

ACCOMPANYING DOCUMENTS

Explanatory Notes and an Explanatory Memorandum are printed separately.

# Food (Wales) Bill

[DRAFT]

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Schedule 1 - The Welsh Food Commission

# Food (Wales) Bill

[DRAFT]

An Act of Senedd Cymru to place a duty upon public bodies in respect of food goals, set targets in respect of food goals, establish the Welsh Food Commission, require a national food strategy and local food plans, and for connected purposes.

**Having been passed by Senedd Cymru and having received the assent of Her Majesty, it is enacted as follows:**

## *Food goals*

### **1 Duty on public bodies to advance food goals**

Public bodies must take reasonable steps to advance the primary food goal and the secondary food goals.

### **2 Primary food goal**

The primary food goal is the provision of affordable, healthy, and economically and environmentally sustainable food for the people of Wales.

### **3 Secondary food goals**

(1) The secondary food goals are listed and described in Table 1.

TABLE 1

Goal	Description
Economic well-being	Creating new economic opportunities through promotion of locally produced food. Promoting sustainable economic, social and community development. Encouraging better links between food producers and consumers.
Health and social	Reducing malnutrition, food poverty and food insecurity. Reducing obesity.
Education	Increasing the quality and accessibility of educational provision on food-related issues.
Environment	Lessening environmental impacts of food production and consumption.
Food waste	Reducing food waste by food producers and consumers.

(2) The Welsh Ministers may, by regulations, amend the description of a secondary food goal in Table 1.

(3) Before making regulations that amend Table 1, the Welsh Ministers must consult with the Welsh Food Commission.

*Food targets***4 Duty to set targets for secondary food goals**

- (1) The Welsh Ministers must, by regulations, set one or more targets for each secondary food goal.
- (2) A target must specify –
  - (a) a standard to be achieved, which must be capable of being objectively measured, and
  - (b) a date by which it is to be achieved.
- (3) Regulations may make provision about how the matter in respect of which a target is set is to be measured.
- (4) A target is initially set when the regulations setting it come into force.
- (5) The first regulations setting one or more targets for each secondary food goal must be made within 2 years of this section coming into force.

**5 Process for setting targets**

- (1) Before making regulations under section 4, the Welsh Ministers must seek advice from –
  - (a) the Welsh Food Commission, and
  - (b) other persons the Welsh Ministers consider to be independent and to have relevant expertise.
- (2) Before making regulations which set or amend a target, the Welsh Ministers must be satisfied that the target, or amended target, can be met.

**6 Reporting duties**

- (1) Regulations under section 4 must specify a reporting date for any target set.
- (2) On or before the reporting date the Welsh Ministers must lay before Senedd Cymru, and publish, a statement stating that –
  - (a) the target has been met, or
  - (b) the target has not been met.
- (3) Where target has not been met, the statement must –
  - (a) explain why the target has not been met, and
  - (b) set out the steps the Welsh Ministers have taken, or intend to take, to ensure that the target is met as soon as reasonably practicable.

**7 Review of targets**

- (1) The Welsh Ministers must review the targets in accordance with this section.
- (2) The purpose of the review is to consider whether meeting the target would significantly contribute to the primary food goal.
- (3) In carrying out the review, the Welsh Ministers must seek advice from the Welsh Food Commission.

- (4) Having carried out the review the Welsh Ministers must lay before Senedd Cymru, and publish, a report stating –
  - (a) whether the Welsh Ministers consider that meeting the target would significantly contribute to the primary food goal, and
  - (b) if the Welsh Ministers consider that it would not, the steps they intend to take in relation to the powers in section 4 to ensure that it would.
- (5) The first review must be completed within 5 years of this section coming into force.
- (6) Subsequent reviews must be completed within 5 years of the completion of the previous review.
- (7) A review is completed when the Welsh Ministers have laid and published the report.

#### *Welsh Food Commission*

### **8 Welsh Food Commission**

There is established a body corporate called the Welsh Food Commission or Comisiwn Bwyd Cymru (referred to in this Act as “the Commission”).

### **9 Objective of the Commission**

The objective of the Commission is to promote and facilitate –

- (a) the advancement of the primary and secondary food goals by public bodies, and
- (b) the achievement of the food targets.

