

# Agriculture (Wales) Bill 2022



CONFOR EVIDENCE TO THE ENVIRONMENT TRADE & RURAL TRADE COMMITTEE

## Consultation

<https://business.senedd.wales/mgConsultationDisplay.aspx?id=489&RPID=1031467995&cp=yes>

## 1. Introduction

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### Representing Forestry and the Wood using sector.

Confor is the not-for-profit organisation for the UK's sustainable forestry and wood-using businesses.

Through our 1,500 members, we represent a workforce of over 67,000 in the UK, employed across the whole forestry and wood supply chain from landowners and tree nurseries to forest managers, harvesters, wood fuel suppliers, sawmills, and wood panel businesses.

We represent 90% of tree nurseries, 95% of wood processors including wood panel manufacturers, and our members look after 90% of the total managed woodland in the UK. Our members are located in rural areas and provide good career opportunities where often these are scarce. As the net zero agenda provides new opportunities for the sector to expand and innovate, we are more committed than ever to combine a thriving green economy with sustainability.

## 2. Confor response to the Agriculture Bill

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Our responses to the Agriculture Bill are drafted alongside the 6 main parts of the bill.

### 2 SUSTAINABLE LAND MANAGEMENT

#### Objectives

- 2.1 Confor supports the four objectives set out for SLM within the structure of the bill. The definitions clearly state the potential of the role of land manager and going forward it is essential that the spirit of these operations is embedded into enabling legislation within the SFS
- 2.2 The reference to other goods within the definition is welcome but we feel there is some ambiguity of the scale and potential importance of those products which include timber and wood fibre.

The value of achieving multiple outcomes must be fairly measured against the risks of pursuing single interest management outcomes.

- 2.3 The structuring of the 3<sup>rd</sup> objective “to maintain and enhance the resilience of ecosystems and the benefits they provide” especially noting 1(6) factors relevant to the resilience of ecosystems is of significant interest when engaging in discussions regarding land use change.

Many of the barriers to land use change reflect the interpretation of the wording “Maintain & Enhance” but do not acknowledge the degraded landscapes that are experienced across significant areas of habitat in Wales. Whilst restoration of these landscapes may be possible the risk of further degradation or likelihood of management regime change are not factors that are considered by regulators in the wider context of delivering an improving landscape in Wales.

### **Duty**

- 2.4 We support the obligations placed on Welsh Ministers in delivering their duty under the bill but notes that the functions appear to exclude the delivery of sustainable forestry and afforestation targets.

- 2.5 We support the emphasis created by the wording within 2(1) “Welsh Ministers must exercise each function referred to in this section in the way they consider best contributes to achieving the sustainable land management objectives” if coupled with an amendment to function which includes:

(b) (iii) agro forestry, afforestation on farm as part of or ancillary to the operation of the agricultural holding and management of existing woodland and forestry.

### **Monitoring and Reporting**

- 2.6 We agree that clear and accurate measurement, and reporting of SLM measures, is essential for the delivery of the objectives of the bill.

- 2.7 Targets must be appropriate and account for external regional influences that may make compliance simple in one area and complex or impossible in another.

- 2.8 Why is Natural Resources Wales not listed as a statutory consultee to preparation or revision of indicators or targets?

- 2.9 We welcome the obligation placed on the Welsh Government to prepare and publish a report setting out the assessment of cumulative progress and delivery of objectives, including reasons for failure, non determination and contribution to overall objectives. We recommend this also include an obligation to report on why successful outcomes have been achieved.

- 2.10 What is the role of Environment and Rural Affairs Monitoring & Modelling Programme in setting and monitoring these standards and as a major evidence provider in Wales should their importance be recognised more specifically within the bill?

### 3 SUPPORT FOR AGRICULTURE

- 3.1 We welcome the support of agriculture and ancillary activities but highlight that the support must be equal and proportionate for other land-based system. Historically forestry has covered approximately 14% on the land and has received as little as 2% of the RDP budget. If the Senedd is committed to delivering on the climate change afforestation targets as specified by the UK Climate Change Committee, then secured long term funding will be required.
- 3.2 We note that food production is expressed in 8(2)(a) where elsewhere in the bill it is combined as “produce food and other goods”
- 3.3 Under section 11(1) (b & c) – reference should be made to proportionate and reasonable. Grant reclaims under Glastir was neither of these subsequently alarming many farmers who withdrew from projects involving fencing due to potential scale of fine/penalty.
- 3.4 We welcome the reference to maximising sequestration and storage of carbon. Clarity is required over the reference or measurement system that is used to assess this. Some products may leave the farm gate and have long lifespans as locked material and these are not acknowledged in our current carbon accounting systems.

### 4 AGRICULTURAL TENANCIES

- 4.1 We support the Section 23 of the Bill which will amend Section 19A of the Agricultural Holdings Act 1986 (AHA) to allow a tenant farmer the ability to object to a refusal from their landlord for consent to enter a scheme introduced under the financial assistance provisions of the Bill. Section 19A also provides for AHA tenants to object to their landlords’ unreasonable refusal to allow consent for activities required to comply with a statutory duty. We note that many tenant farmers are excluded from afforestation schemes at present due to the terms of their AHA.
- 4.2 We seek to raise that the bill fails to address the issues for the Farm Business Tenancy holders who could remain excluded from engagement in schemes. FBT’s cover around 300,000 hectares of Welsh farmland and it an oversight to not consider them as part of this legislation.
- 4.3 S19a fails to fully address grounds for appeal by the tenant to landlord objection where consent is required. Whilst some concerns may be raised over availability of land to let being diminished, the status quo should be one of equal capacity to manage the land for SMNR outcomes.
- 4.4 As a general comment, whilst it may be the case that some landlords will seek to enter into alternative land use schemes, the existing tenanted sector is essential to maintain the

cultural, social and farming heritage of Wales. Tenant farmers will still be limited in their ability to engage with the SFS and principally deliver the requirement for 10% tree cover. This feels like a grave oversight in creating opportunities for both Landlords and Tenants to benefit from the SFS and lead in creating partnership models that may be of benefit to the wider industry.

