments I have noted for the Committee below which we are currently analysing. I am recommending consent on the basis if these new amendments remain in the Bill, and if they affect my consent recommendation, I will table a further debate.

These non-government amendments were included in the Bill during House of Lords Report Stage and include the following:

- Clause 20 – National Food Strategy;
- Clause 38 – Application of pesticides: limitations on use to protect human health;
- Clause 47 – Requirement for agricultural and food imports to meet domestic standards;
- Clause 48 – Contribution of agriculture and associated land use to climate change targets;
- Clause 49 – Trade and Agriculture Commission.

I would like to reiterate the importance of this Bill as a vehicle to deliver stability and continuity to Welsh agriculture while we continue to develop the groundwork for our own Agriculture (Wales) Bill, to be introduced in the next Senedd term as I set out in my oral statement on 8 July.

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**

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