### **10 Functions of the Commission**

The functions of the Commission are –

- (a) to develop, and assist public bodies to develop, policies in relation to food matters;
- (b) to advise, inform and assist public bodies, and other persons, in relation to food matters;
- (c) to keep the public adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about food matters;
- (d) to provide oversight and performance review of the exercise of the functions of public bodies in relation to the food goals and food targets;
- (e) to scrutinise the national food strategy and local food plans;
- (f) to act as a consultee for the Welsh Ministers when the food goals are to be amended;
- (g) to give advice to the Welsh Ministers in their review of food targets.

### **11 Further provision about the Commission**

The Schedule makes further provision about the Commission.

*National food strategy***12 National food strategy**

- (1) The Welsh Ministers must lay before Senedd Cymru, and publish, a national food strategy.
- (2) Subsection (1) must be complied with within 2 years of this section coming into force.
- (3) The national food strategy must set out the overall strategy and individual policies that the Welsh Ministers intend to pursue in order to –
  - (a) advance the primary and secondary food goals, and
  - (b) achieve the food targets.

**13 Making of national food strategy**

- (1) Before making the national food strategy, the Welsh Ministers –
  - (a) must seek the advice of the Commission, and
  - (b) may seek the advice of the Future Generations Commissioner for Wales on how to align the strategy with the sustainable development principle, within the meaning of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).
- (2) Before making the national food strategy, the Welsh Ministers must consult with –
  - (a) persons the Welsh Ministers consider to be independent and to have relevant expertise, and
  - (b) such other persons as the Welsh Ministers consider appropriate.
- (3) In making the national food strategy, the Welsh Ministers must have regard to –
  - (a) the United Nations Sustainable Development Goals, in particular Goals 1 and 2,
  - (b) Article 11 (so far as it concerns adequate food) of the International Covenant on Economic, Social and Cultural Rights,
  - (c) Article 24(2)(c) (so far as it concerns the provision of adequate nutritious foods) of the United Nations Convention on the Rights of the Child,
  - (d) Article 27(1) and (3) (so far as they concern nutrition) of the United Nations Convention on the Rights of the Child,
  - (e) Article 12(2) (so far as it as concerns adequate nutrition during pregnancy and lactation) of the Convention on the Elimination of All Forms of Discrimination Against Women, and
  - (f) any other international instruments, or parts of international instruments, that the Welsh Ministers consider appropriate.
- (4) In this section –

“the Convention on the Elimination of All Forms of Discrimination Against Women” means the Convention on the Elimination of All Forms of Discrimination Against Women adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979;

“the International Covenant on Economic, Social and Cultural Rights” means the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966;

“the United Nations Convention on the Rights of the Child” means the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989.

#### **14 Effect of national food strategy**

Public bodies must, in exercising functions related to the primary food goal, the secondary food goals, and the food targets, have regard to the national food strategy.

#### **15 Reporting on national food strategy**

- (1) As soon as practicable after the end of each reporting period, the Welsh Ministers must lay before Senedd Cymru, and publish, a report assessing the effectiveness of the national food strategy, and in particular, setting out the contribution it has made towards –
  - (a) advancing the primary and secondary food goals, and
  - (b) achieving the food targets.
- (2) Before making this report, the Welsh Ministers must consult with the Commission.
- (3) In this section “reporting period” means –
  - (a) the period of 2 years beginning with the day the first strategy is published, and
  - (b) each subsequent period of 2 years.

#### **16 Review and revision of national food strategy**

- (1) Before the end of –
  - (a) the period of 5 years beginning with the day on which the first strategy is published, and
  - (b) each subsequent period of 5 years,the Welsh Ministers must review the national food strategy.
- (2) Following a review, the Welsh Ministers must revise the strategy as they consider appropriate.
- (3) Sections 12(3) and 13 apply in relation to revising the strategy as they apply in relation to the making of the strategy in the first place.

#### *Local food plans*

#### **17 Local food plans**

- (1) Each public body (other than the Welsh Ministers) must make and publish a local food plan.

- (2) Subsection (1) must be complied with within 2 years of this section coming into force.
- (3) A local food plan must set out the policies that the public body intends to pursue in order to contribute towards—
  - (a) the advancement of the primary and secondary food goals, and
  - (b) the achievement of the food targets.

## **18 Making of local food plans**

- (1) Before making a local food plan, a public body may consult with—
  - (a) the Commission,
  - (b) the Future Generations Commissioner for Wales, and
  - (c) such other persons as the public body considers appropriate.
- (2) In making a local food plan, a public body must have regard to the national food strategy.