## 5 MATTERS RELATING TO AGRICULTURE AND AGRICULTURAL PRODUCTS

5.1 No comments on this element of the bill

## 6 FORESTRY

- 6.1 In response to S35 of the Agricultural White Paper, Confor, its members, and the overwhelming response from the professional forestry sector is that the felling licence system is effective in its operation. Where concerns are raised about felling it is often surrounding illegal felling, felling under Planning Law (linked to planning permissions) or a breach of the existing environmental conditions that all felling as already obliged to comply with under the Forestry Act 1967.
- 6.2 We would welcome an informed debate on this matter and do not feel that the previous Senedd debate or members undertook due diligence when approving consent to change the Forestry Act. If it is considered to require amendment, this should be dealt with through separate legislation. Lessons could be learned from the example of the Scottish Forestry Act (2018) which covered similar issues.
- 6.3 Further evidence must be provided by Welsh Government and other stakeholders to detail where the failures are, and whether the current system supported by compliance with the UK Forestry Standard (UKFS) is failing. If licences are subject to uncertainty that will be transferred to commercial contracts with consequences for the timber supply chain which is very much at the heart of Wales's Green Recovery and the decarbonisation of construction and housing.
- 6.4 The specific problem that the legislator appears to be trying to address here is incompetent or illegal felling. It would be wholly unjust to penalise the professional industry because of rogue operators. The loss of trees and woods to bad practice by developers is of significant concern but this could be addressed through planning legislation far more effectively. Increasing the cost and complexity of all management operations in privately owned woodlands by creating conditioned felling licences (especially where licences are currently only valid for 2 years) is highly likely to push owners into either illegal felling or abandonment of management all together. This would have a highly detrimental effect on habitat and biodiversity outcomes.

- 6.5 Having reviewed the guidance documents provided by NRW on their intended use of these new powers there is a clear disconnect between NRW’s understanding of the existing legislation and the powers they are seeking to develop. There are already legal responsibilities placed on those harvesting timber meaning that if a breach of legislation happens during the licensed operation, they have a duty to cease or mitigate the deleterious impact.
- 6.6 In light of 6.5, we are highly concerned regarding the implication of S24D “Suspension, amendment or revocation of tree felling licence where no breach of condition”. Where a licence has been applied for which requires public and regulatory consultation, it should not be possible for suspension due to the impact on Natural Beauty or geographical or physiographical features to be contrived. The occurrence of Flora or Fauna or impact on habitat would have to be of one of the major statutory designations and should therefore fall within compliance of other legislation. We assert that this “catch all” category must be removed as given the inconsistent performance of the regulator there is significant fear of misuse of these powers.
- This has potential to create a substantial impact to timber harvesting as exemplified by the situation in the Republic of Ireland with the “objection without consequence” which ground the whole Irish forestry and timber sector to a halt and required urgent intervention by the Government.**
- 6.7 Whilst the ENGO sector and some single interest lobbyists have called for more stringent regulations to protect woodland habitat from further declines, it is imperative to understand the drivers of these declines, which often are caused by neglect and failure to manage. What is clear, is that sustainable management is identified as the one area where, with a high degree of confidence the State of Natural Resources report considered the status of woodland to be improving through certification under UKWAS. This type of conservation management would be jeopardised by the tightening of felling licenses. It would be far better to develop positive solutions to these concerns such as developing on farm and urban tree management plans which take account of important habitat such as veteran trees and red squirrels.
- 6.8 We strongly recommend that if the Bill is enacted in its current form, felling licences must return to being for a 5-year period in line with England, Scotland and Wales prior to 2013 and Long-Term Management plans must be substantially reviewed to make them fit for purpose.
- 6.9 The SFS has created a further disconnect between farming and forestry and this is exacerbating a two-tier system for farming and forestry. This urgently needs to be addressed if we are to be successful in bringing woodlands into management and meeting our afforestation targets.
- 6.10 We are broadly in support with the proposals contained within S36 & S37 of the bill to Amend, Suspend or Revoke felling licences. The failure to be able to amend felling licences once issued has meant that an external agreement was necessary between the landowner and regulator if an amendment was required. This was generally effective but not an optimum solution

where land ownership had changed and the new owners sought to go in a different management direction.

- 6.11 We welcome the appeals process and compensation provision detailed in S38 24E put forward for landowners who successfully overturn suspension or revocation of a notice. However, this will not recompense the landowner for any drop in timber value as a result of an inappropriate suspension which may take months to resolve. Within this year's timber market that could reflect up to a 50% decrease in international commodity prices.
- 6.12 We are in support of S40 of the bill creating an unlimited fine for illegal felling. This is once again dependant on the use of the regulator's powers in a proportionate and consistent manner
- 6.13 We cannot support any proposals for additional monitoring or reporting felling the completion of felling licence operations. This would create an infinite obligation on a landowner who is not eligible to enter into any of the SFS programs, and who is not in receipt of any support for their continued management operations. If any proposal of this nature were to be implemented then a base line level of land management support would be essential for forestry operations reflecting that proposed to farmers under the SFS.

## 7 WILDLIFE

7.1 No comments on this element of the bill

## 8 GENERAL PROVISIONS

8.1 No comments on this element of the bill