

To: National Assembly for Wales'  
Climate Change, Environment  
and Rural Affairs Committee

## **Welsh Government's Supplementary Legislative Consent Memorandum (LCM) – Agriculture Bill**

NFU Cymru very much welcomes the opportunity to provide the National Assembly for Wales' Climate Change, Environment and Rural Affairs Committee with a submission on the Welsh Government's Supplementary Legislative Consent Memorandum on the Agriculture Bill.

The Union considers the Agriculture Bill to be an important piece of primary legislation which will equip Welsh Ministers with significant delegated powers to legislate in areas of particular relevance to our members, including in areas which would previously have been occupied by EU law, and which by dint of being occupied by EU law, had lain outside devolved competence.

As a Union we have previously made the point that whilst it might be expedient to invite the UK Government to legislate with respect to Wales via The Agriculture Bill, it does however mean that the usual oversight and scrutiny of powers conferred on Welsh Ministers, via primary legislation, takes place not as might be expected at the Senedd, but at the Houses of Parliament. The LCM process represents a process which is therefore sub-optimal with regard to scrutiny, when compared to the process of originating and passing our own primary legislation.

Setting to one side our concerns about the scrutiny process, and turning to consider the amendments at Public Bill Committee stage, NFU Cymru does welcome the provisions in relation to the red meat levy, and the power to provide for the continuation of the basic payment, however we are concerned about the power to reduce direct payment ceilings, and we also have concerns around the World Trade Organisation provisions and their on-going operation.

### **The Red Meat Levy (new clause 29)**

The fact that a significant proportion of Welsh livestock ends up being slaughtered outside of Wales means that there is a loss to Wales' red meat promotion body, Hybu Cig Cymru of some £1m per annum<sup>1</sup>. A provision to address this issue in the Bill now has the potential to bring to an end the flawed basis for levy collection, which is currently based solely on the location of the abattoir, something which lies completely outside the control of the primary producer.

NFU Cymru has been calling for provision to be made around the repatriation of the Red Meat levy for many years. We welcome the fact that The Agriculture Bill now proposes a mechanism for addressing this issue.

---

<sup>1</sup> <http://record.assembly.wales/Committee/5086>

We are now anxious to ensure that good use is made of these new powers and that they are not simply left sitting on the shelf or allowed to fall into abeyance. We realise that this means collaborative working between governments to deliver the reform of the red-meat levy that we all want to see, and we urge Welsh Ministers to work with counterparts in the other home nations to ensure that a mutually agreed, fit for purpose scheme is up and running as soon as possible.

## **Power to provide for the continuation of the basic payment scheme beyond 2020 (Schedule 3, part 2, new paragraph 8)**

NFU Cymru welcomes the fact that Welsh Government is seeking powers to continue with the basic payment scheme beyond 2020, during the agricultural transition period for Wales. The UK Government's difficulties over Brexit mean that no picture of the sort of future trading relationship that the UK is set to have with the EU27 after Brexit has emerged, and may well not emerge for some time.

We are firmly of the view that the sector needs stability and continuity during the next few years, particularly if we are to leave the EU, and the regulation making power at Paragraph 8, to continue with the basic payment beyond 2020 is welcome.

We note that the Welsh Government's Brexit and Our Land Consultation speaks of transition being completed by 2025, and not beginning before 2020. Powers conferred upon Welsh Ministers in the Agriculture Bill refer to a transition period of seven years starting with 2021. NFU Cymru has consistently argued for a transition period that is as long as possible in order to allow the industry to adjust to conditions outside of the Common Agricultural Policy as well as whatever the type and extent of access we will have to our export markets and the type and extent of access our competitors will have to our market.

Whilst NFU Cymru welcomes the additional stability offered by the proposal to continue to the basic payment scheme beyond 2020, we would not want to see any extension to the basic payment scheme leading to a truncation of the transition period that is available. The corollary of any extension to BPS (which we would welcome), must be a use by Welsh Ministers of the powers already conferred in The Agriculture Bill at Schedule 3, Part 2, Paragraph 5, Sub-Paragraph 2 to extend the transition period.

NFU Cymru very much views a transition period of a decent length as vital to allow the industry to make the adjustments it needs to the prevailing conditions in terms of support and market access. We also consider the transition period to be vital in terms of giving the Welsh Government the space to develop, test and finesse future schemes for farmers that it develops following stakeholder consultation. As we have said on many occasions, such schemes must be properly and robustly tested ahead of any wider roll-out. Detailed assessment of economic, environmental, social and cultural impacts is vital prior to any changes being implemented.

