

To: Senedd Economy, Trade and
Rural Affairs Committee

Date:

Ref:

Cc:

Contact:

Tel: 01982 554200

Fax:

Email: Huw.thomas@nfu.org.uk

Dear Committee

The Agriculture (Wales) Bill

Introduction

NFU Cymru champions Welsh farming and represents farmers throughout Wales and across all sectors. NFU Cymru's vision is for a productive, profitable, and progressive farming sector producing world renowned climate-friendly food in an environment and landscape that provides habitats for our nature to thrive. Welsh food and farming delivering economic, environmental, cultural, and social benefits for all the people of Wales whilst meeting our ambition for net zero agriculture by 2040.

The Agriculture Bill is a once in a generation piece of legislation which for the first time in our history gives Wales the opportunity to devise and implement its own food and farming policy, made in Wales for Wales. In terms of its potential impact on Welsh farmers, this bill is the most important piece of legislation that our sector has seen since the 1947 Agriculture Act.

The Union's members throughout Wales therefore have a significant interest in the Agriculture Bill and its provisions as they will of course, amongst other things provide Welsh Ministers with the powers they need in order to operate the proposed Sustainable Farming Scheme in Wales.

NFU Cymru welcomes the opportunity to provide the Committee with a written submission as part of its Stage 1 consideration of the Bill, and we thank the Committee for the opportunity to provide oral evidence on the 12th October.

As with our appearance before the Committee last month, our views as outlined below are based on our current understanding of the Agriculture Bill as introduced, and these views may well evolve further as our knowledge and understanding develops and also as the Bill itself is amended as part of the scrutiny process.

We look forward to working with the Senedd over the coming weeks and months as this very significant piece of legislation journeys through its various legislative stages

NFU Cymru Policy Priorities for the Agriculture (Wales) Bill

In July 2022, NFU Cymru published its document '[Shaping Welsh Farming's Future](#)' identifying some key asks of the Agriculture (Wales) Bill so that Welsh farming is able to meet our ambition to sustainably grow our contribution to Welsh society, these asks included:-

Redefining Sustainable Land Management - Welsh Government must ensure equal emphasis is placed on the delivery of economic, environmental, social, and cultural outcomes within the Agriculture (Wales) Bill through revising its definition of sustainable land management.

Securing continued supplies of safe, high-quality food - As a key objective the Agriculture (Wales) Bill should underpin the production of a stable supply of safe, high quality, affordable food in Wales and the bill should include mechanisms to ensure levels of domestic food production are assessed, maintained, and enhanced alongside climate, biodiversity, and broader environmental objectives.

Securing rural livelihoods - As a key objective the Agriculture (Wales) Bill should secure rural livelihoods through the provision of stability measures as part of the long-term agricultural policy framework.

Sustainably growing the farming sector - As a key objective, the Agriculture (Wales) Bill should include an ambition to sustainably grow the farming sector and include measures that fund productivity improvements on Welsh farms including advice, knowledge exchange and investment support for farm infrastructure and the latest innovations and technology

Broader SLM outcomes - In line with the revised definition of sustainable land management, the Agriculture (Wales) Bill should specify a comprehensive suite of SLM outcomes that includes rural vitality, food security, on-farm productivity, and the Welsh language.

Targeting active farmers - The Agriculture (Wales) Bill should provide the framework to ensure funding is targeted at active farmers taking the risks associated with food production.

Equivalent levels of funding - A long-term, multi-annual commitment to funding is needed that ring-fences, as a minimum, equivalent levels of funding for Welsh farming to those received currently also reflecting the scale of ambition reflected in the policy and inflationary pressures

Stability through the transition - Welsh Government should commit to providing a smooth transition to new schemes with at least the same level of stability, as that provided by the CAP, for farm businesses through the Sustainable Farming Scheme and the Agriculture (Wales) Bill.

Executive Summary, Key issues and Recommendations

NFU Cymru welcomes the opportunity to contribute to Stage 1 of the legislative process. The Agriculture Bill is a once in a generation piece of legislation which for the first time in our history gives Wales the opportunity to devise and implement its own food and farming policy.

