

Annex: Response to ETRA Committee’s report on the Agriculture (Wales) Bill – March 2023

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.

Accepted

The Bill represents an important first, necessary step in Agricultural reform and is the first of its kind for Wales. It is a “made in Wales” policy, designed to support Welsh priorities.

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.

Accepted

The ability to change the definition of agriculture and ancillary activities is needed so the powers, whose scope rely on that definition, can remain responsive to future challenges and opportunities in the sector.

Officials are engaging with legal counsel to explore the best way to apply a super-affirmative procedure to section 50 to include a requirement to consult with the Senedd before any amendment to sections 48 and 49 are formally laid as part of the affirmative procedure. This will provide additional scrutiny and discussion on proposed changes to sections 48 and 49.

My response to the Legislation, Justice and Constitution (LJC) committee’s recommendation 44 also covers similar ground in respect to section 50.

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.

Accepted

Introducing a ban on the use of snares is a Programme for Government commitment and as such is a priority for this government term.

Officials did consider a separate free-standing ‘wildlife-related’ Bill in the development of the Agriculture Bill. However, wildlife law is wide-ranging and complicated, spanning many pieces of legislation, Welsh Ministers have competence in most but not all areas.

Including these powers in this Bill will ensure this important change is brought forward at the earliest legislative opportunity as an important step forward in animal welfare standards in Wales.

The amendments to the Forestry Act 1967 being proposed are cohesive to the scope of the Bill. Forestry and forestry management is an integral part to delivering sustainable land management outcomes in our response to climate change. It relates directly with our action to mitigate and adapt to climate change in the second SLM objective of the Bill. The amendments enable better protection against environmental harm during felling operations, in line with the third SLM objective of the Bill relating to maintaining and enhancing the resilience of ecosystems. The Bill provides a suitable and timely mechanism for their introduction which was recognised in stakeholder responses to the White Paper.

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

Accepted

National Minimum Standards (NMS) already exist in law. They provide for the minimum threshold that every person is required to comply with and the criminal offences associated with any contravention of the relevant NMS.

Cross-compliance provides for the administrative monetary penalty scheme (AMPS) that applies to recipients of the Basic Payment Scheme (BPS) and will be considered as part of the design of the Sustainable Farming Scheme.

Officials are exploring whether new primary and secondary legislation powers are required to:

- Stabilise the existing regulatory baseline and its regulations.
- Provide a mechanism to consolidate the existing regulations comprising NMS under a single statute and regulation.
- Provide Welsh Ministers authority to create new regulations that more appropriately regulate the agricultural environment under domestic legislative competence.

This analysis will also consider the need for civil sanctions – a half-way house between AMPS and criminal prosecution that focuses on civil penalties for non-compliance that would apply to all persons rather than just scheme beneficiaries.

Any future legislation that may deal with NMS and/or civil sanctions will have to consider matters relevant to that period including for example the implications of the UK Government REUL Bill. As and when further information on any future proposals is available, an update will be provided to the Committee.

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

Accepted

The standards that will make up the National Minimum Standards (NMS) already exist in animal health and welfare legislation. NMS will provide the minimum threshold that every farmer will be required to comply with. NMS will apply regardless of whether a person is a member of the Sustainable Farming Scheme (SFS).

While there are no immediate plans to amend the existing animal health and welfare regulations, any changes or new minimum standards introduced would undergo consultation with stakeholders and would need to be consistent with the SLM provisions to the extent they apply.

Section 5 establishes a duty to consult when preparing or revising SLM indicators and targets, which includes a duty to consult persons the Welsh Ministers consider appropriate (in addition to the Future Generations Commissioner). Section 7 establishes a duty to consider certain documents and any other matters that the Welsh Ministers consider appropriate, when preparing SLM reports.

I would expect, for example, the Chief Veterinary Office for Wales to be consulted when animal health or welfare issues are under consideration in connection with the preparation or revision of indicators and targets, and to refer to relevant evidence on these matters in preparing SLM reports.

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.

Accepted

I recognise the opportunities and challenges these key farmers face. We will support commoners to continue farming the land to which they have rights whether this is under the SFS or a discrete scheme, options which the Bill allows for under the power to provide support.

