

# Written evidence submitted by the Farmers' Union of Wales (AB45)

## Contents

About the Farmers' Union of Wales	1
Summary of key concerns	1
Supply chains and production	1
Divergence	1
Protecting UK markets, consumers and farmers	2
Comments regarding specific parts of the Bill	2
Part 1: Financial assistance	2
Part 1, Chapter 1: New financial assistance powers	2
Part 1, Chapter 2: Direct Payments after EU exit	3
Part 1, Chapter 3: Other financial support after Brexit	3
Part 2: Food and agricultural markets	4
Part 2, Chapter 1: Food security	4
Part 2, Chapter 2: Intervention on agriculture markets	4
Part 3: Transparency and fairness in the agri-food supply chain	4
Part 3, Chapter 1: Collection and sharing of data	4
Part 3, Chapter 2: Fair dealing with agricultural producers and others in the supply chain	5
Part 3, Chapter 3: Producer organisations	5
Part 4: Matters relating to farming and the countryside	5
Part 4, Section 32: Identification and traceability of animals	5
Part 4, Section 33: Red meat levy: payments between levy bodies in Great Britain	6
Part 5: Marketing standards, organic products and carcass classification	6
Part 5, Section 35: Marketing standards and Section 38: Carcass classification	6
Part 5, Sections 36 and 37: Organic products	7
Part 6: WTO agreement on agriculture	7
Part 6, Section 41: Regulations under section 40: limits on provision of domestic support in the United Kingdom	7
Part 6, Section 42: Regulations under section 40: classification of domestic support and provision of information	8
Schedule 3: Agricultural tenancies	8
Schedule 5: Provision relating to Wales	8
Schedule 5, Part 1: Financial support after EU exit	9
Schedule 5, Part 2: Interventions in agricultural markets	9
Schedule 5, Part 3: Collection and sharing of data	9
Schedule 5, Part 4: Marketing standards and carcass classification	9

## **About the Farmers' Union of Wales**

1. The Farmers' Union of Wales (FUW) was established in 1955 to exclusively represent the interests of farmers in Wales, and since 1978 has been formally recognised by the UK Government, and subsequently by the Welsh Government, as independently representing those interests.
2. The FUW's Vision is *thriving, sustainable, family farms in Wales*, while the Mission of the Union is *To advance and protect Wales' family farms, both nationally and individually, in order to fulfil the Union's vision.*
3. In addition to its Head Office, which has thirty full-time members of staff, the FUW Group has around 80 members of staff based in twelve regional offices around Wales providing a broad range of services for members.
4. The FUW is a democratic organisation, with policies being formulated following consultation with its twelve County Executive Committees and eleven Standing Committees.

## **Summary of key concerns**

### **Supply chains and production**

5. The FUW supports many of the principles which underpin what the Bill aims to achieve in terms of improving transparency and redressing imbalances of power along supply chains, maintaining standards, monitoring food security, encouraging production and simplifying legislation.

### **Divergence**

6. The FUW has major concerns regarding the degree to which the Bill would in future allow far greater divergence between regulations, budgets, minimum and maximum spending thresholds and other policies and approaches implemented in the four UK nations than would have been allowed under EU regulatory frameworks.
7. The scale of such divergence could potentially be unprecedented in recent history and have the effect of distorting markets and effecting unfair competition between businesses in different parts of the UK.
8. As an organisation which fully supports Welsh devolution, the FUW recognises that divergence is an inherent part of devolution. However, this has previously happened within the boundaries set by EU frameworks, and the Bill and related legislation

effectively removes or fails to replace the vast majority of such boundaries, either immediately or over time.

9. As such, the FUW has argued for the UK administrations to agree on a number of frameworks which ensure proportionate rules and spending limits are in place to protect businesses from market distortion and unfair competition, ensure the UK's internal markets and supply chains continue to function properly and meet agreed common objectives which are in all our interests<sup>1</sup>.

### **Protecting UK markets, consumers and farmers**

10. The FUW is extremely concerned that the Bill does not introduce means by which to prevent the importation of food produced to environmental, animal welfare and other production standards which fall short of those legally required of UK farmers, notwithstanding the provisions in relation to organic standards in Section 36(5).
11. Failure to prevent the importation of food produced to lower standards would not only compromise UK businesses required to operate under more costly regimes, but also result in a net fall in environmental and animal welfare standards, as production countries with lower standards would be favoured. Such adverse environmental impacts would include those relating to greenhouse gas emissions.
12. It must also be noted that if products which do not meet standards which are at least equivalent to EU standards are allowed to enter the UK, this will increase friction at UK-EU borders while undermining the UK's ability to reach an acceptable trade deal with the the prosperous EU market which is on our doorstep.

## **Comments regarding specific parts of the Bill**

13. Given that the FUW has many members who farm land in England, the following comments are not restricted to those Sections which relate only directly or indirectly to Wales.
14. Moreover, many of the comments relating to provisions in relation to England are also relevant to the equivalent Sections in Schedule 5 (Provision relating to Wales).