Food production should feature at front and centre of an Agriculture Bill. We are pleased that the production of food is included within the first Sustainable Land Objective (SLM). This objective should be strengthened further to recognise our global responsibility to maintain and enhance where possible, the production of climate friendly food. **(Clause 1)**

The fourth SLM objective should be amended to recognise that the countryside, our cultural resources, and Welsh language can only be conserved and enhanced if Welsh farming is productive and profitable. The objective should be amended to highlight the importance of supporting farmers to achieve this objective. **(Clause 1)**

A fifth SLM objective should be added to the Bill to reflect the importance of a vibrant, economically active farming sector. The new fifth objective should seek to safeguard rural livelihoods and communities, recognising the importance of sustainable and viable farming businesses and agricultural production to the rural economy. **(Clause 1)**

The SLM objectives need to give consideration to how they support and enhance the productivity and resilience of agricultural businesses. **(Clause 1)**

NFU Cymru does not agree with the Welsh Government's definition of Sustainable Land Management (SLM) as set out on page 20 of the Bill's explanatory memorandum. Instead, NFU Cymru agrees with the following definition of SLM from the World Bank: *A knowledge-based procedure that helps integrate land, water, biodiversity, and environmental management to meet rising food and fibre demands whilst sustaining ecosystem services and livelihoods.*

Sustainable land management indicators and targets set should be realistic and achievable within the defined timescale. **(Clause 4)**

There needs to be the establishment of a mechanism for reporting on domestic food production. **(Clause 5)**

We are encouraged that support can be provided in connection with *encouraging the production of food in an environmentally sustainable manner*. In line with the goals set out in the Well-Being of Future Generations (Wales) Act 2015, this should be amended to reflect sustainability in its true sense, and this should read '*encouraging the production of food in an environmentally, economically, socially and culturally sustainable manner*'. **(Clause 8)**

The purposes for which Welsh Ministers may provide support should be extended to include on-farm productivity and helping new entrants into the industry. **(Clause 8).**

The purposes for which Welsh Ministers may provide support should also be extended to include rural vitality and food security. These outcomes align with the Institute of European Environmental Policy description of public goods arising from farming. **(Clause 8)**

Farming supports the highest proportion of Welsh speakers of any sector so the Welsh language should also be included as an outcome. **(Clause 8)**

The Bill should have a provision that requires Welsh Government to undertake a multi-annual financial assistance plan setting out the government's strategic priorities for giving financial assistance during the specified period as well as providing details of any existing financial assistance schemes. It would show a long-term vision and commitment by Welsh Government to agricultural support, providing certainty to farmers, and help make the case to both the UK Treasury and Welsh Treasury of the need to maintain, as a minimum, equivalent levels of funding for Welsh farming. **(New Clause within Part 1 Chapter 2)**

Welsh farmers need a stable and well-planned transition from the CAP to a new agricultural policy for Wales. It is important that Welsh Government in designing and implementing new schemes use the powers that they will have to provide stability and certainty to Welsh farming communities which deliver multiple benefits for society. The current CAP legacy schemes should not be phased out until there is clear evidence that replacement schemes can deliver at least the same level of stability to farm businesses, the supply chain, and our rural communities. **(Clause 15, 16, 18)**

Powers for Welsh Ministers to act in relation to exceptional market conditions are essential. Welsh Ministers should be mindful not just of farmgate prices for agricultural products, but also of increased input costs, which can constitute exceptional market conditions. **(Clause 20 & 21)**

Welsh Government proposes to take powers to amend the Agricultural Holdings Act 1986 to extend dispute resolution provisions to encompass disputes which make it more difficult or prevent the tenant for accessing financial assistance schemes. The same provision for dispute resolution should be made to the 1995 Act. **(Clause 23)**

NFU Cymru is concerned about some of the data gathering and possible data publication provisions within the Bill as drafted and we would urge Welsh Ministers to introduce a range of safeguards in relation to data. **(Part 3 Chapter 1)**

Agriculture should be defined non-exhaustively so that if the need arises in future, activities which are not currently listed can be incorporated as required. **(Clause 48)**