In conjunction with the conferral of this power to continue with the Basic Payment Scheme beyond 2020, we would therefore welcome a commitment from Welsh Government to extend the transition period by at least a year for each additional year that the BPS is maintained. There must be recognition that a decent length of transition from one policy to another will be needed to avoid a policy cliff edge and the safeguard family businesses.

## **Power to reduce the direct payments ceilings for Wales in 2020 by up to 15% (Schedule 3, Part 2, new paragraph 7)**

NFU Cymru cannot support the proposal to reduce the direct payment ceilings in Wales by 15%. We have consistently opposed the transfer of money between Pillar 1 and Pillar 2 of the CAP, and we remain opposed to the concept of diverting money away from direct payments.

When Welsh Ministers opted to go for the maximum possible rate of Pillar 1 to Pillar 2 transfer permitted under EU rules, Wales became the only region of the EU to make use of the provision to transfer a full 15% between pillars. Whilst the acclaimed benefit of doing so was to build up a significant war chest of funds in order to deliver a RDP for Wales which would drive transformational change, this has not been borne out by reality.

The Welsh Government has suggested that constraints and rigidity around Rural Development Regulations are to blame for the Welsh Government's performance on RDP delivery. NFU Cymru would however take issue with this and suggest that the lack of ambition for the RDP and its slow rate of implementation, the design of measures such as Farming Connect or the Sustainable Management Scheme, the reluctance to innovate, the lack of strategic oversight and lack of opportunity for stakeholders to engage with the RDP as well as the bureaucracy of the application process, the sporadic nature of applications windows and the funding allocation to those windows are all to blame for a disappointing Wales RDP and are all factors within Welsh Government's control.

As a result of the maximum pillar transfer decision taken by Welsh Government, the RDP is more important to farmers in Wales than elsewhere where the rate of pillar transfer is lower. With the Welsh Government struggling to roll-out the RDP and with benefits to farmers not being realised at scale or in line with Welsh Government's original ambition we see no reason for the National Assembly to consent to the granting of powers to Welsh Ministers to accrue further funds into the RDP fund.

We have doubts based on the current track record of delivery that the measures and projects supported through the RDP can deliver meaningful change within the timescales of the programme and there is also the significant attendant risk that these funds will not be spent and could end up being returned to the European Commission. We would highlight with the ongoing uncertainty with respect to Brexit negotiations ambiguity remains around the n+3 rule and the so-called Treasury Guarantee and the dates by which funds need to be committed and spent.

## **Observations on the UK and Welsh Government Bilateral Agreement on the World Trade Organisation provisions.**

NFU Cymru is pleased that the Welsh and UK Governments have reached a bi-lateral agreement on the operation of the WTO provisions within The Agriculture Bill. We believe that it is important that a protocol is put in place between the Governments of the home nations in order to ensure that the UK remains compliant with its WTO obligations and to ensure that distortions to the UK's internal single market are minimised.

On a more general point related to WTO Compliance and the design of future support schemes, NFU Cymru does have some concerns about the ability of the Welsh Government

to deliver on what they want to achieve beyond income foregone in terms of public good schemes.

Although the Welsh Government has spoken of ‘appropriate value’ to describe the level of payments that participants in the Public Goods scheme can expect for the delivery of these outcomes, we know nothing of the methodology on which public goods are valued within the proposed Public Goods scheme. This is particularly important within the context of WTO rules around income foregone and costs incurred.

The Welsh Government’s Brexit and Our Land Myth-buster<sup>2</sup> sent to all farmers in Wales on 6<sup>th</sup> September proposes a new Public Good Scheme, and confidently asserts that such a scheme will go “beyond income foregone and costs incurred and pay a meaningful income stream”. NFU Cymru cannot discern that basis on which the Welsh Government believes it can pay a meaningful income stream to farmers which goes beyond costs incurred and income foregone, and maintain compliance with WTO obligations which limit payments to costs incurred and income foregone.

NFU Cymru would welcome more information from Welsh Government as to the basis on which they think they can achieve a WTO compliant Public Goods Scheme which pays beyond income foregone and costs incurred.

---

<sup>2</sup> <https://gov.wales/sites/default/files/publications/2018-09/brexit-and-our-land-consultation-myth-busting-facts.pdf>