## **19 Effect of local food plans**

A public body must, in exercising functions related to the primary food goal, the secondary food goals, and the food targets, have regard to its local food plan.

## **20 Reporting on local food plans**

- (1) As soon as practicable after the end of each reporting period, a public body must publish a report assessing the effectiveness of its local food plan, and in particular, the contribution it has made towards—
  - (a) advancing the primary food goal and the secondary food goals, and
  - (b) achieving the food targets.
- (2) Before making this report, the public body must consult with the Commission.
- (3) In this section “reporting period” means—
  - (a) the period of 2 years beginning with the day the first plan is published by that body, and
  - (b) each subsequent period of 2 years.

## **21 Review and revision local food plans**

- (1) Before the end of—
  - (a) the period of 5 years beginning with the day the first plan is published by a public body, and
  - (b) each subsequent period of 5 years,that public body must review its local food plan.
- (2) Following a review, the public body must revise the plan as it considers appropriate.
- (3) Sections 17(3) and 18 apply in relation to revising the plan as they apply in relation to the preparation of the plan in the first place.

*General***22 Meaning of public body**

- (1) For the purposes of this Act, each of the following persons is a “public body” –
  - (a) the Welsh Ministers;
  - (b) a local authority;
  - (c) a Local Health Board.
- (2) The Welsh Ministers may by regulations amend subsection (1) by –
  - (a) adding a person,
  - (b) removing a person, or
  - (c) amending the description of a person.
- (3) But the regulations may add a person only if that person exercises functions of a public nature.
- (4) If the regulations add a person who has functions of a public nature and other functions, this Act applies to that person only in relation to those of the person’s functions that are of a public nature.
- (5) Before making regulations, the Welsh Ministers must consult with –
  - (a) the Commission;
  - (b) if the regulations add a person, that person;
  - (c) any other person the Welsh Ministers consider appropriate.
- (6) In this Act –

“local authority” (“awdurdod lleol”) means a county council or county borough council in Wales;

“Local Health Board” (“Bwrdd Iechyd Lleol”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c. 42).

**23 Regulations**

- (1) A power to make regulations under this Act –
  - (a) is exercisable by statutory instrument, and
  - (b) includes power to make different provision for different purposes.
- (2) A statutory instrument may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.

**24 Interpretation**

In this Act –

- “the Commission” (“y Comisiwn”) means the Welsh Food Commission;
- “food targets” (“targedau bwyd”) means the targets set in regulations made under section 4.

**25 Commencement**

This Act comes into operation at the end of the period of 3 months after the date it receives Royal Assent.

**26 Short title**

This short title of this Act is the Food (Wales) Act 2023.

SCHEDULE 1  
(introduced by Section 11)

THE WELSH FOOD COMMISSION

PART 1

STATUS

*Status*

- 1 (1) The Commission is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The Commission's property is not to be regarded as property of, or property held on behalf of, the Crown.

PART 2

MEMBERSHIP

*Membership*

- 2 (1) The Commission is to consist of—
- (a) a chair;
- (b) no fewer than 5 nor more than 7 other members.
- (2) The terms of membership may be specified by the Welsh Ministers, subject to the provisions of this Schedule.

*Appointment of members*

- 3 (1) The chair is to be appointed by the Welsh Ministers.
- (2) Before appointing the chair, the Welsh Ministers must consult with Senedd Cymru.
- (3) The other members are to be appointed by the Welsh Ministers.
- (4) Before appointing the other members, the Welsh Ministers must consult with—
- (a) the chair, and
- (b) Senedd Cymru.
- (5) In appointing an individual, the Welsh Ministers must have regard to the desirability of members having a range of skills and experiences.
- (6) The maximum term of membership is 5 years.
- (7) An individual may be re-appointed once as a member.

*Disqualification*

- 4 (1) An individual must not be appointed as a member if the individual is disqualified on any of the grounds specified in sub-paragraph (3).

- (2) An individual ceases to be a member if the individual is disqualified on any of the grounds specified in sub-paragraph (3).
- (3) An individual is disqualified from being a member if the individual is –
  - (a) a Member of Senedd Cymru;
  - (b) a Member of the House of Commons or House of Lords;
  - (c) a Member of the Scottish Parliament;
  - (d) a Member of the Northern Ireland Assembly;
  - (e) a member of a local authority or a community council;
  - (f) a member of a Local Health Board;
  - (g) a member of the Commission's staff;
  - (h) the holder of an office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of –
    - (i) the Crown,
    - (ii) Senedd Cymru, or
    - (iii) the Senedd Commission.