The scope of ancillary activities listed at Clause 49(a)(i), (ii) and (iii) should be narrowed further so that these ancillary activities can only be carried out *by producers of agricultural products*. We would like to see the class of ancillary activities at 49(b) tightened so that the products referenced are derived from *Welsh* agriculture as opposed to just 'agriculture' **(Clause 49)**

Welsh Ministers may amend the definition of agriculture and ancillary activities by regulation. Both definitions are of fundamental importance to the Bill, and whilst neither definition should ever be immutable, it is a concern that it will be open to Welsh Ministers to amend both definitions by regulation, with no engagement with the agricultural sector and very little Senedd involvement. We believe the exercise of these powers should be made subject to a duty to consult. **(Clause 50)**

NFU Cymru will consider the Bill's provisions in sequence

Clause 1 – The Sustainable Land Management Objectives

1. NFU Cymru notes the publication of the four sustainable land management (SLM) objectives.
2. The Union believes that the first objective reflects the considerable progress which has been made in Welsh Government thinking since the original 'Brexiteer and Our Land' consultation four years ago which made little mention of food.
3. It should go without saying that food production ought to feature at the front and centre of an Agriculture Bill. We are pleased to note that the production of food is included within the first objective. We would like to see this objective strengthened further to recognise our global responsibility to maintain and enhance where possible, the production of climate friendly food.
4. NFU Cymru does not agree with the Welsh Government's definition of Sustainable Land Management (SLM) as set out on page 20 of the Bill's explanatory memorandum. Instead, NFU Cymru agrees with the following definition of SLM from the World Bank:

'A knowledge-based procedure that helps integrate land, water, biodiversity, and environmental management to meet rising food and fibre demands whilst sustaining ecosystem services and livelihoods.'

5. Our view is that the World Bank definition better defines sustainability, recognising the needs of current and future generations -taking into account the environment, food production and the role of agriculture in underpinning rural communities and the wider economy.
6. NFU Cymru would like to see the fourth objective amended to recognise that the countryside, our cultural resources, and Welsh language can only be conserved and enhanced if Welsh farming is productive and profitable. The fourth objective should be amended to highlight the importance of supporting farmers to achieve this objective.
7. The fourth objective includes reference to public access, we would be keen to understand more regarding the Welsh Government's thinking as regards the inclusion of public access within this objective. Wales already offers very significant access provision including 16000 miles of footpaths, 3000 miles bridleways, 1200 miles of cycle network, and 460,000 hectares of open access land. It is our view that the focus should be on the effective maintenance and management of existing access opportunities. Any new access should be permissive and funded from outside the current agricultural budget.
8. A fifth objective should be added to the Bill to reflect the importance of a vibrant, economically active farming sector. The new fifth objective should seek to safeguard rural livelihoods and communities, recognising the importance of sustainable and viable farming businesses and agricultural production to the rural economy.

9. It is our view that the SLM objectives need to consider how they support and enhance the productivity and resilience of agricultural businesses.
10. In summary it is NFU Cymru's view that the SLM Objectives need to be amended to recognise the important role Wales has to play in global food security, and that Wales' countryside, communities, language, and a large part of our national economy depend on the economic, environmental, social and cultural activity taking place by Welsh farmers and their families.

Clause 4 – Sustainable Land Management Indicators and Targets

11. In considering the duties of Welsh Ministers to set out indicators and targets it is first of all important to make clear NFU Cymru's view that any indicators used, and targets set should be realistic and achievable within the defined timescale. For example, many of the measures proposed to be supported through the Sustainable Farming Scheme are long term aspirations and so indicators and targets must properly account for this.
12. It is unclear whether targets will focus on food production linked to the sustainability of the sector or whether they will look at environmental sustainability with the production of food secondary to this.
13. NFU Cymru believe Welsh Government should monitor the overall number of farms and farm types involved in the scheme. NFU Cymru is clear that future schemes must be accessible for all farm sectors, farm types and areas of Wales. It is important that Welsh Government are able to quickly assess whether there might be factors leading to differential rates of participation across the different farm types and take remedial action if necessary.
14. It is NFU Cymru's view that the Bill should impose a duty on Welsh Ministers to consult with those likely to be impacted by the targets set, particularly in relation to how Welsh Government intend to monitor and report on these targets.
15. At 4(6) it is indicated that a target may relate to Wales or any part of Wales. NFU Cymru has always advocated that support should be available to all farmers, irrespective of geographic location or which sector(s) they might operate in. We re-iterate our opposition to any sort of 'postcode' lottery when it comes to support. Welsh Ministers should therefore avoid the creation of any sort of postcode lottery in terms of support, either on the face of the Bill or through any policy developed under its provisions.

