

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Newid Hinsawdd,
Amgylchedd a Materion Gwledig
MCD mewn perthynas â Bil
Amaethyddiaeth y DU
NHAMG (5) AB05
Ymateb gan Cymdeithas Tir a
Busnesau Cefn Gwlad

National Assembly for Wales
Climate Change, Environment and
Rural Affairs Committee
LCM in relation to UK Agriculture Bill

CCERA(5) AB05
Evidence from Country, Land and
Business Association

CLA Background

CLA Cymru's membership reaches nearly 3,000 rural businesses. In Wales we play a full and dynamic part in Government and stakeholder engagement. Part of a well-established UK-wide organisation, the CLA represents some 30,000 members – some 80% of land in England and Wales.

In Wales the CLA represents many farms, but significantly many farm businesses which have developed additional business activities. Such activities may be referred to as diversifications, but their association with a foundation farm business defines them as mutually-dependent. It means that we represent the broadest possible range of economic players in the rural economy.

Whilst we are perceived and engage as experts in agricultural issues, we also have knowledge and experience relating to the breadth of issues affecting rural businesses, including concerns with planning, investment and economic development, skills provision, connectivity and physical infrastructure and housing.

We have maintained that a strong case for change exists in Welsh agriculture. Farms reliant on CAP are barely breaking-even, soil and water-quality are deteriorating and the existing system does not take sufficient account of today's and future generations' priorities: tackling climate change, improving responsible access to the countryside and changing diet. Brexit – and its related process – offers an opportunity to change.

CLA Cymru welcomes the opportunity to contribute evidence to inform the Committee's consideration of the Legislative Consent Memorandum on the Agriculture Bill and to present this on the 5th March and take questions.

In Wales we work closely with the Welsh Government and the National Assembly for Wales including with individual Assembly Members and MPs. As an England-Wales organisation we ensure that all our policies reflect the devolution agenda in Wales and to reflect this our submission is being led by CLA Cymru (hereafter referred to as CLA). We have a dedicated team in Wales and the Director Wales will attend the Committee on the 5th March.

Key points

CLA supports the UK Agriculture Bill to enable the provision of financial support to farmers in Wales from the end of 2020, and to ensure the effective operation of agricultural markets in Wales and across the UK. We would not wish to see an “internal market” effectively being created in the UK due to significant disparities between the devolved nations and England, and urge Welsh Government to work with their counterparts to ensure this does not become a reality. Certain time-limited powers provided for by this UK Government Bill will be used until an Agriculture (Wales) Bill is introduced to the Assembly. CLA looks forward to continuing to work with the CCERA committee and Assembly members, to ensure a future Bill works for Welsh farmers, land managers and other rural businesses.

CLA welcomes the reintroduction of the UK Agriculture Bill as a crucial part of the UK’s future farming and land management policy. There are welcome additions that apply to Wales in addition to some omissions that we envisage will negatively affect Welsh farmers and land managers. The CLA welcomes the inclusion of:

- A requirement to report on UK food security;
- The range of powers to ensure an intra-UK level playing field covering fertilisers; traceability of animals and organic marketing standards;
- Powers in schedule 5 to continue payments after EU exit, collection and sharing of data, marketing standards/carcass classification and data protection.

The majority of current proposals relating to agricultural tenancies are not a major concern, and CLA welcomes:

- Provisions relating to landlord investments, which will provide protection for both landlords and tenants;
- Removal of the minimum retirement age of 65 for AHA tenants;
- The widening of the pool of potential arbitrators.

However, the CLA has significant concerns about:

- The proposal on landlord's consent or variations in terms under 1986 Act, which could lead to irreversible land use changes being imposed by a third party;
- The removal of the Commercial Unit Test.

Trade

CLA wishes to see an inclusion in the Bill that ensures that Welsh and other UK producers are not undercut by imports produced to lower environmental and animal welfare standards. We have a strong, historic record in the UK of ensuring this is not the case and our global, trade negotiations need to take this on board as part of the Brexit and trade negotiations. As we also indicate above, we would not wish to see an internal UK market arising which would have no benefit for either producers or consumers.