#### *Termination of membership*

- 5 (1) An individual may resign their membership by giving the Welsh Ministers not less than 3 months' notice in writing of their intention to do so.
- (2) The Welsh Ministers may dismiss an individual as a member if satisfied that the individual is –
  - (a) an undischarged bankrupt, or
  - (b) unfit to continue as a member.

#### *Remuneration, allowances and pensions*

- 6 (1) The Welsh Ministers may pay remuneration to the members of the Commission.
- (2) The Welsh Ministers may pay allowances (including travelling and subsistence allowances) and gratuities to members of the Commission.
- (3) The Welsh Ministers may pay –
  - (a) pensions to, or in respect of, individuals who have been members of the Commission, and
  - (b) amounts for or towards provision of pensions to, or in respect of, individuals who have been members of the Commission.
- (4) In Schedule 1 to the Superannuation Act 1972 (c. 11) (offices etc. to which section 1 of that Act applies) in the list of "Royal Commissions and other Commissions" at the appropriate place insert –

"The Welsh Food Commission".

PART 3  
OPERATIONAL MATTERS

*Validity of acts*

- 7 The validity of anything done by the Commission or its committees is not affected by –
- (a) a vacancy in membership,
  - (b) a defect in the appointment of a member, or
  - (c) a person's membership having ended under paragraph 4 or 5.

*Staff*

- 8 (1) The Commission may appoint such staff as it considers appropriate in connection with the exercise of its functions.
- (2) The Commission may pay remuneration to the members of staff.
- (3) The Commission may pay allowances (including travelling and subsistence allowances) and gratuities to the members of staff.
- (4) The Commission may pay –
- (a) pensions to, or in respect of, persons who have been members of staff, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of staff.
- (5) The Commission must obtain the approval of the Welsh Ministers for –
- (a) the number of staff that may be appointed;
  - (b) the terms and conditions of service of the staff;
  - (c) any payments that may be made under sub-paragraphs (2) to (4).
- (6) In Schedule 1 to the Superannuation Act 1972 (c. 11) (offices etc. to which section 1 of that Act applies) in the list of “other bodies” at the appropriate place insert –
- “Employment as a member of the staff of the Welsh Food Commission”.

*Proceedings of the Commission*

- 9 It is for the Commission to regulate its procedure (including any quorum).

*Committees*

- 10 (1) The Commission may establish committees.
- (2) A committee may include as a member an individual who is not a member of the Commission.
- (3) Such an individual is entitled to –
- (a) such remuneration as the Commission may determine;
  - (b) such sums as the Commission may determine to reimburse or compensate the individual in relation to expenses properly incurred in the exercise of the individual's functions.

- (4) It is for the Commission to pay any remuneration and other sums to which such an individual is entitled by virtue of sub-paragraph (3).
- (5) It is for the Commission to regulate the procedure (including any quorum) of any committee established by it.

#### *Delegation*

- 11 (1) The Commission may authorise the exercise of any of its functions by –
- (a) one (or some) of its members,
  - (b) a committee established by it, or
  - (c) a member of its staff.
- (2) Authorisation for the purposes of this paragraph may be general or limited to the exercise of the function in specific circumstances.
- (3) This paragraph does not affect the responsibility of the Commission for the exercise of its functions.

#### *Payments by the Welsh Ministers*

- 12 The Welsh Ministers may pay the Commission such amounts, at such times and on such conditions (if any), as they think appropriate in respect of expenditure incurred in carrying out the functions of the Commission.

### PART 4

#### PLANS, REPORTS, ACCOUNTS, ETC.

#### *Strategy plan*

- 13 Before the beginning of the Commission's second financial year, and for each subsequent financial year, the Commission must –
- (a) prepare a plan of how it intends to discharge its functions during that financial year, and
  - (b) lay a copy of that plan before Senedd Cymru.

#### *Annual and other reports*

- 14 (1) As soon as practicable after the end of each financial year, the Commission must prepare and publish an annual report on the exercise of its functions during that financial year.
- (2) It is for the Commission to determine –
- (a) the content of the annual report,
  - (b) the form of an annual report, and
  - (c) the manner of publication.
- (3) As soon as practicable after publishing an annual report, the Commission must –
- (a) send a copy of the report to the Welsh Ministers;

- (b) lay a copy of the report before Senedd Cymru.
- (4) The Commission may lay a copy of any other report prepared by it before Senedd Cymru.