Clause 5 - Steps to be taken in preparing or revising indicators and targets

16. NFU Cymru notes that when it comes to the preparation of a statement under Clause 4, Clause 5 obliges Welsh Ministers must have regard to the matters set out in Clause 5 subsection 2, and consult the persons set out in Clause 5 subsection 3.

17. The Union is concerned that subsection 2 does not require Welsh Ministers to ‘have regard to’ available information regarding food production levels. There needs to be the establishment of a mechanism for reporting on domestic food production, with Welsh Ministers then obliged to have regard to levels of domestic food production under the provision of subsection 2 when it comes to the preparation or revision of indicators and targets.
18. We would suggest that Welsh Ministers should be under a statutory obligation to consult relevant stakeholders under Clause 5 subsection 3.

Clause 8 – Welsh Ministers’ power to provide support

19. In NFU Cymru’s Shaping Welsh Farming’s Future [document](#), published in July 2022 we advocated that sustainable land management outcomes should be expanded to include rural vitality, food security, on-farm productivity, and the Welsh language. We maintain that those outcomes should be included within the Agriculture Bill, and in our commentary on Clause 1 of the Bill we suggest that this should be done through amendments to the first and fourth SLM objectives and the addition of a new fifth objective.
20. We are encouraged at 8(2)a that support can be provided in connection with *encouraging the production of food in an environmentally sustainable manner*, something which was missing from previous consultations. We would however make the point that, in line with the goals set out in the Well-Being of Future Generations (Wales) Act 2015, this should be amended to reflect sustainability in its true sense, and this should read *‘encouraging the production of food in an environmentally, economic, socially and culturally sustainable manner’*
21. Overall, the purposes for which Welsh Ministers may provide support are primarily environmental. We believe it is inaccurate to assume that supporting farmers to deliver environmental outcomes alone can ensure the delivery of wider outcomes for society. As a result, NFU Cymru is clear that the powers to support should also be extended to include rural vitality, food security and on farm productivity. These outcomes align with the Institute of European Environmental Policy description of public goods arising from farming. Farming supports the highest proportion of Welsh speakers of any sector so the Welsh language should also be included as a purpose for which support can be provided.
22. Improving on farm productivity is central to the future competitiveness and resilience of Welsh farms. It will enable farmers to produce the same quantity of food, or more, with fewer inputs, in smarter ways. This, in turn, will enable the sector to reduce its greenhouse gas emissions and make a positive environmental contribution. An additional power to support for *starting and improving on-farm productivity* should be added. The emphasis on ‘starting’ is important given the lack of support for young people/new entrants within the Bill.
23. The Bill will confer powers on Welsh Ministers to add, remove or alter the description of a purpose in the list at section 8. NFU Cymru would suggest that this power should only be used following consultation with relevant stakeholders.

24. The Bill is a framework bill and ultimately whether it will deliver the support that our agricultural sector needs will turn on the willingness of Welsh Government to introduce schemes under the Bill which will support Welsh farming, whether they are sufficiently attractive to all sectors, areas and farm types and are adequately funded. It is vital that Wales' farmers can remain competitive with farmers across the UK, EU and worldwide.

Clause 9 – Further provisions about support under part 8

25. Clause 9 (5) introduces the possibility of support to third party scheme operators. Bringing in third party scheme operators raises questions about matters such as whether such operators will have the aptitude and experience to devise and/or operate schemes, what agendas they might import, and whether the scheme funds risk being swallowed up in bureaucracy and administration. NFU Cymru has reservations about the use of third-party scheme operators.

