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NVZ Update: Changes to elements of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations

Welsh Government Written Statement: Cooperation Agreement: Agricultural Pollution

On 5th October 2022, Welsh Government issued a Written Statement by Lesley Griffiths MS, Minister for Rural Affairs, North Wales and Trefnydd. The Written Statement relates to the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 and confirms the following package of measures agreed through the Co-operation Agreement with Plaid Cymru:

- Implementation of the 170kg/ha annual holding nitrogen limit has been delayed from 1 January 2023 to April 2023.
- There will be a consultation this autumn on a licensing scheme whereby any farm business can apply for a licence for a higher annual holding nitrogen limit of 250kg/ha. Welsh Government will consult on proposals for such a scheme to be operational until 2025.
- Welsh Government will undertake a further specific Regulatory Impact Assessment to consider the economic and environmental impacts of the 170kg/ha annual holding nitrogen limit.
- £20m of extra funding will be made available to support compliance with the regulations.
- Welsh Government will accelerate their work to encourage potential alternative technological solutions using the Regulation 45 mechanism.

Welsh Government Response to the Economy, Trade and Rural Affairs (ETRA) Committee Review of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

On 5th October 2022, [Welsh Government responded](#) to the ETRA Committee Review of the Regulations, published in June 2022. Welsh Government accepts, either fully or in part, 9 out of the 10 of the Committee's recommendations, summarised as follows:

- Recommendation 1 – Welsh Government should re-introduce the derogation which allowed qualifying grassland farms to spread up to 250 kg/ha of nitrogen.

Welsh Government is unable to accept this recommendation. Under the Co-operation Agreement between Welsh Government and Plaid Cymru, it is their intention to consult on a licensing scheme this autumn.

- Recommendation 2 – Welsh Government should set out exactly what support has been and will be made available to farmers to meet the requirements of the regulations. In so doing Welsh Government should set out the research, evidence and calculations made to determine the support levels required and provided.



Welsh Government accepts this recommendation and will supply details of the support package for the sector to the Committee separately.

- Recommendation 3 – The Minister should set out to the Committee her considerations of the impact of the regulations on the planning system.

Welsh Government accepts this recommendation. Welsh Government states the impacts on the planning system are not significantly different from the status quo. The planning process has been designed to assess the appropriateness of developments in respect of community and business interests and takes such matters into account.

- Recommendation 4 – Welsh Ministers should write to the Committee at the earliest possible opportunity once the service level agreement (SLA) on resourcing enforcement of the regulations by Natural Resources Wales (NRW) has been agreed.

Welsh Government accepts this recommendation and will summarise the key points of the SLA upon agreement.

- Recommendation 5 – Welsh Government should publish guidance on how NRW should approach enforcing the regulations.

Welsh Government accepts this recommendation and is content to provide views on their preferred approach to the implementation of the regulations, recognising that decisions on the approach to enforcement are a matter for NRW.

- Recommendation 6 – Welsh Government should provide the Committee with more specific information on how it is taking account of the needs of tenant farmers and farms affected by bovine TB as part of NRW's enforcement regime.

Welsh Government accepts in part. NRW is responsible for enforcing the regulations. Established processes to address issues related to tenancies exist in respect of other regulatory requirements.

- Recommendation 7 – Welsh Government should coordinate with the relevant bodies to collate and publish an update on the status of the 45 recommendations of the Wales Land Management Forum Sub-Group report on tackling agricultural pollution, setting out where appropriate how the recommendations were taken into account in the regulations.

Welsh Government accepts in part. Welsh Government does not have authority to direct members of the Sub-Group. A separate summary of how the regulations deliver the recommendations of the report will be provided.

- Recommendation 8 – Welsh Government should prioritise any suitable alternative proposals that utilise technology rather than closed periods for spreading.

Welsh Government accepts in part. Proposals for alternative measures submitted in accordance with Regulation 45 will be considered. Prioritising proposals based on topic would be inappropriate. Developments in technology will also be considered as part of the 4-year review where appropriate.

- Recommendation 9 – Welsh Government should provide the Committee with an update on its consideration of alternative proposals by early 2023.



Welsh Government accepts in part. The regulations require a statement to be made by 1 April 2023 explaining what action will be taken where viable proposals for alternative measures have been made. The effectiveness of the regulations will be reviewed every 4 years.

- Recommendation 10 – Welsh Government should review the regulations at the earliest opportunity and ensure preparatory work to improve the regulations start in good time taking into account the work of the ETRA Committee.

Welsh Government accepts this recommendation identifying the earliest opportunity to review the regulations is following receipt of proposals for alternative measures and subsequently the 4-year review.

For information - the ETRA Committee Report can be accessed [here](#). NFU Cymru's evidence to the ETRA Committee Review of the Regulations can be accessed [here](#).

NFU Cymru response to Written Statement

NFU Cymru has welcomed important changes to elements of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations, announced by Welsh Government and secured as part of the co-operation agreement with Plaid Cymru.

The written statement from the Minister for Rural Affairs Lesley Griffiths MS signals a short extension of the implementation of the 170kg/ha annual holding nitrogen limit. The extension is accompanied by a consultation on a licensing scheme that would enable any farm business to apply for a licence for a higher annual holding nitrogen limit of 250kg/ha subject to crop need and other legal considerations. The consultation will consult on proposals for such a scheme to be operational until 2025.

Welsh Government has also committed to carry out a dedicated impact assessment on the economic and environmental impact of the 170kg/ha nitrogen limit, as well as committing to explore alternative technological solutions.

NFU Cymru President Aled Jones said: "Today's announcement of the delay of the 170kg/ha annual holding organic nitrogen limit and news of a consultation this autumn on a licensing scheme to operate until 2025 is welcome. The announcement provides some additional breathing space for Welsh farmers facing the prospect of destocking their herds as a direct result of the regulations as they stood.

"NFU Cymru has long believed that these regulations are unworkable and pose a significant threat to the viability of Welsh farming, the overall impact of which cannot be overestimated. For this reason, NFU Cymru has consistently opposed these regulations and has left no stone unturned in seeking to make these regulations more proportionate, including taking the matter to Judicial Review.

"The union is pleased that through the co-operation agreement with Plaid Cymru, the government has listened to the very real concerns of Welsh farmers and has shown some recognition of the impacts that the regulations, in their original form, will have on Welsh farming's viability and the knock-on impact on the supply chain. The licensing component now being consulted on by government gives all interested parties more time to find a fit for purpose, evidence-based solution that delivers the outcomes for water quality that we all wish to see, alongside a thriving Welsh agricultural sector.

"NFU Cymru commends the fact that an extra £20m of funding has been made available as part of today's announcement. It is crucial that this funding is used to support capital investment in



infrastructure on farm, given that the government's own impact assessment highlighted a £360m upfront cost to comply with these regulations.

“The union is grateful for the important work that has taken place between Plaid Cymru and Welsh Government as part of the co-operation agreement that has led to today's written statement and the opportunity it now offers for more proportionate regulations in Wales.”

