

# Summary of the Cabinet Secretary's response – UK Government's Agriculture Bill

1. On 18 October, the Chair wrote to the Cabinet Secretary to request information on several matters in relation to the Welsh Government's Legislative Consent Memorandum for the UK Agriculture Bill.
2. The Cabinet Secretary responded on 30 October. In her letter, the Cabinet Secretary said she had "dealt with the questions broadly in the order in which they are raised" and that "In some cases I have given grouped answers where it helps explain the position more clearly."
3. The following table groups the Committee's questions with the relevant response, where applicable.

Question	Cabinet Secretary's Response
<p>1. Why are the Welsh provisions in the Bill necessary, given the Welsh Government's commitment to bring forward a Wales Agriculture Bill?</p>	<p>I instructed the UK to take powers for Welsh Ministers in the Agriculture Bill to provide certainty to the Welsh agriculture sector as the Government continues to negotiate the terms of the UK's future relationship with the EU...The Welsh provisions in the Bill are needed now to provide Welsh Ministers with a legal base to continue with existing schemes following our exit from the European Union (EU) and provide flexibility for transition and potential implementation of new schemes, should that be required. Without such powers the Welsh Government would not be able to continue paying agricultural support in 2020 or to simplify existing schemes, for example, by removing the greening requirement of the Basic Payments Scheme and simplify arrangements for payments to cross border farms. The powers provide the flexibility to begin transition, once policy decisions have been taken on the nature of the new schemes.</p>
<p>2. What are the implications for the Welsh Government, land managers and the agricultural sector in Wales of not including the Welsh provisions in the Bill?</p>	<p>See response to Q1</p>
<p>3. Can you provide further detail on the timelines that the Welsh Government is working towards in respect of the Wales Agriculture Bill, in particular when you anticipate the Bill</p>	<p>I confirm it is still my intention to bring forward an Agriculture (Wales) Bill to the Assembly but this is unlikely to be in place for 2020 because of pressure on the legislative timetable.</p>

completing its passage through the Assembly?	
4. How is the proposed time-limited nature of the Welsh provisions reflected in the Bill?	Given the level of uncertainty surrounding Brexit, I did not consider it to be appropriate to include an explicit sunset provision for these powers to be on the face of the Bill. The provisions in the UK Agriculture Bill are, therefore, not time limited. I can confirm it is my intention for the powers to be transitional and superseded by a Wales Agriculture Bill at the appropriate time. I intend to bring forward a Wales Agriculture Bill before the end of the current Assembly term.
5. Why are these powers necessary, given that the Welsh Government is still consulting on its proposals for reform of land management in Wales and has yet to announce a final decision on a future system of financial support?	See Question 1
6. Are there any types of payments which these powers will not allow for the making of? Will these powers allow for direct payments to be made to farmers under a future Welsh scheme, if that is desirable?	
7. How do the provisions align with the proposals set out in the Welsh Government's consultation Brexit and our land?	...the Welsh Government's Green Paper, Brexit and our land, sets out proposals for providing future support to farmers when the UK leaves the EU. It consults on proposals both to simplify and existing schemes and a new land management programme which would replace the Common Agricultural Policy in its entirety. The

	consultation closed on 30 October and responses are now being considered. No decisions have been taken, including timescales for the introduction of the new schemes and further consultation will take place next spring before I make decisions on the detail.
8. The Bill gives Welsh Ministers considerable and extensive regulation-making powers, some of which will be subject to the negative resolution procedure. How do you plan to ensure that stakeholders are consulted properly before these powers are used?	I acknowledge the Committee's concern regarding the significant regulation-making powers provided in the Bill to Welsh Ministers. I am committed to consulting stakeholders properly should these powers be used. We are already consulting on future policy and have outlined our intention to undertake further consultation before making any changes to payments. The powers in the Agriculture Bill are generally enabling powers which required separate secondary legislation to take effect. The Assembly and the Committee will, therefore, have the opportunity for scrutiny.
9. Can you expand on the assertion in the LCM that including the Welsh provisions in the UK Agriculture Bill, will not constrain the design and implementation of new schemes in Wales?	I would like to reassure the Committee the powers being taken now are broad enabling powers which do not constrain or predetermine future policy decisions.
10. How did you decide on the purposes for which the Welsh Ministers will be able to give financial assistance set out in Schedule 3, Part 1, paragraphs 1(1) and 1(2)?	In general terms, the powers would allow for a wide range of possible payment schemes to be established. The purposes for which Welsh Ministers will be able to give financial assistance are designed to be non-limiting in their scope and no decisions have yet been taken on the use and purpose of the powers. This will very much be dependent on the consultation outcomes and on the UK's future relationship with the EU and rest of the world.

11. Schedule 3, Part 1, paragraph 1(1) gives powers to the Welsh Ministers to provide financial support for public goods. When do you plan to use these powers and for what purpose?	See response to Q10
12. Schedule 3, Part 1, paragraph 2(5) provides the Welsh Ministers with powers to delegate functions for the giving of financial assistance to any other person. When do you plan to use these powers and for what purpose?	
13. Why does the “agricultural transition period in Wales” mirror that for England when the Welsh Government has indicated its intention to complete reform by 2025?	As you note, the agricultural transition period for Wales mirrors that for England in the Bill. This reflects the Welsh Government's decision to make a neutral assumption and not pre- judge the consultation. Whilst we are consulting on an agricultural transition period from 2020 to 2025, it would be inappropriate for this to be on the face of the Bill. Our legal provisions for agricultural transition thus mirror the UK Government's approach for England, however, this would be amended later if necessary, once decisions have been made about the length of the transition period in Wales.
14. What is the meaning of “simplify or improve” in the context of the powers for the Welsh Ministers to modify legislation provided in Schedule 3, Part 2, paragraphs 6, 9 and 10?	The Bill enables simplifications through a power to amend retained EU law relating to direct payments. These powers are separate to provisions providing for future financial assistance to deliver the new land management schemes. Secondary legislation laid under the EU (Withdrawal) Act will make operability fixes to the direct payments regulation. The powers under the Agriculture Bill may allow for further policy changes to that regulation if desired. There

	would need to be further consultation with those affected and work to understand risks of making changes to farmer payments.
We would like you to update us on any further progress made in taking forward [these] matters [relating to the WTO and Red Meat Levy].	Officials are continuing discussions on the WTO and Red Meat Levy clauses with the UK Government and I hope to resolve these issues as the Bill passes through Parliament.
We would like you to confirm whether, if the English provisions in Parts 1 to 5 of the Bill are amended, you will be seeking equivalent amendments to any corresponding Welsh provisions.	My clear objective is to retain broad powers for Welsh Ministers as the Bill passes through Parliament. Where amendments to English provisions are tabled they will be considered carefully on a case by case basis to see whether equivalent amendments are needed in Wales.
We would like you to confirm whether you anticipate bringing forward supplementary Legislative Consent Memorandums in the event that amendments are made to Schedule 3.	If amendments are made to Welsh provisions which would require consent, I confirm that a Supplementary Memorandum will be laid.
We would like you to provide a timeline for the Bill's passage through Parliament, and to seek assurance from you that this will provide sufficient time for the Welsh Government to negotiate any amendments that may be deemed necessary or desirable.	In terms of timescales, the Bill passed second reading in the House of Commons on 10th October and is now at the Committee stage. The Public Bill Committee met on Tuesday 23 October 2018 and is expected to report to the House by Tuesday 20 November 2018. Beyond this, the timetabling of subsequent stages is a matter for Parliament but I can reassure the Committee that officials are in regular communication with the UK Government to ensure provisions for Wales are properly taken account of.