Rural Development

The Rural Development programmes in the UK will finish at the end of 2020. Although it is expected that the multiannual commitments under the agri-environment schemes will continue, consideration has to be given to providing much needed support to other aspects of the rural economy which include broader socio-economic schemes

Part 2 Clause 17, Food Security

We support the inclusion of a clause to ensure the Defra Secretary of State publishes a report on Food Security. It is vital that Welsh Government is included in the methodology planning for the report so that Welsh (and other Devolved Administrations) are able to extrapolate their own data to inform future policy making in the individual jurisdictions that constitute the UK.

Part 4 (Clauses 31-32) (Fertilisers and Traceability of Animals) Part 5 (Clauses 36-37) (Organic products) Part 7 (Clauses 43-44) and Schedule 5 (Wales).

CLA Cymru does not have any issues with the above clauses and supports the development of an Agriculture (Wales) Bill in addition to the next stage of the *Sustainable Farming and Our Land* consultation. These will be central to develop

a land use policy that works for Wales while also contributing to wider UK matters that are not devolved.

Ensuring a common framework between all nations of the UK will be important to prevent distortion between farmers and land managers operating under different jurisdictions. Updating fertiliser regulations to reflect changes in technology and production is also supported as is ensuring the legislation for livestock identification is up to date to support the introduction of new electronic identification.

Part 4 (Clause 34) and Schedule 3 (Agricultural tenancies)

Schedule 3 of the Agriculture Bill sets out seven proposals of legislative reform for agricultural tenancies. We understand that the intention is that these changes will support productivity growth in the agriculture sector. All except one relate to tenancies under the 1986 Agricultural Holdings Act (AHA - secure tenancies for up to 3 generations) and the other applies to both AHA and Agriculture Tenancy Act 1995 (ATA, with agreements often referred to as Farm Business Tenancies (FBT) which are more flexible. Some of the proposed changes are considered non-contentious, and indeed offer some benefits to landowners, but others are a cause for concern.

CLA position

- The Tenancy Reform Industry Group (TRIG) has been reviewing tenancy issues. The key to effective reform is to ensure that there is a partnership approach and a system that is flexible and works with the rights of both landowner and tenant. This is particularly important in a context of considerable uncertainty in terms of what transition away from direct payments will look like in practice, and in terms of future trading relationships.
- The CLA is sympathetic to those changes that could support environmental delivery and sustainable productivity growth, including investment, modernization and greater professionalism in land management.
- We want a buoyant tenancy sector: in-hand farming does not suit everyone's business model and it provides opportunities for new entrants and for innovative farming models. But in times of uncertainty, it's important to avoid changes that might make landlords more risk-averse and lead to a reduction in land being let out. Reforms in Scotland have significantly affected the rented sector and we need to be careful not to do the same in England and Wales by tacking rushed amendments, which could lead to major infringement of property rights, onto this Bill.

The majority of current proposals are not a major concern, and the CLA welcomes:

- Provisions relating to landlord investments, which will provide protection for both landlords and tenants.
- Removal of the minimum retirement age of 65 for AHA tenants.
- The widening of the pool of potential arbitrators.

The CLA has significant concerns about:

1. Request for landlord's consent or variations in terms under 1986 Act: dispute resolution
 - This amendment allows for regulations to be made that would enable a tenant to access dispute resolution where a landlord either withholds consent to activities that are restricted under the terms of the tenancy agreement or does not agree to requests for a variations of terms, where that tenant is seeking to meet a statutory obligation or access financial assistance schemes. The arbitrator's deliberation would be binding on the landlord.
 - The CLA's view is that this provision should not be included in the Bill. We expect that in the overwhelming majority of cases, an agreement will be found. However, a landlord may be justified in maintaining restrictions in tenancy agreements (e.g. for landscape protection, prevention of environmental impacts, fit with management plans for the wider holding or tax consequences). As drafted, the provision presents a fundamental risk of infringement of landlords' property rights, as irreversible long-term decisions on how their land is used could be imposed on them.
 - If it is to remain in the Bill, there must be supplementary clauses to ensure that landlord interests are taken into consideration, particularly around the issues listed under the previous point.
 - In addition, it would be appropriate that if a decision to vary terms is taken against the wishes of the landlord for the financial gain of the tenant, then there should be provision to switch the rent review formula to that in the 1995 Act.
2. Succession on death or retirement – conditions relating to the Commercial Unit Test and the Suitability Test.
 - i. While an enhanced Suitability Test might succeed in raising standards (which the CLA would welcome), the abolition of the Commercial Unit Test is not appropriate.