The SFS common land working group will continue to meet over the coming months. The output from this group will be used to help shape the next iteration of SFS proposals to be included in consultation later in 2023. I look forward to reporting back to the Committee on the proposals and how they will be taken forward.

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.

Accepted in principle

This recommendation covers not only the SLM objective, but also how SLM is defined within the Bill. I will respond to both aspects.

SLM is clearly and precisely described within the Bill by the four SLM objectives and the SLM duty (sections 1 to 3) and I am pleased to note that the Committee report states that the majority of members are satisfied 'that the four SLM objectives make up the over-arching SLM definition' (para 75).

The UN and World Bank definitions of SLM are high level and designed to be broad so as to be relevant to the wide variety of agricultural practice across the world. Both definitions have been important references in developing the SLM objectives. The SLM objectives in the Bill provide a made in Wales, for Wales, approach which focusses on the outcomes the agricultural sector should be providing for those who work our land and for the wider population of Wales.

The SLM objectives and the duty establish a bespoke Wales-specific approach developed in the specific legislative context in Wales, in particular the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016, and through extensive stakeholder consultation and engagement. Importantly, the SLM provisions are consistent with, and compliment, both the WFG Act and the Environment (Wales) Act.

The objectives set a clear and ambitious structure for agricultural policy in Wales, focussing action to contribute to sustainable food production, to address the urgent nature and climate emergencies, to conserve and enhance the countryside and cultural resources and improve access to them and to promote and sustain the Welsh language.

The SLM duty determines how the objectives will be applied and sets a high threshold so that the Welsh Ministers must exercise relevant functions in the way they consider best contributes to achieving the objectives (so far as consistent with the proper exercise of the function) so as to achieve real change. Legislating in this way is complex and ambitious. The duty and the objectives apply to a very wide range of functions and address complex, fundamentally important and ongoing issues.

SLM needs to be actionable for it to deliver for Wales which is why it is presented as a set of clear objectives, and duty, which provide a roadmap for the sector and avoids ambiguity. It is for these reasons, a further definition of SLM in the Bill is not required.

The recommendation asks for changes to the wording of the SLM objectives in the Bill and to bring forward amendments at Stage 2. You will note that I outlined the

Government amendments which have been agreed with Plaid Cymru and intend to bring forward at Stage 2 in a Written Statement published on 3 February 2023.

The amendment to the first objective reinforces the importance of resilient farm business and the intent to keep farmers on their land, as well as other agricultural businesses, and the economic, social and environmental benefits they provide to communities.

I also intend to introduce three new purposes into the list at section 8(2), one of which relates to strengthening links between agricultural businesses and the communities in which they work.

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.

Accepted in principle

The SLM provisions establish a clear response to the nature emergency, including nature recovery and the biodiversity crisis.

The third SLM objective, in particular, imposes a clear requirement to maintain and enhance ecosystem resilience and the benefits they provide. This focusses action on improving ecosystem resilience and preventing ecosystems from going beyond their inherent thresholds.

This approach is consistent with and compliments the approach taken in the Environment (Wales) Act 2016, which defines the sustainable management of natural resources by reference to an objective to "maintain and enhance the resilience of ecosystems and the benefits they provide" (section 3), and also the Well-being of Future Generations (Wales) Act 2015, which makes provision for a "resilient Wales" well-being goal that refers to "...healthy functioning ecosystems that support social, economic and ecological resilience..." (section 4).

Section 1(7) of the Bill makes it expressly clear that biodiversity of ecosystems is a factor relevant to the resilience of ecosystems. For an ecosystem to be resilient it requires diversity within and between ecosystems including therefore biological diversity.

Again, this emphasises the importance of biodiversity and is consistent with and supports the approach taken in the Environment (Wales) Act 2016, which also expressly recognises the connection between biodiversity and ecosystem resilience and the importance of biodiversity in promoting the resilience of ecosystems (sections 4(i) and 6(1) and (2), for example).

