



Ymddiriedolaeth  
Genedlaethol  
National Trust

# Agriculture (Wales) Bill

Consultation response

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## Response submitted by National Trust Cymru to the Economy, Trade and Rural Affairs Committee

11 November 2022

*The National Trust is a charity founded in 1895 by three people who saw the importance of our nation's heritage and open spaces and wanted to preserve them for everyone to enjoy. More than 125 years later, these values are still at the heart of everything we do.*

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### Introduction

The National Trust was formed to preserve places of historic interest and natural beauty for the benefit of the nation. Climate change and the loss of habitat and species represent the biggest risks to the future of the places in our care.

We believe that restoring nature must be at the core of our nation's efforts to tackle climate change. A healthy countryside with flourishing wildlife is good for people's health and wellbeing and provides the foundation for a thriving rural and national economy.

Our land is at the heart of what makes the National Trust special and in Wales we proudly care for more than 46,000 hectares. Around 97% is managed by farming in some way, either by us, farm tenants or commons rights holders.

It's our ambition as a conservation charity to become carbon net zero by 2030, create 4,600 hectares of new wildlife habitats, establish 1 million trees on our land and enable more people to benefit from access to beautiful outdoor spaces. By 2030, at least 50% of our farmland will be 'nature-friendly', with hedgerows, field margins, ponds, woodland and other habitats allowing plants and animals to thrive.

The transition away from the Common Agricultural Policy is a once in a generation opportunity to shape a more sustainable future for the farming sector in Wales. There is an urgent need to introduce a system in which sustainable and forward-looking land-based businesses can thrive and meet the needs of people, nature and the precious natural and historical environment.

We're committed to working in partnership to support the adoption of innovative, nature friendly and low carbon approaches to farming on National Trust land and want to support others to do the same beyond our boundaries. Together we can make a difference at scale for generations to come.

## **Response to consultation**

National Trust Cymru welcomes the laying of the Agriculture (Wales) Bill and we are pleased to share with the Committee our views on the general principles of the Bill at Stage 1.

### **Part 1: Sustainable Land Management**

The Agriculture (Wales) Bill must respond to the nature and climate crises with public funding prioritised for those that deliver the greatest benefits for nature, heritage, people and climate.

We welcome the Bill's four objectives and the reference to ecosystem resilience, cultural resources and public access in particular. However, we believe the Bill's objectives should sit within a clear definition of 'Sustainable Land Management' (SLM) that relates to land and natural resources.

We believe that the evidence is now clear that the best ways of improving food productivity are through improving the quality of water and soils, restoring nature and reducing dependence on things like pesticides, and making land more resilient to a changing climate. An overarching definition of SLM that relates to land and natural resources would require the objectives of the Bill to be in harmony with each other. We would like to see a definition that refers to the Sustainable Management of Natural Resources, as provided by the Environment (Wales) Act 2016.<sup>1</sup>

We also note that the four objectives are given equal weighting and there is currently no requirement for support schemes to deliver against all of them. We believe this presents a potential lost opportunity for nature and climate – and sustainable food production as a result – and would urge that the Bill must ensure that the objectives are taken together.

In relation to sections 4-7, we welcome the Bill's provision for monitoring and reporting of progress towards achieving the objectives and the commitment to the setting of indicators and targets with regard for the Well-being of Future Generations (Wales) Act 2015 and Environment (Wales) Act 2016.

We note that section 4 references that the Ministers' statement must set out 'at least one' distinct indicator and target for each SLM objective. We are concerned that this approach is too simplistic and not specific enough.

The first objective, 'to produce food and other goods in a sustainable manner' requires an assessment of the (i) environmental, (ii) economic and (iii) social/cultural sustainability of production. The fourth objective, to 'conserve and enhance the countryside and cultural resources and promote public access to and engagement with them, and to sustain the Welsh language and promote and facilitate its use' covers multiple subjects and attributes.

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<sup>1</sup> [Environment \(Wales\) Act 2016: sustainable management of natural resources | GOV.WALES](#)

We believe the Bill may need to specify the minimum number and type of indicators and targets for each SLM objective.

