

NFU Cymru submission to the National Assembly for Wales' Communities, Equality and Local Government Committee

NFU Cymru welcomes the opportunity to respond to the National Assembly for Wales' Communities, Equality and Local Government Committee's call for evidence in relation to the Historic Environment (Wales) Bill.

Although NFU Cymru considers the Welsh Government's desire to improve the protection of Wales' scheduled monuments and listed buildings to be a laudable one, from our initial analysis of the bill there do appear to be areas in which the draft bill could potentially impact upon the activities of our members and give rise to concerns. I am therefore pleased to be able to offer the following observations on behalf of NFU Cymru.

1. We welcome the fact that sections 15 and 16 of the Bill will not give rise to strict liability offences in relation to works affecting a scheduled ancient monument, and will provide an individual with a defence if he or she has taken all reasonable steps to find out if there was a scheduled ancient monument in the area affected by the works, and after doing so did not know or had no reason to believe that the monument was within the area affected by the works. Despite this we are mindful of the fact that the availability of this defence is contingent upon there being an easily checkable and verifiable database mapping the precise location of these monuments.
2. The experience that the agricultural industry has had with regards the mapping of historic features as part of Pillar 2 schemes has not been a positive one with features often incorrectly recorded in terms of features not being present at all on the land in question, or marked on the map a significant distance away from where they are actually located.
3. It is vital that the ability of farmers to carry out routine farm operations is not compromised, and that in undertaking such routine work, farmers do not end up falling foul of the law. It is therefore vital that robust and accurate database of monuments is readily available, and that it is up to date and easy for anyone to access. In order to minimise the chances of a new landowner inadvertently disturbing a monument, the information that a monument exists on the land also needs to be highlighted via the land charges register.
4. Powers to enter land without the landowners consent, conferred by section 19 of the Bill should be used sparingly and with restraint, and we would ask that Welsh Ministers presume against using this power in all but the most exceptional circumstances, and only when there is a risk of imminent damage or destruction to a monument or listed building.

5. NFU Cymru does have some concerns over the fact that Section 22 of the Bill as introduced, could be utilised to confer protection on any site that evidences previous human activity, even if there is no evidence of a building or structure on the site. If such a provision does become part of any Act of the National Assembly, then we would stress the need for Welsh Ministers to once again use this power sparingly and to exercise considerable restraint in its utilisation, otherwise we could be facing a situation in which significant tracts of Wales could be subject to designation.

6. The Union welcomes proposals in Section 27 of the bill for immunity from listing to be extended to beyond those situations in which planning consent is being sought or has already been obtained. Granting such certificates outside of the planning process would give individuals some of the certainty they need in order to invest in and develop property, and we would consider this move to be a positive legislative development.

7. More generally the Bill as introduced will confer some additional obligations on Local Authorities, through for example maintaining Historic Environment Records, at a time when they are under considerable financial strain. With Wales home to 22 local authorities it is very possible that different Local Authorities could take quite different approaches to the maintaining of these registers.

8. NFU Cymru is well aware that the policy objectives of economic development can sometimes be at odds with a desire to protect our landscape. A fine balance must be struck between these competing objectives, with sufficient weighting and due consideration given to economic development objectives.