

Agriculture (Wales) Bill

Stage 2 amendments

May 2023



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This briefing summarises Stage 2 of the Agriculture (Wales) Bill's passage through the Senedd.

During **Stage 2** of a Bill's scrutiny, Members of the Senedd table amendments which are debated and voted on by a committee. Only members of the responsible committee can vote on amendments. Once the last amendment has been voted on, the Bill moves to Stage 3 where further amendments are tabled. Selected amendments are debated and voted on by the Senedd in Plenary.

Stage 2 consideration of the Agriculture (Wales) Bill (the Bill), by the Economy, Trade and Rural Affairs Committee (the Committee), began on 8 February 2023 and concluded on 23 March. The Committee met to consider the Stage 2 amendments **on 23 March 2023**; 61 amendments were tabled, with 14 agreed.

Further detail on the Bill's provisions and its scrutiny during Stage 1 is available in our **Agriculture (Wales) Bill: Bill Summary**. Other key documents include:

- **Agriculture (Wales) Bill** and **Explanatory Memorandum** as introduced;
 - **Agriculture (Wales) Bill** as amended at Stage 2;
 - Economy, Trade and Rural Affairs Committee **Stage 1 Report** and Welsh Government **response**;
 - **Grouped list of Stage 2 amendments**; and
 - **Marshalled list of Stage 2 amendments**.
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1. Introduction

The Agriculture (Wales) Bill was introduced to the Senedd on 26 September 2022 by the Minister for Rural Affairs and North Wales, and Trefnydd (the Minister).

The Bill introduces a new framework for agricultural support based on ‘Sustainable Land Management’. It allows transition from the EU’s Common Agricultural Policy system of support.

If enacted, these new powers will allow introduction of the Welsh Government’s **Sustainable Farming Scheme** (SFS). The **outline SFS** was published in July 2022 and is subject to further consultation before its planned introduction in 2025. The proposed SFS would reward farmers for predominantly environmental actions, alongside sustainable food production. Another **Senedd Research guide** provides a summary of the SFS proposals.

The Bill also:

- includes powers for Welsh Ministers to replace those due to expire in the **UK Agriculture Act 2020**. These powers relate to intervention in agricultural markets, the collection and sharing of data, and marketing standards and carcass classification;
- amends the **Agricultural Holdings Act 1986** to establish dispute resolution processes for Agricultural Holdings Act (AHA) tenants, aiming to help them access future support;
- amends the **Forestry Act 1967**, giving Natural Resources Wales (NRW) powers to add environmental conditions to tree felling licences, and to amend, suspend and revoke felling licences; and
- amends the **Wildlife and Countryside Act 1981** to prohibit the use of snares (and other cable restraints) and glue traps.

2. Stage 2 amendments

The Economy, Trade and Rural Affairs Committee considered the **61 tabled amendments** to the Bill on 23 March 2023. Fourteen were agreed – all government amendments.

Amendments were **grouped together** to facilitate debate - there were 16 groups. The **Marshalled list** sets out the amendments in the order in which they were disposed of.

Fourteen amendments were brought forward by the Minister, 42 by Samuel Kurtz MS (with nine of these supported by Luke Fletcher MS), and five by Luke Fletcher MS.

Details of the amendments from each group, along with their fate, are set out below.

Group 1: The Sustainable Land Management objectives

This group included eight amendments (57, 1A, 1, 43, 2, 3, 29 and 4). The only amendment agreed in this group was government amendment 29.

Amendment 29 added “the resilience of agricultural businesses within the communities in which they operate” as a relevant factor in determining whether food and other goods are produced in a sustainable manner for the purposes of the first Sustainable Land Management (SLM) objective of the Bill. The Minister said the amendment was a result of discussions with Plaid Cymru as part of the **Co-operation Agreement**.

The other amendments, tabled by Samuel Kurtz MS and Luke Fletcher MS, were not agreed. These included:

- to introduce a requirement to protect food security in the first SLM objective (amendment 57);
- to be clearer on who receives support – specifically, active farmers (amendments 1 and 1A);
- to include the word “landscape” to add clarity about the land being conserved (amendment 43);
- to emphasise conservation and enhancement of “existing” public access (amendment 2);
- to add “protect economic viability” to the fourth SLM objective to protect farm businesses (amendment 3); and
- to introduce a fifth SLM objective, that seeks to safeguard rural livelihoods and communities (amendment 4).