The Bill also provides Ministers with the opportunity to review and revise the sustainable land management indicators and targets statement 'at any time'. Consideration must be given to how often revisions are permitted to ensure the SLM targets and indicators are clear, ambitious and support the long-term delivery of the Sustainable Farming Scheme. Under section 5.3, we would expect to see Natural Resources Wales (NRW) directly referenced as a statutory consultee, alongside the Future Generations Commissioner for Wales, given NRW's role in monitoring progress.

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## **Part 2: Support for agriculture etc.**

We recognise that the Bill will allow for Welsh Ministers to continue making agricultural support payments to farmers during a transition period.

We would like to see the inclusion of an end date for existing direct support payments to ensure the current scheme is time limited and doesn't run beyond the transition period (2025-2029). When set against the evidence of environmental decline, we do not think that current arrangements for farm support can fully deliver the goals of the Well-being of Future Generations (Wales) Act 2015.

We note that 8.2 provides examples of the purposes for which support 'may' be provided ('That support may, in particular, include support for or in connection with any of the following purposes'). Whilst we welcome the specific reference to 'the production of food in an environmentally sustainable manner' we are concerned that the listed purposes do not need to be taken together, and that there is no duty to provide support for any of the listed purpose/s. We are concerned that this wording does not secure the delivery of SLM-directed support.

The Bill also currently lacks reference to common land. We believe that to realise the full potential of Wales' commons and their communities will require more than a financial support scheme as enabled by the Bill. Greater powers for local management of commons will also be required.

We suggest a strategic aim to improve opportunities for SLM on common land should inform any revisions to common land legislation. In this respect, we welcome the White Paper proposal to introduce a definition of restricted and exempted works but question the focus on 'duplication' of consents. Where works are necessary to restore nature, soils and water, we would like to see a mechanism that introduces a SLM test into the process for consenting works, or one that provides consent advantages to works covered by scheme agreements that are enabled through the Bill.

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## **Part 3: Matters relating to agriculture and agricultural products**

Consideration needs to be given to the proportionality of the exceptional market conditions clauses, to avoid suppressing industry responses to risk and the impacts of climate-driven food market volatility or failure.

We believe that the available budget should focus on developing the markets for delivery of public goods that currently have no market value and on supporting a shift to agroecological farming practices. Supporting the right approaches to farming and land use will reduce the big economic risks arising from climate hazards including drought, wildfire and flooding.

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**The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum);**

We agree with Wales Environment Link's comments that 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.

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**Whether there are any unintended consequences arising from the Bill**

The Bill currently lacks reference to new minimum regulatory standards. We believe the Bill should place a duty on Ministers to introduce companion primary legislation within the next two years to ensure new National Minimum Standards are in place by the launch of the Sustainable Farming Scheme in January 2025.

There should be no backwards step for nature's recovery. The transition provides a vital opportunity to raise environmental standards and secure a strong regulatory baseline for everyone.

With regard to dispute resolution, we do not believe that the dispute resolution provisions within the Bill will impact on a landlord's decision on whether to let land or not. Rather, it is likely to be a component part of their decision and could influence their approach to letting. The provisions may disincentivise some landlords, but this depends on what they are seeking to achieve through a tenancy agreement.

We support the dispute resolution proposal for Agricultural Holdings Act 1986 tenants and do not regard this procedure to be necessary for Farm Business Tenancies (FBT), as existing mechanisms are already in place. Our experience is that strong partnerships between landlords and tenants are instrumental in delivering sustainable and productive land management and can help new entrants and next generation farmers thrive. We believe that the current legislative structure around FBTs can facilitate this. We also feel that sustainable land management choices can be made if landlords (as well as tenants and their advisers) have access to the right knowledge and guidance.

We would like to see the Bill introduce a dispute mechanism that ensures that both sides can access a fair and reasonable process that is more cost effective than current arbitration, which has become prohibitively expensive. The mechanism should involve an independent expert as recommended by the Tenant Industry Reform Group.

Furthermore, we believe that landlords should have the same ability to refer to dispute resolution. Landlords may be averse to letting if there is no equivalent opportunity to refer to dispute resolution.

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