In response to concerns around the fourth objective and land management practices that may be harmful to our ecosystems (para 92), I would highlight, as I

have before, that the SLM objectives are designed to be taken together. Any action taken to meet the fourth objective must also be considered in the context of the third objective, to maintain and enhance the resilience of ecosystems. This works to ensure those actions which balance conserving and enhancing the countryside, maintaining and enhancing the resilience of our ecosystems, and indeed the sustainable production of food and climate change considerations, are the ones which will be taken forward under the SLM duty.

Importantly, the third objective also focusses action on the benefits provided by resilient ecosystems, such as, for example, cleaner air and water which positively impact on nature recovery. The actions within the SFS will contribute towards the maintenance and enhancement of the resilience of ecosystems and the benefits they provide.

Nature recovery cannot be seen in isolation. That is why the objectives are designed to be complimentary and mutually supportive insofar as possible. For example, biodiversity and nature recovery also depend on action to address climate change, which is of course the focus of the second SLM objective.

The third SLM objective provides a strong and appropriate focus on ecosystem resilience and nature recovery. Along with the other objectives, and the purposes listed under the power to provide support, the Bill makes appropriate and complimentary provision to keep farmers on their land so that they are able to sustainably produce food and to contribute to responding to the urgent nature and climate emergencies.

The addition of 'restore' into the third objective is unnecessary considering the breadth of the objective as described above. It could also create tension between the third objective and the first objective, the sustainable production of food and other goods, and my stated goal of keeping farmers on their land, running counter to the policy intent.

The SLM objectives work to create a future Agricultural sector where the needs of the farmers and the needs of the environment are aligned and actions to support both complement each other on the same land.

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

Accepted

The Government will be bringing forward government amendments. In respect of the first SLM objective, the Government amendment introduces a new provision that sets out factors relevant to whether food and other goods are produced in a sustainable manner, which includes the resilience of agricultural businesses.

In addition there will be government amendments brought forward to add three new purposes, two of which are relevant in the context of local procurement and local supply chains: helping rural communities to thrive and strengthening links

between agricultural businesses and their communities, and improving the resilience of agricultural businesses.

These amendments clarify that local procurement and local supply chains are intended to be supported by schemes created under the power to provide support in the Bill.

An example of how support might be provided that helps local procurement and local supply chains, could be support which enables farmers to diversify outside of their core business into areas such as direct to customer sales, as well as the processing of goods.

A further example could be to diversify farming methods in support of increasing biodiversity or eco system resilience on farms, using local community labour and expertise. This could help to make farm businesses more resilient as well as keeping money and employment within the local area.

The definition of ancillary activity includes selling, marketing, preparing, packaging, processing and distributing products derived from agriculture, which captures activities undertaken by local supply chains.

The definition of “ancillary activity” comprises two distinct areas which can broadly be categorised as environmental actions and business actions. The Business actions intended to fall within the scope of ancillary activities are intended to support those diversification and innovation actions which a farmer may choose to do.

This might include any collaborative actions with other farms or supply chain businesses, for example food packaging, marketing of products or abattoirs. The inclusion of ancillary activities in the Bill is intended to strengthen or shorten supply chains, and support new methods of working in relation to agriculture.

Support schemes established under the power to provide to support (e.g. the SFS) will provide the detailed documentation as to how they intend to support local procurement and supply chains, whether through actions or collaborative projects.

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.

Accepted in principle

The Written Statement published on 3 February 2023 confirms the intentions of Welsh Ministers to bring forward an amendment to clarify that the resilience of agricultural businesses within the communities in which they operate is a relevant factor in the first objective.

This amendment highlights the importance of resilient farm businesses and the intent to keep farmers on their land, as well as other agricultural businesses,

demonstrating the value of those businesses, including for example the economic, social and environmental benefits they provide to communities.

Along with the new purposes being brought forward, the amendment highlights the ties between thriving agricultural businesses and communities. It signposts opportunities to encourage strong and vibrant communities through, for example, promoting diversification and farmer engagement with local supply chains, increasing local employment and new business opportunities.

Supporting strong and vibrant communities through their agricultural businesses, sits better in relation to the first objective, whilst maintaining the intent as recommended by the Committee.