- ii. The Commercial Unit Test means that a potential successor cannot take on the tenancy if they are farming another holding that can sustain the employment of 2 full time employees. This is an important test that should be maintained. It is not appropriate that a tenant's close relative already successful elsewhere should be entitled to take on a 1986 Act tenancy with reduced rent. It does not meet the stated goals of opening up the market to new entrants.

In line with TRIG recommendations, the CLA would support the introduction of an amendment of the 1995 Agricultural Tenancies Act to establish notice procedures applicable to all FBTs of more than 2 years, to allow recovery of land under certain events such as non-payment of rent, death of the tenant, breach of covenant or conditions, and, short notice in the event of planning consent for change of use to be obtained.

Future trade agreements

CLA want to see an inclusion in the Bill that ensures Welsh and other UK producers are not undercut by imports produced to lower environmental and animal welfare standards. The UK is about to enter into a period of negotiations with the EU and the rest of the world regarding its future trading relationship. The negotiations with the EU are to end on 31 December 2020 with the end of the transition period. The Prime Minister has set out a series of principles that will underpin future UK trade policy including non-alignment with EU regulations. In addition, there have been assurances that the UK Government will 'maintain high standard for the environment and animal health and welfare', but these have not been committed to legislation. If the UK Government pursues a trade policy based on regulatory autonomy it could cause significant friction within the agri-food supply chain with the real potential of putting pressure on producer returns in Wales.

Given the geographic proximity of the UK to the EU, UK agri-food trade is closely integrated with that in the EU and any restrictions to that trade, whether it be regulatory or through more complex customs arrangements, will have a negative effect on the profitability and productivity of producers.

A significant divergence in approach to regulation and standards by the UK government could lead to the UK agri-food sector having to put in place two different production processes, one for the UK and one for the EU market. This could lead to higher costs in the agri-food supply chain and potentially restrict access to the EU market.

If the UK government decides a policy of significant regulatory autonomy and moves away from EU regulations, it is possible that food and welfare standards will

be lowered. This could lead to a flood of cheaper imports and undercut domestic producers. It is well evidenced that UK consumers buy on price, not necessarily quality or welfare. The sow stall ban in 2006 graphically illustrates what can happen to an agricultural sector if divergent regulatory approaches are taken. In this instance, the UK pig sector suffered greatly as a result of having to meet welfare standards which were not applied in the EU until 10 years later. The result was the halving of producer numbers in the UK due to the effects of unfair competition and cheaper imports.

UK producers could find themselves in the same situation if the UK government was to unilaterally apply higher standards to domestic producers whilst failing to protect the UK market from cheaper imports from EU and non-EU countries. Any future approach has to carefully consider the costs and benefits from moving away from existing technical, welfare and safety standards. If these standards are eroded, they risk damaging the UK's own ability to develop and compete in other markets in the future, leading to a failure to deliver the choice and quality UK consumers demand.

Rural Development

The Rural Development programmes in the UK will finish at the end of 2020. Although it is expected that the multiannual commitments under the agri-environment schemes will continue, consideration has to be given to providing much needed support to other aspects of the rural economy which include broader socio-economic schemes. It is clear that there have been significant benefits in supporting new businesses through diversification and this will become ever more important in the post Brexit era.

Any delay in putting in place the proposed UK Shared Prosperity Fund (UKSPF) could have a number of negative consequences for the rural economy to remain productive. What is required is a commitment from UK Government that there will not be a funding gap between the end of the Rural Development Programmes and the birth of the UKSPF. We know that the rural economy is dynamic but this can only be exploited if rural businesses continue to be supported through devolved government intervention with funding from Westminster. It has to be recognised that diversification, if used effectively, can be a transformative policy instrument. But this will only be possible if UK Government extends the existing rural development socio-economic scheme funding to fill any void in public-private rural investment.