Group 2: Equal status of the objectives

This group included one amendment (amendment 5) from Samuel Kurtz MS, which was not agreed. It aimed to ensure each of the SLM objectives are “treated equally and are to be considered together”.

Group 3: Sustainable Land Management reporting

This group included five tabled amendments (58, 44, 6, 7 and 45) from Samuel Kurtz MS and Luke Fletcher MS. None were agreed.

The amendments aimed to:

- improve the SLM reporting requirement upon the Welsh Government by including an explanation of how Welsh Ministers have complied with their duties in relation to the SLM objectives in conjunction with any indicators and targets (amendment 58);
- advance the deadline for publishing and laying the statement of SLM indicators and targets (amendment 44);
- introduce a requirement on Welsh Ministers to produce a 'Productivity Report' which would be an assessment of agricultural productivity and food production (amendments 6 and 7); and
- increase the frequency of SLM reports (amendment 45).

Group 4: National Minimum Standards

This group included one amendment (amendment 46), which was a **'probing amendment'** from Samuel Kurtz MS and was withdrawn following debate. It aimed to require the Welsh Ministers to bring forward National Minimum Standards (NMS) alongside any new agricultural support scheme. NMS would provide the regulatory baseline above which farmers would be rewarded via the SFS.

NMS already exist and include EU **'cross-compliance'** rules. Within this, Statutory Management Requirements (SMR) apply to all farmers and contravention is a criminal offence. Good Agricultural and Environmental Conditions (GAEC) apply to those receiving the CAP system of support and contravention leads to penalties in terms of that financial support. **The Minister's intention** has been to consolidate existing legislation, including that which currently underpins the cross-compliance requirements, to give clarity on NMS. **The White Paper** preceding the Bill, proposed powers that would enable the Welsh Ministers to create NMS through regulations, which would be used to consolidate existing legislation. It also proposed to introduce primary powers for a range of civil sanctions for non-compliance. The NMS and civil sanctions powers were not included in the Bill as introduced.

The Committee's **Stage 1 report** on the Bill noted the high level of expectation from stakeholders that NMS should be brought in alongside any new agricultural support scheme. It recommended (Recommendation 4) the Minister should give

further consideration to how the policy intent around NMS is communicated to stakeholders as part of development of the SFS. It asked the Minister to confirm her intentions with regard to the NMS, including whether further legislation will be brought forward. In addition to the **Minister's response** to the report, she updated the Committee during Stage 2 proceedings, highlighting that NMS already exist.

She said:

Cross-compliance provides for the administrative monetary penalty scheme that applies to recipients of the basic payment scheme, and will be considered as part of the design of the sustainable farming scheme. As already stated, officials are exploring whether new primary and secondary legislation powers are required to confirm the existing regulatory baseline and its regulations; or provide a mechanism to create new NMS, and consolidate the existing regulations comprising NMS under a single statute and regulation.

Samuel Kurtz MS withdrew the amendment following this explanation.

Group 5: Provision of support for farmers

This group included nine amendments (8, 9, 30A, 30, 10, 11, 12, 13 and 47) from Samuel Kurtz MS and the Minister. Only the government amendment (amendment 30) was agreed.

Amendment 30 introduces three additional purposes to the power to provide support under section 8 of the Bill. These are:

- helping rural communities to thrive and strengthening links between agricultural businesses and their communities;
- improving the resilience of agricultural businesses; and
- sustaining the Welsh language and promoting and facilitating its use.

The Minister said the amendment:

...supports the resilience of agricultural business through enabling an effective, efficient, sustainable and, therefore, profitable production base and supply chain that links back to the farmer.

The other amendments from Samuel Kurtz MS, which were not agreed, included:

- to change the terminology as to the exhaustiveness of the list of purposes for which support may be provided under section 8 (amendment 8);
- to include economic, social and cultural elements of sustainability explicitly within the first purpose of support under section 8 (amendment 9);

- to add “economic” to government amendment 30 “to strengthen the economic resilience of agricultural businesses” (amendment 30A);
- to add specific reference to those “starting an agricultural activity, or improving the productivity of an agricultural activity” and ensure dedicated support for new entrants and those returning to the industry (amendments 10 and 11);
- to remove the phrase “maximising” and replace it with “optimising” carbon sequestration and storage - in an aim to avoid this purpose being detrimental to other SLM objectives and to ‘optimise’ what already exists to improve the efficiency of carbon capture (amendment 12);
- to specifically include the use of renewable energy and renewable technologies as a purpose for support (amendment 13); and
- to limit financial support to certain recipients i.e. the Welsh farmer rather than **“multinational corporations or other bodies who are in possession of Welsh agricultural land [and] have access to or are in receipt of public money”** (amendment 47).