Clause 10 – Power to make provision about the publication of information about support

26. We believe that if the Welsh Government is intent on publishing this sort of information, then there is merit in considering introducing a *de minimis* threshold of £1, 250, with information on recipients of sums below this threshold published in an anonymised format only.

Clause 11 – Power to make provision about checking eligibility for support etc

27. Section 11 equips Welsh Ministers with regulation making powers to make checks around eligibility for support. NFU Cymru understands and accepts the fact that where public money is being spent there must be mechanisms to ensure that it is spent correctly, and this will on occasion involve the use of appropriate checks. Checks should not be conducted in an insensitive or heavy-handed manner, and we would also make the point that any checks and penalties applied should be proportionate.

28. We would be particularly nervous about the prospect of powers to check eligibility for support being conferred upon third parties. This is not something that we would support as we see too many examples of third parties having a specific policy agenda that they may wish to pursue.

Clause 12 - Annual reports about support provided under section 8

29. At Clause 12 the Bill mandates Welsh Ministers to prepare a report relating to the support provided during the reporting period. We believe it is important that as part of this process that any such report covers the costs of administering any scheme by Welsh Government and if applicable, a third party.

30. Historically, Pillar 1 schemes under the Common Agricultural Policy have been run at a fraction of the cost of Pillar 2 Schemes. With the SFS as currently designed more closely resembling a Pillar 2 scheme than a Pillar 1 scheme, there is a legitimate

concern about the possible levels of administrative costs, and we would like to see maximum transparency in relation to scheme delivery costs.

Clause 13 – Impact Report & Clause 14 – Steps to be taken in preparing reports under section 13

31. NFU Cymru supports the production of impact reports as they should assess how well support schemes are performing against their objectives and should also provide an evidence base which could be used as a starting point for future reforms.
32. At Clause 14 we would suggest that Welsh Ministers should have regard to the impact of the schemes on the productive capacity of agriculture in Wales.

Support for agriculture and multi-annual financial assistance plans

33. Under Chapter 1, Section 4 of the UK Agriculture Act 2020, the Defra Secretary of State is required to prepare a multi-annual financial assistance plan setting out the government's strategic priorities for giving financial assistance during the specified period as well as providing details of any existing financial assistance schemes. This section further provides that the first plan must cover a seven-year period, with subsequent plans covering a minimum of five years.
34. NFU Cymru believes that the Agriculture (Wales) Bill should make similar provisions in order to give the sector some reassurance as regards the short to medium term proposed direction of travel regarding Welsh Government funding to the sector. The need for the agricultural sector to have the maximum possible levels of certainty as regards financial assistance is particularly acute owing to the long production cycles involved in the production of livestock and crops.
35. Importantly it would also show a long-term vision and commitment by Welsh Government to agricultural support and help make the case to both the UK Treasury and Welsh Treasury of the need to maintain, as a minimum, equivalent levels of funding for Welsh farming.

Clause 15 – Powers to Modify legislation governing the basic payment scheme; Clause 16- Power to modify legislation relating to the common agricultural policy; Clause 18- Power to modify legislation relating to direct support for rural development

36. Welsh farmers need a stable and well-planned transition from the CAP to a new agricultural policy for Wales. It is important that Welsh Government in designing and implementing new schemes use the powers that they will take for themselves to provide stability and certainty to Welsh farming communities which deliver multiple benefits for society. NFU Cymru is clear that the current CAP legacy schemes should not be phased out until there is clear evidence that replacement schemes can deliver at least the same level of stability to farm businesses, the supply chain, and our rural communities. The aim being to minimise harmful impacts and disruption for individual farm businesses, sectors, and regions.
37. NFU Cymru support the provisions within these clauses that allow for the continuation of current schemes and for a transition period. NFU Cymru would not support any

amendments that proposed placing a time limit on the operation of legacy schemes or length of a transition period. To ensure stability and to be able to cope with all eventualities the Bill must provide maximum flexibility to Welsh Government in relation to the continuation of current schemes and funding and transition to the Sustainable Farming Scheme.

