

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Newid Hinsawdd,
Amgylchedd a Materion Gwledig
MCD mewn perthynas â Bil
Amaethyddiaeth y DU
NHAMG (5) AB06
Ymateb gan Undeb Cenedlaethol yr
Amaethwyr

National Assembly for Wales
Climate Change, Environment and
Rural Affairs Committee
LCM in relation to UK
Agriculture Bill
CCERA(5) AB06
Evidence from National Farmers'
Union

General remarks

1. NFU Cymru welcomed the reintroduction of the UK Government's Agriculture Bill to Parliament earlier this year, after the previous version was lost because of the December's early general election. NFU Cymru is pleased that 2020 version of the Bill has addressed some of the concerns held by NFU Cymru with regard to the version of the Bill published in 2018.

2. The Bill is by and large enabling legislation, providing fairly broad powers to current and future UK and Welsh Ministers to undertake various actions. Although this second iteration of the Bill is far more modest in its scope in relation to the powers which it confers on Welsh Ministers, there remain a number of provisions within the Bill which will apply in Wales, and which will impact on Welsh agriculture.

Clause 17 - Food Security

3. NFU Cymru has consistently sought to bring to successive governments' attention the decline in food security and domestic self-sufficiency since the 1980s. Our domestic supply base has

declined over the course of the last three decades to the point that we are now only 61% self-sufficient in temperate foodstuffs¹.

4. The Agriculture Bill will impose a duty on the Westminster Government to report on UK food security every five years. NFU Cymru welcomes this provision, which represents a change on the previous version of the Agriculture Bill which imposed no such duty on Defra Ministers.

5. It is NFU Cymru's view that a duty arising at least once every five years is not sufficiently ambitious, and we would suggest instead that Defra Ministers should be obliged to report to Parliament on food security, at least once a year. We believe that an obligation to report yearly is particularly important as the UK goes through the Brexit process and seeks to found new trading relationships with the EU27 and much of the rest of the world, and as the home nations each transition away from the old CAP schemes towards different arrangements for supporting agriculture.

6. We would also point out that clause 17 does not place any obligations upon Defra Ministers to act in response to any adverse findings as regards food security. There should be clearer requirements relating to the degree of domestic self-sufficiency and a clear commitment to prevent any further declines in self-sufficiency.

Clauses 27-30 – Fair dealing in the supply chain

7. We welcome the fact that the Bill will allow for UK Government Ministers to introduce legislation relating to contracts between business purchasers of agricultural products and qualifying sellers, and can include creating obligations for the parties to contract in writing, to include or exclude certain terms and around pricing mechanism.

¹ <https://www.nfuonline.com/back-british-farming/campaign-news/nfu-calls-for-government-commitment-on-british-food-self-sufficiency/>

8. Clauses 27-30 are welcome, including the significant flexibility that they confer on the Secretary of State to legislate in relation to contracts. We also welcome the provisions in the clauses around enforcement and penalties in the event of a breach. The clauses do not however impose a duty on the Secretary of State to act, rather they provide him or her with a discretionary power to act.

9. Because of the enabling nature of the Clause 27-30 provisions, their effectiveness or otherwise, in addressing issues in the supply chain will be depend in large part on the drafting, operation and enforcement of the secondary legislation.

Clauses 31-32 - Provisions around fertilisers and animal ID

10. NFU Cymru does not take any particular view on Clause 31 relating to fertilisers.

11. In relation to clause 32 and animal ID, NFU Cymru recognises that animal diseases do not respect national borders and robust systems for animal identification, underpinned by the latest IT are needed not only for the purposes of preventing disease spread, but also to ensure that the UK is able to abide by the terms of any trade agreements it has entered into as far as those agreements may impose requirements relating to the identification and tracing of animal movements.

12. Significant numbers of animals do move across the Wales-England border, and our members will be concerned to ensure that they are able to continue to do so, freely and without friction. Key to this will be ensuring that databases in each jurisdiction are able to talk to one another and exchange information in a seamless fashion.

13. What information is held on each database, who has access to it and how will it be gated, and other operational considerations will need to be the subject of agreement between Defra and Welsh Government.

Clause 33 – The Red Meat Levy

14. The issue of repatriating the red-meat levy has proven to be a difficult and apparently insoluble problem, for many years. NFU Cymru has been pressing hard for parties to come together and find a mutually agreeable solution to this difficulty, so that red-meat levy collected in one GB country can be paid to a levy body in another GB country. We successfully lobbied for provision around the red meat levy to be included in the first iteration of the Agriculture Bill, and we were pleased to see that it was also included in the second iteration of the Agriculture Bill.