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.

Accepted

The intended Government amendments include the provision of an additional purpose under section 8(2) of the Bill for sustaining the Welsh language and promoting and facilitating its use.

As part of the SLM objectives there already exists a requirement for at least one specific indicator to be set for the fourth SLM objective (which includes the Welsh language), (and each of the other SLM objectives), and at least one distinct target relating to that indicator. There is scope to set additional indicators and targets (section 4(3) to (5)), and it is anticipated that the Welsh Language Commissioner would be consulted on any proposed Welsh language indicators and targets.

The first statement publishing these indicators and targets is to be laid before the Senedd no later than 31 December 2025, as section 4(8)(a) and (b) refers.

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’.

Not Accepted

12a)

The SLM objectives are to be considered together, with no hierarchy and I believe that this is made clear in the Bill as currently drafted.

The effect of the SLM duty is to require the Welsh Ministers to consider all four SLM objectives and then to exercise a relevant function in the way they consider best contributes to achieving those objectives taken together, (so far as consistent

with the proper exercise of the function). This sets a high threshold and clear direction so that the Welsh Ministers must act in a way they think best contributes to achieving the SLM objectives overall. There is no hierarchy between the objectives.

The duty applies across a wide range of agricultural functions (sections 2 and 3) and also provides the flexibility necessary, for example, to take action which does not necessarily contribute to all of the objectives equally, provided the Welsh Ministers consider the action taken best contributes to achieving the SLM objectives overall.

12b)

The SLM duty requires the Welsh Ministers to exercise a relevant function in the way they consider “best contributes” to achieving the SLM objectives, so far as consistent with the proper exercise of the function (section 2(1)).

This sets a high threshold and provides a clear policy direction, so that where there is more than one policy option the Welsh Ministers must choose the option they consider best contributes to achieving the SLM objectives overall. There is, therefore, no need to impose an obligation to “maximise their contribution” as it is not considered this will add anything to the existing duty.

Imposing an obligation to act “reasonably” or to “take all reasonable steps” would arguably introduce an element of additional ambiguity to the exercise of the duty by reference to unspecified external factors. In addition to this, Welsh Ministers are required as a matter of public law to act reasonably in the exercise of their functions, including the SLM duty.

The proposed amendment to section 2 is therefore unnecessary and may adversely affect the duty on Welsh Ministers.

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)).

Accepted in principle

The SLM objectives are goals to work towards, not discrete targets which are expected to be achieved completely in the lifetime of the Bill. For example, mitigating for the risks and impacts of climate change will be an on-going effort and there is no fixed state for agriculture which we could accurately say successfully, and completely, mitigates and adapts to the effects of climate change.

The purpose of the SLM duty is to provide a clear policy direction for action that best contributes to achieving the objectives. It would be possible for Welsh Ministers to issue interim reports, if necessary, without further legislative provision and so no additional provision is required in this respect.

The SLM reports may explain why successful outcomes have been achieved, if that is considered appropriate. Section 6(7)(a), for example, enables the Welsh Ministers to report on any other matters they consider relevant in assessing the progress made towards achieving the SLM objectives. It is considered unnecessary to impose a requirement to report on why successful outcomes have been achieved in every case.

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.

Accepted

The Well-being of Future Generations (Wales) Act has both a yearly report and a Future Generations report which has its timings linked to the holding of a general election, which can be variable.

Similarly, the state of natural resources report stipulated in the Environment (Wales) Act 2016 requires that the report is published in the year preceding a general election. The first SLM reporting period is due in 2025 and in 5 yearly increments after that. As it happens the next general election is currently scheduled for 2026 which would mean that the SLM report, the Future Generations report and the first SLM report are all due at similar times.

The SLM report, along with the Annual report in section 12 and the Impact report in section 13 of the Agriculture (Wales) Bill provide ample opportunity for scrutiny and Welsh Ministers may, by regulation, amend the reporting period for the SLM and Impact reports.

The Bill as drafted contains ample provisions for scrutiny and provides opportunities to align reporting with wider, relevant, Welsh Government reports.