Clause 20 – Declaration relating to exceptional market conditions & Clause 21 – Exceptional Market Conditions – Powers available to Welsh Ministers

38. Powers for Welsh Ministers to act in relation to exceptional market conditions are essential. Clauses 20 and 21 equip Welsh Ministers with powers to declare that there are exceptional market conditions, and to provide financial support to agricultural producers when such a declaration is in effect. This is on a very similar basis to the powers conferred on UK Government Ministers via the Agriculture Act 2020.
39. Despite this, we do note that there is a strong degree of subjectivity with regard to the use of these powers (i.e., their use will turn on there being what Welsh Ministers consider to be exceptional market conditions) and furthermore the powers equip Welsh Ministers with a *discretion* to declare exceptional conditions and a *discretion* to provide financial assistance. Whether any assistance can therefore be provided to the sector in the event of exceptional market conditions will therefore be contingent on the willingness of Welsh Ministers to make use of these powers.
40. The definition of exceptional market conditions is based on a 'severe disturbance,' NFU Cymru would suggest that this definition should perhaps consider whether there is a 'significant' as opposed to 'severe' disturbance.
41. We would also add that whilst it is right to consider the prices achievable for agricultural products in the context of exceptional market conditions, this is not the only measure of whether there are exceptional market conditions, and increases in the cost of production, where such increased costs have not been reflected in the market prices achievable for agricultural products, are also an exceptional market condition. Clause 20 should be amended to reflect this.
42. Welsh Ministers cannot of course be naïve to market disturbances occurring elsewhere in the UK, the EU and further afield and they will need to keep a close eye on what is happening in other jurisdictions in terms of market conditions and the deployment of any financial assistance.
43. NFU Cymru is alive to the risk of differential approaches to market disturbance in each of the UK home nations, and in order to mitigate this risk we see an important role of the UK Agriculture Market Monitoring Group in terms of keep a close eye on the situation in four UK home nations and where necessary agreeing to co-ordinated approaches and interventions.

Clause 23 – Agricultural Holdings – Dispute Resolution relating to financial support

44. At Clause 23 the Welsh Government proposes to take powers to amend the Agricultural Holdings Act 1986 to extend dispute resolution provisions to encompass disputes which make it more difficult or prevent the tenant for accessing support

schemes under the Bill. NFU Cymru welcomes this provision as it will potentially assist tenants who want to enter into financial assistance schemes.

45. NFU Cymru would be interested to know why the Welsh Government has decided not to make corresponding amendments to The Agricultural Tenancies Act 1995. NFU Cymru has recently held meetings with our Tenant farming members who believed that the 1995 Act should be amended to include the same provisions as being made within the 1986 Act for dispute resolution.
46. We would emphasise that the challenges facing tenants in terms of entering schemes are various and complex. Although this proposed amendment is welcome, we would caution against any notion Welsh Government may hold, that the amendment represents a solution to the issues faced by tenants.
47. NFU Cymru continues to have serious reservations over the ability of tenant farmers to enter the Sustainable Farming Scheme from 2025 based on the information published by Welsh Government to date. This matter can only be addressed through the development of a suite of sustainable agriculture measures that can be undertaken on an annual basis.

Part 3, Chapter 1 – The collection and sharing of data (Clauses 24-31)

48. Part 3, Chapter 1 confers powers on Welsh Ministers in relation to the collection and sharing of data. NFU Cymru recognises that there may from time to time be various reasons making it necessary to collect and share data on agri-food supply chains.
49. As a Union we do have some concerns about the exercise of these powers by Welsh Ministers. We would as a starting point impose a duty on Welsh Ministers to consult with organisations representing the agricultural sector in Wales prior to using the powers set out in Clause 24 subsection (2)
50. In order to help protect data gathered under the provisions of Part 3, NFU Cymru would welcome a writing into the Bill of the data protection provision found at Section 49 of the Agriculture Act 2020. This seeks to ensure that disclosure or use of information does not contravene data protection legislation.
51. In conjunction with this a watchful eye needs to be kept on the status of the Data Protection Act 2018 (the UK's implementation of the General Data Protection Regulation) as it is not entirely clear what the UK Government's intentions are with regard to retained EU law.
52. Clause 30 deals with the provision of required information and limitations on its processing. At 30(5)(a) the possibility arises of Welsh Ministers mandating the provision of information to persons other than the Welsh Ministers, and we would be very concerned if for example individuals and businesses were compelled to provide information to non-governmental organisations. We are also concerned by the possibility introduced at 30(10) that Welsh Ministers may disclose information other than in an anonymised form.

