

Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and

Trefnydd

25 November 2022

Dear Lesley

Agriculture (Wales) Bill

Thank you for attending our committee meeting on Monday 21 November to give evidence on your Agriculture (Wales) Bill.

As I indicated at the end of our session, we have some further questions which we were unable to cover, as well as three follow-up questions in relation to comments you made during the meeting, which I set out first below.

Timing of the use of regulation-making powers in the Bill

In your evidence you said:

"This legislation is going to be here for several decades..." (RoP, paragraph 38)

1. Please could you identify, for every regulation-making power in the Bill, when you first intend to use that power to make the relevant regulations?

Sunset provision in relation to the continuation of CAP

We asked if you have considered including a sunset provision to prevent the CAP continuation powers being used indefinitely to ensure transition to the sustainable farming scheme. In response

you said:

"So, we did consider it, I think it's fair to say, but we decided on balance the Bill already contains the relevant powers to modify legislation that relates to CAP. And, obviously, as James has just set out very clearly, we'll exercise those powers when the sustainable farming scheme is ready, which we hope will be by 2025. So, we don't have any plans to sunset either the BPS or the CAP continuation powers at this stage." (RoP, paragraph 122).

2. We note that the Bill contains powers to modify legislation that relates to CAP, but that seems to us to be different from transitioning to the sustainable farming scheme. Please can you provide further information about why you do not have any plans to sunset either the BPS or the CAP continuation powers, particularly when it is intended that the Sustainable Farming Scheme will be the main source of funding for farmers in future and the BPS will be phased out over the transition period?

Potential impact of the *United Kingdom Internal Market Act 2020 (UKIMA)* on the Bill, if enacted

In the evidence session you said that:

"The Counsel General has made it very clear that the UK Internal Market Act cannot and does not cut across Senedd competence to legislate in relation to non-reserved matters, which obviously this is, so I don't think it will have any impact." (RoP, paragraph 159).

We agree that the Bill's provisions are within legislative competence, but this does not directly address the key issue of concern to us, which we believe to be a separate matter. For example, we accept that UKIMA would not prevent the Welsh Ministers from making regulations to amend the marketing standards for agricultural products in Wales under section 32 of the Bill. However, the fundamental point is that if there is future divergence in such marketing standards as between Wales and the rest of the UK, the mutual recognition principle in UKIMA will be engaged and could impact upon the effectiveness of the law once it is made.

3. Please can you identify what assessment you have made of the potential impact of UKIMA on the *effectiveness* of the provisions of the Bill should they be passed by the Senedd and become law?

Agricultural tenancies

4. Section 23 of the Bill provides Agricultural Holdings Act tenants with a route to dispute resolution. Is this sufficient to ensure that tenants can access agricultural support provided under the Bill? Have you considered any alternative, or additional, provision to promote access?

Accessibility

5. Section 29 of the Bill requires the Welsh Ministers to “publish” a draft requirement under sections 24(1) or 26(1). Where will this be published? Will the lack of precision in relation to the publication of this information impair accessibility?
6. In addition to a range of subordinate legislation making powers, the Bill amends a number of older pieces of (English language) legislation, such as the *Forestry Act 1967*. Did you consider making provision on the face of the Bill, rather than amending other legislation, so as to enable the provisions to be fully bilingual and to improve the accessibility of the law for the people of Wales?

Forestry and tree felling

7. How are the powers to allow the Natural Resources Body for Wales (NRW) to amend, suspend or revoke a tree felling licence it has issued, appropriate and proportionate? How will Welsh Government ensure that NRW are using these powers appropriately?
8. Do the Welsh Ministers have sufficient powers to intervene in the event that NRW were found not to be using their powers appropriately?
9. Section 40 amends section 17 of the *Forestry Act 1967* (penalty for felling without licence) to increase the maximum fine for illegal felling from a level 4 fine (£2,500) to a level 5 fine (unlimited). In your view, is this increase in monetary penalty proportionate and justified?

Data protection

10. What safeguards are provided in the Bill to protect individuals’ personal data?
11. Could you explain the measures that the Welsh Government will put in place to ensure that individuals clearly understand how their information will be used and processed?
12. In line with UK GDPR and other data protection legislation, will individuals, including farmers, be required to consent to the processing of their data?
13. We note that it is not the Welsh Government’s policy nor wider intent to sell any data collected in accordance with Chapter 1 of Part 3 of the Bill to third parties. As such, would you consider amending the Bill to expressly prohibit the sale of such data?

Retained EU Law (Revocation and Reform) Bill

14. The Bill would grant powers to the Welsh Ministers to modify retained EU law. Does the Welsh Government intend to preserve retained EU law in the fields covered by this Bill using powers under the Retained EU Law Bill?
15. Could the Welsh Government preserve retained EU law in the fields covered by this Bill, or is it reliant on the UK Government to also preserve relevant retained EU law, in whole or in part, to replicate the situation as it currently stands?
16. What discussions have taken place with other UK governments in relation to retained EU law in the fields covered by this Bill, for example, is the Welsh Government aware of any UK Government plans for this retained EU law?
17. How might such plans affect powers granted to Welsh Ministers by this Bill?
18. Under the Retained EU Law Bill, the retained EU law in the fields covered by this Bill could automatically expire at the end of 2023. How might that impact the ability of the Welsh Government to deliver the objectives of this Bill (specifically in relation to public market intervention or aid for private storage)?

I would be grateful to receive a response by 8 December 2022.

I am copying this letter to Paul Davies MS, Chair of the Economy, Trade, and Rural Affairs Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies

Chair