15. The Bill should now equip the various parties with the powers that they need to reach a fairer distribution of levy funds. Farmers in Wales will be looking to all parties concerned to work together collaboratively to resolve this issue by arriving at an equitable and mutually agreed arrangement for the sharing out of the levy. We would emphasise that the powers that are about to be conferred upon the various parties need to be properly utilised and should fall into abeyance.

16. Any arrangements around alternative methods of sharing out levy funds, should not be to the exclusion of joint working between the levy boards at the pre-competitive stage, including collaborative work around red-meat and health and climate change.

Clause 34 – Agricultural tenancies

17. NFU Cymru notes the amendments that the Bill proposes to make to the Agricultural Holdings Act 1986. It is as yet unclear how these reforms at Clause 34 will integrate and mesh with the new agricultural support policy that the Welsh government is in the process of formulating.

18. NFU Cymru has long expressed concern for the tenanted sector and farm businesses who do not own the land they farm. The tenanted sector is important to Welsh agriculture, and we do not want the Welsh Government to move forward with the implementation of new policies to replace the CAP, until the impacts on the tenanted sector are properly understood, and until it can guarantee full and

equal access to future support to farmers who do not own the land they farm.

19. Further to this, the extent to which the proposed future scheme will lead to widespread land use change (and the removal of tenants from the land to achieve that) cannot be understood at this stage

20. Welsh Government have previously confirmed their intention to ensure fair access to future support schemes by ensuring that contracts are not set for prohibitively long periods of time and that there are a wide range of environmental outcomes which can be achieved through agricultural activity, and by providing advice on tenancy agreements to tenants and landlords. We look to Welsh Government to honour these undertakings as it takes forward policy development.

21. NFU Cymru would like to have seen the Agriculture Bill make provision for requests for landlords' consent or variation of terms under the Agricultural Tenancies Act 1995 (i.e. farm business tenancies), in addition to Agricultural Holdings Act 1986 tenancies.

Clauses 36 and 37 – Organic products

22. Wales has a relatively high proportion of organic agriculture, with 5.1% of our land area farmed organically, compared to 3.3% of England's land area². It is important that the integrity of our organic sector is protected both domestically and in export destinations.

23. The organic sector is potentially highly exposed to Brexit on account of certification requirements. For the duration of the transition period our certification bodies continue to be recognised by the competent authorities as being able to attest to

2

the compliance with EU organic regulation of products bearing that certification body's logo.

24. Although we know that food and feed registered as organic in the EU27 will continue to be accepted as organic in the UK, we do not as yet know whether the EU27 will continue to recognise food and feed registered in the UK as organic, to be organic³.

25. NFU Cymru recognises the need which may therefore arise to regulate in relation to the certification of organic produce and activities relating to organic products. We also note with interest the provisions at 36(5) and (6) which would allow the restriction or prohibition of the import of organic products for the purposes of controlling standards. We believe that this sets an interesting precedent which could be extended to the conventional sector as well.

Clauses 40-42 – WTO Agreement on Agriculture

26. NFU Cymru notes that overall responsibility for ensuring that UK policies on domestic support are compliant with the WTO Agreement on Agriculture, will rest with the UK Government. We accept this as the UK Government is the signatory to the Agreement on Agriculture at the WTO.

27. We do however note that the Bill, as drafted, would equip the Secretary of State with some quite significant powers in terms of setting an overall UK limit on domestic support, as well as domestic support limits for each of the home nations. This is even though there remains ample headroom within the Agreement on Agriculture with regard to Amber Box support in the UK. At Clause 41(4) it would appear that the Defra Secretary of State may introduce his own ceilings on support even when there is no prospect of the UK exceeding its Amber Box allowances with regard to the Agreement on Agriculture. The Bill also proposes that the Secretary of State should act as the final arbiter with regard to any decisions around the classification of support.

³ <https://www.gov.uk/guidance/trading-and-labelling-organic-food-if-theres-no-brexiteal>

28. The exercise of these powers by Defra Ministers could therefore have the effect of constraining future policy choices in Wales by imposing limits on spending and precluding certain types of support.