Clause 32 – Marketing Standards

53. NFU Cymru notes that Welsh Ministers will take a range of powers relating to marketing standards. As a Union we are mindful of the intersect (and therefore potential tensions) between the exercise of powers taken by Welsh Ministers in relation to marketing standards and the provisions of the Internal Market Act 2020.
54. Our members are proud of the high standards of production which underpin Welsh agricultural production, standards which we perceive to have come under a degree of threat as a result of Brexit, and we would regard the desire to uphold our high standards as commendable.
55. The reality however is that although Wales will be able to make its own policy choices with regard to the marketing and production of agricultural produce, when it does this it cannot disregard what is happening in England, the other UK home nations, the EU27 and further afield.
56. It is of course open to Welsh Government to insist on certain (higher) standards from Welsh farmers. If for example farmers in England were subject to lower standards of production or less exacting marketing standards, in terms of costs of production, England's farmers would enjoy a competitive advantage over and above their Welsh counterparts as the provisions of the Internal Market Act 2020 would mean that Welsh Government would be unable to exclude products produced to different (lower) standards from being marketed and sold within Wales' borders.
57. NFU Cymru therefore recognises that the practical real-world corollary of the combination of the sheer size of the English agricultural economy relative to those of the other home nations, and the Internal Market Act, is likely to be the effective foreclosing of some devolved policy choices.
58. We therefore urge Welsh Government to continue to work with Governments in the other UK home nations to ensure that high standards are upheld and resist any race to the bottom when it comes standards.

Clause 48 – Meaning of ‘agriculture’ and related references

59. At Clause 48 the Act seeks to define agriculture. The definition used is quite broad and the use of the formulation ‘agriculture means’ (rather than ‘agriculture includes’) suggests that the definition the Welsh Government has opted for is intended to be exhaustive, something which would appear to conflict with the explanatory notes, which appear to suggest that the Welsh Governments’ chosen definition is not intended to be exhaustive (page 77, paragraph 3.298).
60. It may be desirable to ensure that agriculture is defined non-exhaustively so that there is the potential to encompass activities which are not currently on the list. This would bring the Bill into line with its explanatory notes which would appear to suggest that the list is not intended to be exhaustive.

Clause 49 – Meaning of ‘ancillary activity’

61. Turning our attention to the meaning of ancillary activities set out at Clause 49. It would appear that two categories of ancillary activity are in the contemplation of Welsh Ministers, the first relating to environmental land management and the second relating to activities such as packaging, selling, and distributing agricultural products.
62. We do have concerns about the environmental focus of the first category of ancillary activities. That said, we consider it positive that the Clause 49(a)(i),(ii) and (iii) ancillary activities have to be carried out on agricultural land, however NFU Cymru would go further and would introduce a requirement that these ancillary activities are conducted *by producers of agricultural products*.
63. Turning to the ancillary activities listed at 49(b), NFU Cymru is of the view that it would be helpful to make it clear on the face of the Bill that products sold, marketed, prepared, packaged, processed, or distributed should derive from *Welsh* agriculture.
64. Reference is made to ancillary activities in many parts of the draft bill, and so it is important to arrive at a definition which is acceptable to all relevant stakeholders.

Clause 50 – Power to amend sections 48 and 49

65. At Clause 50 Welsh Ministers take powers to amend the definitions of ‘agriculture’ and ‘ancillary activities’ by regulation. NFU Cymru considers these definitions to be integral to the Bill and its aims.
66. Although it is reassuring that the affirmative procedure will be used in relation to any alterations to the definitions of ‘agriculture’ and ‘ancillary activities’ it remains a significant concern that it will be open to Welsh Minister to amend these definitions with no engagement with the agricultural sector, and with very limited involvement for the Senedd. NFU Cymru is of the view that it would be sensible to require Welsh Ministers to consult before amending the definitions of agriculture or ancillary activity.