#### *Accounting officer*

- 15
- (1) The chair of the Commission is the accounting officer for the Commission.
  - (2) The accounting officer has, in relation to the accounts and the finances of the Commission, the responsibilities that are from time to time specified by the Treasury.
  - (3) In this paragraph references to responsibilities include –
    - (a) responsibilities in relation to the signing of accounts;
    - (b) responsibilities for the propriety and regularity of the finances of the Commission;
    - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Commission are used.
  - (4) The responsibilities that may be specified under this paragraph include responsibilities owed to –
    - (a) Senedd Cymru and the Welsh Ministers;
    - (b) the House of Commons or the Committee of Public Accounts of that House.
  - (5) If requested to do so by the Committee of Public Accounts of the House of Commons (“the Commons Committee”), Senedd Cymru may –
    - (a) take evidence on behalf of the Commons Committee from the accounting officer,
    - (b) report to the Commons Committee on the evidence taken, and
    - (c) transmit to the Commons Committee the evidence taken.
  - (6) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to the House of Commons Committee of Public Accounts) applies for the purposes of this paragraph as it applies for the purposes of that Act.

#### *Accounts*

- 16
- (1) The Commission must –
    - (a) keep proper accounting records;
    - (b) prepare accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Welsh Ministers.
  - (2) The directions that the Welsh Ministers may give under this paragraph include directions as to –
    - (a) the information to be contained in the accounts and the manner in which the accounts are to be presented;
    - (b) the methods and principles in accordance with which the accounts are to be prepared;
    - (c) any additional information that is to accompany the accounts.
  - (3) The Welsh Ministers may vary or revoke a direction they have given under this paragraph.

*Audit*

- 17 (1) The Commission must submit the accounts prepared for a financial year to the Auditor General for Wales no later than 31 August in the following financial year.
- (2) The Auditor General must –
- (a) examine, certify and report on accounts submitted under this paragraph, and
  - (b) no later than 4 months after the accounts are submitted, lay a copy of the certified accounts and the report on them before Senedd Cymru.
- (3) In examining accounts submitted under this paragraph, the Auditor General must not certify the accounts unless satisfied that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority that governs it.

*Examinations into the use of resources*

- 18 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which resources have been used in discharging the Commission's functions.
- (2) But the Auditor General is not entitled to question the merits of the policy objectives of the Commission.
- (3) Before carrying out an examination under this paragraph, the Auditor General must –
- (a) consult with Senedd Cymru, and
  - (b) take into account the views of Senedd Cymru as to whether or not an examination should be carried out.
- (4) The Auditor General must –
- (a) as soon as is reasonably practicable, publish a report of the results of an examination carried out under this paragraph, and
  - (b) lay a copy of the report before Senedd Cymru.

## PART 5

## MISCELLANEOUS

*Consequential amendments*

- 19 (1) In the Freedom of Information Act 2000 (c. 36), in Part 6 of Schedule 1 (other public bodies: general), at the appropriate place insert "The Welsh Food Commission".
- (2) In the Government of Wales Act 2006 (c. 32) –
- (a) in Schedule 1A (disqualification from being a member of the Senedd or a candidate in an election to be a member of the Senedd), in Part 2, in the table, at the appropriate place insert –

"Welsh Food Commission	The members of the Commission"
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- (b) in Schedule 9A (devolved Welsh authorities), at the appropriate place insert "The Welsh Food Commission or Comisiwn Bwyd Cymru".

- (3) In Part 2 of Schedule 19 to the Equality Act 2010 (c. 15) (public authorities: relevant Welsh authorities), under the heading “other public authorities”, at the appropriate place insert “The Welsh Food Commission”.
- (4) In Schedule 6 to the Welsh Language (Wales) Measure 2011 (nawm 1) (public bodies etc: standards), under the heading “general”, at the appropriate place insert –

“The Welsh Food Commission (“Comisiwn Bwyd Cymru”)	Service delivery standards Policy making standards Operational standards Record keeping standards”
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- (5) In section 6 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (meaning of public body) after subsection (1)(l) insert –
- “(m) the Welsh Food Commission.”
- (6) In Schedule 3 to the Public Services Ombudsman (Wales) Act 2019 (anaw 3) (listed authorities), under the sub-heading “Miscellaneous”, at the appropriate place insert “the Welsh Food Commission”.