Group 6: Recovery of amounts due

This group included three government amendments (31, 33 and 34), all were agreed.

These were technical amendments in response to a **Legislation, Justice and Constitution (LJC) Committee’s recommendation** to ensure consistency in drafting. They would enable the recovery of any amounts due against monetary penalties, including security for payment by building upon the provisions contained in sections 11, 32 and 33.

Group 7: Multi-annual support plans

This group included two amendments (amendment 14 and 15). Both tabled by Samuel Kurtz MS and subsequently withdrawn following debate.

Amendment 14 would have required Welsh Ministers to prepare ‘multi-annual support plans’ setting out expected use of the support powers under sections 8 and 9 of the Bill. A plan would feature details of Welsh Ministers’ strategic priorities for providing financial and other assistance during the plan period. **The rationale** for the amendments was “to provide those in receipt of Government funding with the necessary ability to prepare for future eventualities”. Section 4 of the Agriculture Act 2020 includes similar provisions for multi-annual financial assistance plans for farmers in England. The objective of amendment 15 was similar, but would give

Welsh Ministers more flexibility and instead requires a 'Statement of Intent'.

Luke Fletcher MS supported the amendments saying:

Without long-term funding security, Welsh farmers may struggle to plan and invest in their businesses, which could impact their ability to produce high-quality produce and meet the demands of consumers.

Both amendments were withdrawn. This followed the Minister's response that she is developing an amendment that makes provision for a multi-annual support plan to be tabled at Stage 3.

Group 8: Intervention in agricultural markets – input costs

This group included seven amendments (16, 17, 48, 49, 50, 51, 52), all from Samuel Kurtz MS, none were agreed.

The amendments in this group would allow a sudden or unexpected increase in agricultural input costs to constitute 'exceptional market conditions'. In turn, this would allow financial support to be granted to farmers under section 21. Samuel Kurtz MS said they were tabled in order to support the agricultural industry should there be a significant change in input costs, citing recent events including the Ukraine war and increases in the costs of food, fertiliser and fuel.

The Minister told the Committee "Providing financial assistance for input costs could have an adverse impact on the UK internal market and our subsidy control obligations".

Group 9: Agricultural tenancies

This group included four amendments (53, 54, 55 and 59) from Samuel Kurtz MS and Luke Fletcher MS. Amendment 54 was withdrawn following debate, and the others were not agreed.

Section 23 of the Bill amends section 19A of the Agricultural Holdings Act 1986. This amending power confers regulation-making powers on the Welsh Ministers to provide dispute resolution arrangements for agricultural tenants. This would support those in dispute with landlords about restrictive tenancy agreement clauses, which may prevent them from accessing financial assistance provided under the Bill. This power does not extend to Agricultural Tenancies Act 1995 tenants.

Withdrawn amendment 54 would have required Welsh Ministers to make regulations that enable farm tenants (under the Agricultural Tenancies Act 1995) to request arbitration where they have not been able to agree changes to their tenancy agreement with a landlord. This would be for the purposes of entering into a specific financial assistance scheme (in the same way as farm tenants letting under the Agricultural Holdings Act of 1986).

The Minister committed to give further consideration to amendment 54 for Stage 3, and so it was withdrawn.

The other amendments, which were not agreed, aimed to:

- ensure that in every circumstance the landlord's consent is required, and the tenant, therefore, has the option to object to the landlord's "unreasonable refusal" to allow them to access the scheme (amendment 53);
- align the rules of good husbandry with the SLM objectives of the Bill (amendment 55); and
- enable a wider pool of close relatives to apply to succeed to an Agricultural Holdings Act tenancy agreement on the retirement of the tenant than is currently provided for (amendment 59).

Group 10: Collection of data

This group included three amendments (18, 32 and 19) from Samuel Kurtz MS and the Minister. Only the government amendment (amendment 32) was agreed.

The government amendment 32 was a minor technical amendment, with the purpose and effect of achieving consistency in drafting throughout the Bill.

Samuel Kurtz MS amendments 18 and 19 were probing amendments and sought to ensure that data protection legislation is recognised within the framework of the Bill. **The Minister responded** to the amendments saying:

The data collection and sharing provisions within the Bill are very detailed and include several limitations and safeguards relating to the purposes for which data can be collected and how the data is to be processed... It continues to be both the policy and wider Welsh Government intent to not sell data on to third parties.