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.

Accepted in principle

There is not a single report on the 'current state of natural resources' so it is not possible to include as a reference in the Bill. Clarification from NRW stated that the most recent report does not include information which has not changed since the last report. In order to build a complete picture, all SoNaRR reports since 2016 would need to be considered together, a task which will become increasingly resource intensive over time.

The provisions as they stand require the Welsh Ministers to have regard of the most recent SoNaRR report and 7(d) requires that they have regard to any other

matters they consider appropriate. This allows for further, historic SoNaRR reports to be included, including interim/draft reports, if deemed relevant. The Explanatory Memo will be updated to indicate that there will be an expectation on Ministers to review previous SoNaRR reports if deemed necessary.

This provides substantial regard to the SoNaRR reports and that the full scope of consideration is given to the state of natural resource in preparing the SLM report.

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.

Accepted in principle

“Ancillary activity” captures a broad range of actions, linked to agriculture, and enables Welsh Ministers to be responsive to future developments in the sector and enables support that will be more inclusive of the supply chain.

The definition of ‘ancillary activity’ comprises two distinct areas which can broadly be categorised as environmental actions and business actions. The definition links environmental actions (e.g. natural flood defence or energy management plans) to land used for agriculture, and the business actions to products deriving from agriculture.

The business actions intended to fall within the scope of ancillary activities are intended to support those diversification and innovation actions which a farmer may choose to do. This might include collaborative actions with other farms or supply chain businesses. The inclusion of ancillary activities in the Bill is intended to strengthen or shorten supply chains, and support new methods of working in relation to agriculture.

“Ancillary activity” captures a broad range of actions, linked to agriculture, and enables support to be more inclusive of the supply chain. It will be each scheme of support that will determine the scope of the supply chain activities involved.

The definition of “ancillary activity” is already clear in section 49(b), that the supply chain activities are linked to agricultural products rather than action taken on land used for agriculture. When read alongside the EM this provides a robust meaning and understanding of the term, removing the need for an amendment to the Bill.

In support of further clarity, where appropriate, further examples of the varying scope of ‘ancillary activities’ will be provided within an updated Explanatory Memorandum.

Each support scheme will need to detail any limitations to the application of ‘ancillary activities’ where they will be provided, within the scheme documentation. For example, under the SFS, there is proposed limitation that a scheme farmer

will need to be involved within the ancillary activities such as a supply chain, in order for any support to be awarded.

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

Accepted in principle

The definition of “ancillary activity” comprises two distinct areas which can broadly be categorised as environmental actions and business actions. The definition links environmental actions to land used for agriculture, and the business actions to products deriving from agriculture.

The actions forming part of the definition, at section 49(a)(i) to (iii) capture actions on land used for agriculture and will capture environmental actions which farmers already undertake such as natural flood defence, energy management plans, and the creation of ecosystems, such as beetle banks.

The definition of “ancillary activity” in section 49(b) makes clear that the supply chain activities are linked to agricultural products rather than action taken on land used for agriculture.

The definition of ‘ancillary activity’ and its subsection at 49(a) “taking action, on land used for agriculture” only applies to this Agriculture (Wales) Bill. Definitions in other legislation are to be construed in accordance with those legislative instruments.

This position above provides the necessary clarity, so an amendment to section 49 is not required.

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.

Accepted

The intention is to bring forward the following government amendments to augment the purposes listed under section 8(2):

- improving the resilience of agricultural businesses
- helping rural communities to thrive and strengthening links between agricultural businesses and their communities
- sustaining the Welsh language and promoting and facilitating its use.

These purposes seek to support the resilience of agricultural businesses through actions which help farmers to manage productivity, become more resilient, informed and adaptive to change, including the capacity for the businesses to innovate.

As well as encourage the support of innovative practices that are designed to re-invigorate agricultural businesses and creating opportunities in communities.

Support under these purposes could be to enable farmers to diversify outside of their core business, (the production of food and other goods) into areas such as direct to customer sales, and the processing of goods. The new purposes reflect the Committee’s recommendation in respect of innovation and community access.

