

CLA Cymru: The voice of the Rural Economy

1. The CLA (Country Land & Business Association) is the representative organisation for rural businesses across England and Wales. We work closely with both the UK and the Welsh Government as a consultee-of-choice on issues concerning the rural economy; the land-based businesses it supports, and the wider enabling policies that supports sustainable development.
2. With around 3,000 members in Wales and 33,000 in total, our members own and manage more than 10 million acres across the UK and engage in a wide range of business activities from agriculture and food to forestry and the gamut of businesses that support the land based industry.
3. Our membership relies on us to ensure that the voice of the rural economy is heard in the development of policy. The needs of rural community and businesses are often over-looked and under-represented in UK politics. We welcome the opportunity to provide evidence on the Agriculture Bill and how it will work in Wales

Intergovernmental Relationships

4. CLA Cymru is acutely conscious of the sensitivities that Brexit is having on inter-governmental relationships between the UK and Welsh Government and once again, policy relating to Agriculture is at the forefront of this debate. At the time of publication of the Agriculture Bill, the Welsh Government published a statement explaining that the draft Bill demonstrated '*considerable engagement and collaboration*' between the two Governments. We consider this to be a positive step in creating more effective working relationships and must be the starting point upon which consideration of the Legislative Consent Motion from Wales should begin.
5. The structure of the Bill and the process of its adoption does, however, causes us some concern in that it is unclear how the Bill, and specifically the provisions relating to Wales as set out in the Schedule 3 are to be scrutinised. Will MP's in Westminster be seeking to make changes to a Bill with provisions over a devolved matter? The Welsh Assembly has no ability to provide input of comment or changes to legislation in Westminster. With Welsh Governments involvement in drafting the Bill it is unlikely that they will seek to make any substantial changes to its content.
6. Although the Welsh Assembly has the ability to withhold a Legislative Consent Motion, it is unclear who has the power to provide the detailed scrutiny of the individual provisions within the Bill. Furthermore, would the lack of Legislative Consent Motion be a barrier to Westminster passing the Bill? – the Sewell Convention was arguably undermined when Westminster passed the EU (Withdrawal) Act and created a precedent of bypassing devolved administrations when looking at time sensitive issues in Brexit. The impact of the UK Governments approach to the EU (Withdrawal) Act remain subject to a Supreme Court hearing and ultimately could impact this LCM

Frameworks

7. As well as considering the LCM, we would encourage the Committee to raise questions about provisions that are not included in the Bill. Over the last year or so the Secretary of State for Wales, through his Expert Implementation Group has considered in detail the areas of 'repatriated law' that requires a level of co-operation and consistency across the UK. Many of the areas where co-operation was required related to the field of agriculture, including replacements for direct payments. It is disappointing and somewhat concerning that this has not materialised in this draft Bill.
8. CLA Cymru has long advocated the fact that in a post-brexite world there will need to be new formal working relationships between the four constituent parts of the UK. Devolution happened in the context of the policy and governance structure of the European Union and as we leave the EU, there is a pressing need to look at how we replace these structures and ways of working collaboratively. Agriculture is one of the policy areas most fundamentally impacted by brexit and is one of the most complex cross-border industries in the UK. The Common Agriculture Policy provided a structural framework, broad principles, budgetary agreements and guidelines of how agriculture would be supported throughout the EU. This needs to be replaced by a UK framework - formal structure of collaboration between Governments in the UK so that the interests of farmers on the ground are not
9. Just like CAP, such a structure would not exclude the ability for devolved administrations to look at different priorities – it would just provide a stable structure of high level principles and budget allocations (with tolerances) so that the internal market of the UK was not distorted and unnecessarily competitive.
10. While not directly within the remit of the Committee, the CLA considers it important to reflect on the position in Scotland and the approach taken by the Scottish Government in relation to the Bill. As it currently reads, there is no parallel to the provision for Wales to be applied in Scotland. While this is undoubtedly tied up with party politics, it does raise questions as to the balance of relationships across the UK if Scotland take a very different approach.
11. The CLA notes with interest the announcement by the Secretary of State for Defra for an independent review of funding to replace the mechanisms included in the Common Agriculture Policy. We welcome this review, but not its tight remit for interim funding arrangements only. There is an urgent need to establish long term funding mechanism to sit alongside the Agriculture Bill. Legislative Powers without funding is no power at all.

Trade

12. Agriculture is a commodities industry and fundamentally dependent on trade for its survival. CLA Cymru would suggest that the Agriculture Bill should acknowledge this fact and provide flexibility and broad provisions for the various trade scenarios. Until we know our future trading situation, we do not know if the powers within the Agriculture Bill are suitable to ensure a thriving industry in the future. In this respect, the Agriculture Bill seems pre-emptive and too prescriptive and not adaptable to the wider, more fundamental issues that will affect the sector in the short and long term.

Specific Bill content:

13. In terms of the content of the Bill, the CLA would like to make the following comments:

Part 1 – New financial assistance powers

14. In the recent consultation 'Brexit and our Land', Welsh Government proposed a new Land Management Programme consisting of an Economic Resilience scheme and a Public Goods scheme, an approach the CLA strongly supports. It is our belief that the powers included in Part 1 of the Schedule provide the necessary framework to take forward these proposed schemes. Importantly, we recognise that the Bill acknowledges that 'Payment for Public Good extends beyond environmental delivery to include landscape, access etc. This is seen as a positive and offers the broadest opportunity to create an alternative income stream for farmers and land managers in the post Brexit world.
15. Having said this, we would challenge the Committee to consider the definition in the context of the Well Being of Future Generations (Wales) Act and the test set out within it. Do the parameters of the definition of payment for public good in the Agriculture Bill accord with our established thinking in terms of ensuring decisions consider, social, economic, cultural and environmental considerations?
16. In addition, CLA Cymru believe that there is scope within the wording of the Bill to deliver funding improvements required to assist farming productivity which will replace the current Rural Development Programmes. These powers, although broadly worded, seem sufficient for creating a framework for implementing the Welsh Government's proposed economic resilience scheme.
17. CLA Cymru advocates an approach where the two schemes proposed in the 'Brexit and our Land' consultation dovetail together, and possibly overlap. There is no requirement for exclusivity of schemes on land. We do not consider a public goods scheme as 'taking land out of production'. Conversely, engaging in the economic resilience scheme to improve the viability of a dairy unit should not exclude businesses from seeking to deliver public goods. While this is a point of policy as opposed to legislation, there is nothing in the scheme to preclude this thinking. More needs to be done to view the schemes as a holistic support package for businesses as opposed to the 'either / or' conversations we currently see.
18. Other elements within this Part of the Schedule include measures linked into the administration of the scheme including the powers to introduce measures linked into inspections, penalties and eligibility. We consider that these are reasonable and proportionate.
19. Overall, this Part of the Schedule provides the necessary powers for Welsh Ministers to deliver its policy objectives and deliver for Wales' farmers and landmanagers.

Part 2 – Financial support after exiting the EU

20. Part 2 of the Schedule sets out the transitional arrangements for Wales, including powers to phase out Basic Payments and introduce delinked payments. As yet, as stakeholders, we have not had the detailed discussions as to how transition might work in Wales. The provisions in the Agriculture Bill reflect the discussion in England following the DEFRA 'Health and Harmony' consultation. We do not believe that we have had the detailed conversation for Wales and would be looking for the Agriculture Bill to provide the widest opportunity for Welsh Ministers to take decisions following consultation with the industry.
21. The real issue here is the need for Welsh Government to set out its plans for how it will reduce direct payments in their current form. It must be done so to provide certainty to farmers and land managers and the CLA will be pushing Welsh Government to do so. It is essential that further reductions must align with the introduction of the new public goods funding to avoid any cliff edges for businesses.
22. Having said that, there is an argument to be made the Welsh Government should look at the proposals for England as creating too many differences could create market distortion. The Bill and the explanatory notes sets out the proposals for capping in England and again, we would urge Welsh Government in its forthcoming consultations to be conscious of the need to ensure that they are aware of these proposals. This is going to be particularly important for cross boarder farms.
23. The Agriculture Bill proposes a seven year agricultural transition period starts in 2021, so it is effectively a nine year transition from now. This does not align with the timescale proposed in the recent Welsh Government 'Brexit and our Land' Consultation. This in itself has created uncertainty and confusion for land based businesses. The 9 years proposed in the Bill is longer than some would have liked, but does allow businesses time to adapt to what will be major changes.
24. One of the most radical provisions in the Bill are the proposals for delinking of Basic Payments during the transitional phase. This does include a degree of choice for those who might wish to stop farming, and in theory, create consequent opportunities for new entrants and those who wish to expand, however no details of the scheme are provided for England and yet again, this is not a conversation that has been considered in detail for Wales. The decoupling of payments from the need to farm is unlikely to have an impact on land values, but the impact on rents could be more significant. The CLA will be investigating the full range of possible impacts, both good and bad, and would be happy to feed these in at a later date. The possible option to receive a lump sum payments in lieu of annual payments has its attractions for people who wish to exit and for those wishing to invest in their business, but it will need to come with a number of conditions and safeguards.
25. This Part provides Welsh Ministers with the scope of powers to deliver its policy objectives. The key issue though, is that Welsh Government exercises those powers in a way that has the least impact on the viability of rural businesses. No business should be put in jeopardy in the long term because of the way in which short term transitional arrangements are handled.

Part 3 – Collection and sharing of data

26. This Part gives Welsh Ministers the power to collect data from a wide range of people within, or connected to, the agri-food supply chain, which includes farmers, processors and retailers, as well as those providing goods or services to farmers. The data may only be collected for a limited number of purposes as outlined in the legislation. There will be strict controls on the use and disclosure of the data provided to protect commercial interests.
27. So far as we are aware, Welsh Ministers have as yet to indicate how these powers will be exercised. Nevertheless, the timely provision of data and analysis will promote market transparency and allow for improved decision-making. Controls will need to be in place to ensure that the data requests are not a burden on farmers and landowners and that data is secure and used appropriately.

Part 4 – Intervention in agricultural markets

28. Part 4 enables Welsh Ministers to provide financial assistance or carry other interventions in the case of exceptional adverse market conditions that will potentially cause significant damage to producers. It does *not* cover exceptional events such as extreme weather or disease outbreak unless they result in markets being disrupted and damage to producers.
29. The actions could include making payments, loans and guarantees to affected farmers, or to operate the public intervention and private storage aid schemes. Any interventions should last no longer than three months, although there is provision to extend it for a further three months. Some of this is retained legislation from the EU but there are powers to temporarily change them if necessary to suit Welsh conditions. This again raises interesting and complicated questions relating to whether it is appropriate that these powers are exercised on a 'welsh basis' or should they be something subject to a UK framework insofar as any unilateral decision to invoke the provisions could distort the market?
30. As an aside, further clarity as to what funds might be available to back such an intervention is unclear?

Part 5 – Marketing standards and carcass classification.

31. Part 5 of the Schedule gives Welsh Ministers the power to amend, change or reverse the rules that govern marketing standards and introduce new standards and rules. This will cover carcass classifications in the meat sector and the composition of saleable milk in the dairy sector and others.
32. These standards are important requirements for developing domestic and export markets, protecting both farmers and consumers and for maintaining trust in Welsh production.

For further information please contact:

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