Group 11: Forestry

This group included two probing amendments (20 and 21) from Samuel Kurtz MS, both of which were withdrawn following debate.

Samuel Kurtz MS explained these amendments were tabled to generate discussion around the issue of felling licences issued by NRW to itself. **He said:**

The current provision permits NRW, the body responsible for issuing, to provide itself with licences for felling on NRW-owned land. Now, this doesn't sit that comfortably with me. Indeed, there are very few sectors where this programme would be permissible and acceptable, so it's with that understanding I wish to ask the Minister her views on the situation a little bit further.

Amendment 20 would have amended the Forestry Act 1967 by requiring Ministers to appoint a separate body as the appropriate forestry authority in circumstances where NRW was the tree felling licence applicant or holder. **The Minister responded:**

Any conflict of interest is managed through the functional separation of the regulatory and operational functions within NRW's structure. NRW carry out their roles transparently, and all of their forest resource plans are publicly available online. The fundamental change to the Forestry Act 1967, as proposed by the amendment, is unnecessary and outside the scope of the forestry provisions within the Bill, as introduced.

Amendment 21 sought to require a post-implementation review of the operation of the provisions to be inserted in the Forestry Act 1967, and publishing the conclusions within three years. The Minister responded:

...we have already made the commitment to conduct a post-implementation review of the legislation within three years of commencement of amendments to the Forestry Act 1967, and this is also set out in the explanatory memorandum. Undertaking a post-implementation review is a normal part of introducing primary legislation and does not need to be on the face of the Bill.

Group 12: Wildlife - use of snares

This group included four amendments (23, 24, 25 and 22) from Samuel Kurtz MS. None were agreed.

Samuel Kurtz MS said these amendments aimed to "tightly" regulate the use and purchase of code-compliant "humane cable restraints" - only to be used in areas of conservation of a specific species.

Group 13: Regulations-making procedure

This group included one government amendment (amendment 35) which was agreed.

This amendment addressed the **recommendations of the LJC Committee** to change the regulation-making procedure from the negative to the affirmative procedure for sections 15, 16, 17, 18 and 22 of the Bill. **The Minister said:**

The affirmative procedure will provide the appropriate opportunity for more robust scrutiny and accountability should Welsh Ministers decide to exercise the power to make regulations in the provisions relating to the basic payment scheme, the common agricultural policy, apiculture, rural development and public market intervention and private storage aid.

Group 14: Definition of agriculture

This group included four amendments (26, 27, 36 and 28) from Samuel Kurtz MS and the Minister. Only the Minister's amendment (amendment 36) was agreed.

Government amendment 36 provides clarity to the term 'agricultural businesses', to prevent any interpretive issues arising.

The amendments from Samuel Kurtz MS would require changes in the definition of 'agriculture' in the Bill to have the consent of the Senedd, and ensure the industry was consulted beforehand.

Group 15: Commencement of Part 4 of Schedule 7 to the Agriculture Act 2020 – consequential amendments

This group included 6 amendments (37, 38, 39, 40, 41 and 42), all tabled by the Minister and all agreed.

They amend Schedule 3 to the Bill, which set out consequential amendments to the common market organisation regulations. **The Minister said** commencement of Part 4 of Schedule 7 to the Agriculture Act 2020 meant parts of Schedule 3 to the Bill were now obsolete. The amendments remove those provisions to make the law "clearer and more accessible".

Group 16: Long title

The only amendment in this group, amendment 56 from Luke Fletcher MS, was withdrawn following debate.

Amendment 56 aimed to change the long title of the Bill by expressly referring to both the Agricultural Holdings Act 1986 and the Agricultural Tenancies Act 1995, in light of amendment 54 (see 'Agricultural tenancies' section above). However, amendment 54 was withdrawn following the Minister's commitment to give further

consideration to the extension of the provisions to Agricultural Tenancies Act 1995 tenants. **The Minister said:**

If the Bill is amended at Stage 3 to include amendments to the 1995 Act, then I will reconsider this amendment to the long title at Stage 3.

Luke Fletcher MS withdrew the amendment following this assurance.

3. Next steps

Following the disposal of all amendments at Stage 2 proceedings on 23 March, the Bill began Stage 3 of the legislative process on 24 March 2023. During this stage, Members of the Senedd (including the Minister) can table amendments to the Bill as amended at Stage 2. Amendments tabled can be found on the **[Bill page on the Committee's website](#)**.

Stage 3 proceedings will take place in Plenary on 16 May.