The proposed Government amendment for “sustaining the Welsh language and promoting and facilitating its use” compliments the fourth SLM objective and seeks to contribute to the Welsh Governments national strategy for increasing the numbers of Welsh speakers to a million by 2050 (*Cymraeg 2050*).

There is already a purpose which covers the education about food systems. 8(2)(h) “maintaining and enhancing public access to and engagement with the countryside and the historic environment”, provides for support to those farmers who want to provide educational opportunities on food and farming (farm to fork lifecycle), though hosting educational farm visits for example, for local schools to visit a farm.

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.

Accepted in principle

The Government will be bringing forward a number of government amendments, including a new purpose under section 8(2) for “improving the resilience of agricultural businesses” to support the overarching policy intent of keeping farmers on the land.

This would expressly capture support provided in respect of agricultural businesses which seeks to support actions connected with their resilience. Business resilience includes farm succession planning and the opportunity for new entrants. Resilient farm businesses are also able to provide reliable long-term employment and opportunities to provide subsidiary services, where skills and experience are valued.

The new entrants stakeholder working group, which includes the farming unions, the Wales Federation of Young Farmers Clubs and representatives of some of the agricultural colleges, is considering support options and eligibility criteria, to help address the challenges to new and young entrants entering the industry such as access to land, access to finance and business skills development.

The group will continue to meet over the coming months and the output from this group will be used to help shape the next iteration of SFS proposals.

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.

Accepted

The Bill allows for support for horticulture and other forms of diversification through their inclusion in the definition of agriculture which means that supporting horticulture is possible under the power to provide support.

Food security, raised in stakeholder views on the Food (Wales) Bill is a wide issue that of course encompasses agriculture but also national and international trade, food storage and tax issues, to name a few relevant factors. The Bill, particularly through the SLM objectives, duty and the power to provide support helps to enable the agriculture sector in Wales to play its part in a holistic approach to food security.

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.

Accepted in principle

Having reviewed, it is clear a single timescale for acting on findings would not be appropriate on the basis that each action taken to achieve the purposes may command varying timescales.

The Impact Report must set out the purposes for which support has been provided during the reporting period and must also set out an assessment of the impact and effectiveness of that support. This will include an assessment of the way in which, and the extent to which, the support has achieved, or failed to achieve, the purpose or purposes for which support was provided.

The Impact Report is capable of highlighting a timescale for any findings, including any failures, to be acted on. The Explanatory Memorandum (page 40, paragraph 3.123) provides: "Where the assessment determines that the support has failed to achieve a purpose, it is intended that the Impact Report will include steps to be taken to rectify the failure." It is expected this will include a timeframe for any remedial action.

Section 13(4) provides Welsh Ministers with powers to report on any other matters that are relevant to the purposes of assessing the impact and effectiveness of the support provided during the reporting period. This power allows for additional reporting within the context of the Impact Report, including any timescales associated with findings within the Impact Report.

It is for these reasons an amendment is not considered to be necessary.

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.

Accepted in principle

We sought feedback on this in the Agriculture White Paper and no clear trends emerged in support of legislative changes to the Farm Business Tenancy (FBT) framework at the time.

That being said, we understand the full flexibility of the FBT framework is not always used in practice and some tenants may find their activities restricted in certain ways.

We are actively engaging with a range of stakeholders through our SFS working groups and co-design to ensure proposals are appropriate for different groups of farmers, including those with tenanted land. The groups will continue to meet over the coming months to consider barriers to scheme access and appropriate solutions. The outputs will be used to help shape the next iteration of SFS proposals which will be shared with the Committee.

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.

Accepted in principle

The Bill provides significant safeguards in relation to data collection, including the duration and purposes of use and who and how it will be processed. Transparency is important, and we will publish appropriate information about controllers and processors in advance of any requirements being set.

To reconfirm, the Bill requires the Welsh Ministers to have published their proposed draft requirements for at least four weeks, for comment, prior to information requirements being introduced. These requirements must set out the purposes for which the information will be processed and the processing of the information cannot breach the set requirements. The requirements also allow for information to be provided on the person to whom the information is to be provided.

