

Agriculture (Wales) Bill 2022 – WEL First Impressions

October 2022

Overview

WEL members strongly welcome the laying of the Agriculture (Wales) Bill 2022 and look forward to providing evidence to Senedd Committees in written and verbal forms in the weeks and months ahead.

In doing so we note that Senedd Members may welcome some initial thoughts from us on the Bill and where we will be seeking clarification in the coming weeks. We hope these first impressions will support Senedd Members in their consideration of the Bill in advance of our formal evidence submissions.

These impressions are provided in advance of formal legal advice being provided to WEL members.

Key Points

The Agriculture Bill is the single most significant asset the Sixth Senedd will have to respond to the climate and nature emergency. As Senedd Members will be aware, the effects of climate change and biodiversity loss are beyond question. Agricultural change has been identified as the most important driver of nature's decline across the UK¹ and the sector's greenhouse gas emissions have increased over the last decade, moving slowly back towards the original 1990 baseline². Furthermore, based on the most recent 2020 data, agriculture is the third largest emitting sector behind energy supply and business.

Alongside this environmental decline, the status-quo of area-based support for food production has shown itself to not be economically or cultural resilient with traditional

¹ [State of Nature 2019](#), p.19

² <https://statswales.gov.wales/Catalogue/Environment-and-Countryside/Greenhouse-Gas/emissionsofgreenhousegases-by-year>

family farms continually under threat and declining in number. Finally, we know that the Welsh agricultural system currently provides poorly for the nation's needs and is instead export orientated with as little as 5% of the lamb and beef we produce being consumed in Wales.³

It is hard to overstate the need for urgent reform. We believe that this Bill can be the driver of that reform so long as we get it right for people, nature and climate.

As an eNGO network, our tests of the Bill and Sustainable Farming Scheme (SFS) will include whether they enable sustainable food and farming that:

1. restores and maintains farmland wildlife and the environment;
2. significantly reduces harmful emissions that are contributing to climate change;
3. ends use of imported animal feeds linked to destroying the natural world overseas;
4. develops opportunities to diversify food production for local markets;
5. supports opportunities for community ownership, new entrants, better public access and engagement in land use decisions; and
6. sets an effective regulatory baseline, backed by fair and clear civil and legal sanctions, that all farmers, land managers and landowners must comply with.

WEL's full written evidence will explain more about our key tests and expectations for an effective Agriculture (Wales) Bill. With these summary points in mind, our initial reading of the Bill has raised the following:

- WEL welcomes the four objectives. The Bill would benefit from tighter definitions to better guide further policy development. An obvious example of this is what is meant by 'Sustainable Land Management', what it means to produce 'in a sustainable manner/sustainable food production'. This also applies to the list of outcomes in Section 8.
- The Environment (Wales) Act 2016 (EWA) already includes a definition of the Sustainable Management of Natural Resources. We recommend that this is used as the basis of a SLM definition given that components of land are a type of natural resource defined in Section 2 (soil, physiological features etc).

³ [SMEs in the Welsh Food System](#), Foundational Economy Research, June 2021

- This builds on a wider point that, while there is frequent reference to goals of the Well-being of Future Generations (Wales) Act 2015 (WFGA), direct linkages to the EWA are limited and passive. It is critical for legislative coherence that this Bill builds on both the WFGA and EWA with regards to natural resources management and decarbonisation.
- This would extend to objectives 2 and 3 so that efforts under the Bill to address them are firmly grounded in what those Acts were designed to achieve and the legislative and policy architecture which has already resulted from them i.e. the Low Carbon Plan in addition to the National Resources Policy and SoNaRR already referenced.
- It remains unclear how the objectives and outcomes work together and how that interaction will guide the development of supported actions in the SFS. The Bill must not create the situation where a future government or farmer is permitted to deliver against some of the Bill's objectives and outcomes but not others. We suggest that Ministers must have a duty to deliver the objectives and outcomes in a balanced way and to "exercise the function in the way that best contributes to achieving those objectives (taken together)". We suggest the words "taken together" are fundamental. This would reflect the guidance arising from the WFGA that the objectives of sustainable development must be delivered in a balanced way, and one cannot be traded-off against another. The commitment to the co-delivery of multiple objectives and explicit support for land sharing needs to be an essential foundation of policy.
- Sections 4-7 on monitoring and reporting are welcome. The Bill should be amended so that governments are required to undertake wider involvement (see WFGA ways of working) when developing indicators and targets for the objectives. Currently they are mostly required to consult themselves and the Future Generations Commissioner. They may consult anyone they deem relevant but this places the power in their hands to pick and choose the level of consultation, and with whom is undertaken. This is democratically weak and should be strengthened.
- The Bill should be amended so that each indicator is required to have at least one target. The Bill should also specify what some of these indicators should be. These should include, but not be limited to, sectoral greenhouse gas emissions, species condition and extent, global responsibility, carbon sequestration.

- Future secondary regulations should require affirmative motions by the Senedd in all circumstances to ensure democratic participation. We also believe that decision-making around further regulations needs to be democratic, with the opportunity for scrutiny and debate.
- The Bill provides the Welsh Ministers with powers to enable the continued operation of existing farming support and to ensure the effective operation of the agricultural sector and agriculture markets following our departure from the EU. While this is necessary, these powers should be time limited to prevent their being used indefinitely and allowing Ministers to run two schemes in parallel beyond the planned transition period of 2025-2029.
- Members should consider the proportionality of the exceptional market conditions clauses. The Senedd should be given the power to check these if necessary.
- The Bill currently lacks clauses to support succession, new entrants and alternative community ownership models. These are vital measures to secure future sector stability. The Bill should place a duty on government to include these in scheme design.
- The Bill currently lacks reference to new minimum regulatory standards. While we appreciate the intent to bring these forwards in a future Bill, we are concerned that waiting for further primary legislation to be introduced before work can start on the regulations, runs the risk that the full set of standards will not be in place in time for the Sustainable Farming Scheme launch. We recommend placing a duty in this Bill to require government to bring forward new National Minimum Standards that will be in place by the launch of the SFS in January 2025.
- S11 of the Bill gives Minister powers relating to compliance checking and enforcement, but there is no obligation to use the powers. The necessary regulations to enact these powers should be introduced alongside the launch of the Sustainable Farming Scheme in January 2025). If not, there will be no way to check eligibility for support, or take action against ineligible claims.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.



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