29. NFU Cymru notes the bilateral agreement reached between UK Government and Welsh Government⁴ on 21st March 2019 as to how these provisions would operate in practice. Although this agreement related to the first iteration of the Agriculture Bill, we understand from comments made by Welsh Government to the House of Commons' Agriculture Bill Committee⁵ that the provisions reached in the bilateral agreement will be carried over with this Bill.

Clauses 43-44 and Schedule 5 - Wales

30. The decision not to take powers allowing for the development and operation of future agricultural support schemes in Wales is of course a matter for Welsh Ministers.

31. NFU Cymru recognises the greater expediency that the UK Government Agriculture Bill route would have offered Welsh Ministers in this regard. It is however our view that using the National Assembly to pass an Agriculture (Wales) Bill in due course, is more consonant with the purposes having a devolved legislature and puts the legislative process back where it belongs.

32. Although Schedule 5 does not carve out powers for Welsh Ministers to transition to or operate future agricultural support schemes in Wales, provisions in Schedule 5 will provide Welsh Ministers with delegated powers to legislate in areas previously occupied by EU, and make changes to retained EU law.

⁴ <https://www.gov.uk/government/publications/agriculture-bill-progress-with-devolved-administrations/a-joint-statement-by-the-uk-government-and-the-welsh-government-bilateral-agreement-on-the-agriculture-bill-and-world-trade-organisation-wto-agree>

⁵ [https://hansard.parliament.uk/commons/2020-02-13/debates/edcf61eb-0322-4656-970c-1996f29e0dbc/AgricultureBill\(ThirdSitting\)](https://hansard.parliament.uk/commons/2020-02-13/debates/edcf61eb-0322-4656-970c-1996f29e0dbc/AgricultureBill(ThirdSitting))

33. In particular, NFU Cymru would draw the Committee's attention to Schedule 5, Part 1 Paragraph 2. In the 2020 iteration of the Agriculture Bill, powers conferred upon Welsh Ministers to modify legislation governing the basic payment scheme remain unaltered from the 2018 iteration, and allows Welsh Ministers to modify the basic payment scheme in order to simplify or improve it, including terminating greening payments.

34. Powers for Ministers in England (at Clause 9) to modify legislation governing the basic payment scheme are far greater in their ambition, and reference simplifying the administration of the scheme, making its operation more efficient or effective, removing spent provisions, removing or reducing burdens and ensuring that sanctions and penalties are appropriate and proportionate.

35. The fact that powers to modify legacy BPS legislation in Wales are more modest does in our view represent a missed opportunity to deliver a genuine simplification of the CAP in Wales

36. NFU Cymru is pleased to see that powers for Welsh Ministers to act in the event of exceptional market conditions are present at Schedule 5. We note that the powers conferred upon Welsh Ministers are discretionary, and do not compel Welsh Ministers to act in the event of there being exceptional market conditions. We would further note that the term 'exceptional market conditions' is predicated on there being a 'severe' disturbance to agricultural markets or a serious threat of a 'severe' disturbance to agricultural markets. NFU Cymru would suggest that the threshold of a 'severe' disturbance should be replaced with one of a 'significant' disturbance.

General Observations on the UK Government's Agriculture Bill

37. NFU Cymru wishes to make the observation that the Bill, as it stands, represents a missed opportunity to legislate with regard to environmental, animal health and welfare standards in imported produce. Despite multiple assurances from various UK Government Ministers around food standards after Brexit, the UK Government has failed to write such safeguards into the Agriculture Bill.

38. In this regard we would draw the Committee's particular attention to Clause 36 (5) and (6) which allow Defra Ministers to restrict or prohibit the import of organic products for the purposes of controlling standards relating to organic products equivalent to those applicable in the UK. We cannot see why similar safeguards cannot be introduced with regard to prohibiting the import of food produced to lower standards than those operational in the UK.

39. Ultimately, it is futile for Governments in each of the home nations to develop comprehensive and ambitious domestic support policies, simply for the efforts of our farmers to be fatally undermined through the importation of products not produced to environmental, animal health and welfare standards which would be expected of them domestically.

40. For trade and agricultural policies to properly cohere, the Agriculture Bill needs to contain provisions requiring that all imported into the UK should be produced at least to equivalent standards of animal health and welfare, and environmental protection that are demanded of our own farmers.

41. We would add as a final observation that the border between England and Wales is straddled by many hundreds of farms, which means that strong collaboration between UK Government, Defra and Welsh Government is needed on a number of issues to ensure that businesses which operate cross-border and not disadvantaged in any way.