Individuals will be provided with clear privacy information about how their data will be used by Welsh Government.

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.

Accepted

The Bill provides significant safeguards in relation to data collection, including the duration and purposes of use and who and how it will be processed. Reviewing the operation of these safeguards could help to strengthen their operation, consequently, the intention is to bring forward provision for a review of the operation of the data collection regime under the data collection provisions, after five years.

This is intended to be laid as a Stage 3 government amendment.

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.

Not Accepted

While negotiating and agreeing Free Trade Agreements is the responsibility of the UK Government, the Welsh Government works closely with the UK Government to ensure the views of Welsh Ministers and the interests of Wales are fully understood.

In the case of yet to be agreed Free Trade Agreements, there are some limitations around the feasibility of robustly modelling future impacts given the lack of detailed and timely trade agreement information to inform input variables (prior to UK Government policy announcements) as well as uncertainty of timescales and outcomes of future Free Trade Agreement negotiations.

Reports into negotiated trade agreements and any associated issues affecting Wales are already produced by the Welsh Government in advance of those deals being ratified by the UK Parliament. For example, reports were published for both the UK-Australia and UK-New Zealand trade agreements.

The Welsh Government currently has only very limited access to detailed Wales level trade data required for the modelling to underpin a Wales-specific impact assessment and currently relies on UK level data – our latest request for access to detailed trade data from HMRC is currently being considered but there is no guarantee we will obtain access.

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.

Accepted

A Welsh Government Forestry Provisions Stakeholder Group consisting of forestry, land management and conservation representatives, was established for the purpose of providing input into the development and impact of the provisions which amend the Forestry Act 1967.

NRW committed to continuing engagement with this stakeholder group in their high level paper on their approach to implementing these new powers, which was published as a supporting document for the Agriculture Bill. This stakeholder engagement is to ensure the NRW external guidance is developed in a collaborative way and is fit for purpose.

NRW have already invited members of the Welsh Government stakeholder group to engage, and are providing updates on progress every 6 weeks along with opportunities to comment on the development of documents as these arise.

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.

Accepted

The following were identified as key woodland management issues raised during Stage 1 scrutiny:

- Disconnect between farming and forestry – a 2-tier system
- Felling licences moving from 2yrs to 5yrs
- Greater protections for ancient woodland and veteran trees

Disconnect between farming and forestry – a 2-tier system

The Welsh Government intends to continue to make support for woodland creation accessible to all eligible land managers through a variety of mechanisms.

Felling licences moving from 2yrs to 5yrs

NRW already have the power to extend felling licences from 2yrs to 5yrs if this is needed. The option of a long term management plan already provides private woodland owners with a route to obtaining a 10yr felling licence, subject to a review at 5yrs.

Greater protections for ancient woodland and veteran trees

The Welsh Government's Programme for Government commits to strengthen the protections on ancient woodlands.

There are many coinciding threats to ancient trees and woodlands. It is important we take a holistic approach to protecting them and consider the potential for many different policy areas to play a role.

The new powers proposed by the amendments to the Forestry Act 1967 provide the ability to add site specific or bespoke conditions to felling licences where these are appropriate. These new powers are relevant to the management of ancient woodlands.

Other relevant policy areas include making our ancient woodlands central to our plans to create a National Forest for Wales, using the Sustainable Farming Scheme to support farmers to better protect and manage their woodlands and making sure that our planning system works to protect ancient trees and woodlands. Work is ongoing across this range of policy areas which will help improve the condition of ancient woodlands.

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.

Accepted

We have committed to conduct a post implementation review of the legislation within 3 years of commencement of amendments.

The work in relation to agreeing data capture to inform the review will be undertaken to allow timely capture of the data following implementation of the Bill.

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.

Accepted

Consideration was given to a licensing system as laid out in the Explanatory Memorandum however it was determined regulation of that kind would be unable to meet the primary objective to raise animal welfare standards due to the indiscriminate natures of snares and the suffering they can cause to a wide range of species.

Alternative predator control methods will remain available.

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

Accepted

The use of glue traps is not compatible with the high animal welfare standards we strive for here in Wales.