### **Part 1: Financial assistance**

#### **Part 1, Chapter 1: New financial assistance powers**

---

<sup>1</sup> [Filling the Void - Steps towards a post-Brexit UK policy framework. FUW Discussion Paper, July 2018](#)

15. The FUW welcomes the requirement for the Secretary of State to have regard to the need to encourage the production of food by producers in England and its production by them in an environmentally sustainable way.
16. Notwithstanding this, the fact that such a requirement relates only to England highlights the potential for divergence between overarching policies implemented by the UK nations, as referred to above, since a Bill introduced by Wales or Scotland may have an overarching objective which has no regard for or serves to disadvantage food production.
17. We would also emphasise our view that this section of the Bill should recognise the intrinsic value of supporting family farms and the rural communities of which they are an inherent social and economic part.

### **Part 1, Chapter 2: Direct Payments after EU exit**

18. The FUW welcomes the provisions allowing the Basic Payment Scheme to be simplified and made less burdensome for both farmers and government bodies.
19. Whilst the FUW fully supports the introduction of a successor scheme over a lengthy transition period, we would highlight the need for such a scheme to be designed in light of future trading arrangements, national priorities and the need to ensure family farms and rural communities remain economically viable.
20. In this context, we would highlight the fact that the concept of a 'public goods' scheme, as proposed in the previous UK Government's *Health and Harmony* consultation, was conceived some two decades ago and therefore cannot reflect modern needs and priorities nor trading arrangements which have yet to be agreed.
21. As such, the FUW has urged the Welsh and UK Governments to use the UK's exit from the EU as an opportunity to be truly innovative as regards designing future schemes that meet food production, environmental and social needs without placing farming families at a disadvantage compared with the farmers on the continent and in the Republic of Ireland against whom they will inevitably compete<sup>2</sup>. The impacts of any proposals should be thoroughly modelled before implementation to avoid adverse impacts.

### **Part 1, Chapter 3: Other financial support after Brexit**

22. The FUW generally welcomes the provision of powers relating to other financial support after Brexit, but would reiterate the view that such support should fall within a defined framework.

---

<sup>2</sup> [FUW response to the Welsh Government's Sustainable Farming and our Land consultation, Oct 2019 \(see section 5.74 - Alternative proposal for supporting farmers in a manner consistent with Sustainable Land Management\)](#)

## **Part 2: Food and agricultural markets**

### **Part 2, Chapter 1: Food security**

23. The FUW supports the requirement to prepare and lay before Parliament a report containing an analysis of statistical data relating to food security in the UK.
24. However, it must be noted that the fall in global food supplies from 2007 onwards which led to rationing and extreme civil unrest in many countries occurred rapidly, and it is therefore believed that such a report should be prepared annually, and that a maximum frequency of five years does not sufficiently reflect the food security risk to the UK.

### **Part 2, Chapter 2: Intervention on agriculture markets**

25. The FUW welcomes the measures in relation to exceptional market conditions in England, but once again notes the dangers that such a declaration and subsequent interventions in England, without equivalent moves in Wales, would introduce market distortions given the close relationship between English and Welsh producers and processors.
26. As such, it is believed the Bill should ensure that the Secretary of State (or the Welsh Ministers or DAERA, in terms of Schedules 5 and 6) have regard for the need to work with other administrations in order to minimise such adverse impacts.

## **Part 3: Transparency and fairness in the agri-food supply chain**

### **Part 3, Chapter 1: Collection and sharing of data**

27. The FUW generally welcomes the provisions in relation to the collection and sharing of data, but would emphasise the need to ensure that such data is not of a nature which disadvantages farmers either collectively or individually. As such, the FUW supports those objectives referred to in Section 23.
28. However, given that supply chains extend across the UK, we would once again raise the issue of possible divergence between data collection and sharing requirements in different parts of the UK, and the need therefore for the UK Government to work closely with devolved administrations to ensure relative uniformity.
29. Moreover, supply chains will also extend to countries outside the EU, and there is therefore a danger that limiting data collection requirements to activities in England or

the UK will disadvantage UK producers and processors or even encourage them to source food from outside the UK.

30. In this context, it is notable that price and market transparency measures currently being considered by the EU would extend, where relevant, to Third Countries, and it is believed that the Bill should take account of how transparency may be extended to include imported produce.

### **Part 3, Chapter 2: Fair dealing with agricultural producers and others in the supply chain**

31. While Section 27 gives the Secretary of State welcome powers to impose written contracts or specific contract terms, the Bill might also be amended to extend the powers of the Groceries Adjudicator to cover all major operators along the whole supply chain.

### **Part 3, Chapter 3: Producer organisations**

32. Whilst the provisions in relation to producer organisations are welcome, Chapter 3 raises questions in terms of how devolved administrations with powers in relation to agriculture should be properly involved in the process of approving an application to become a producer organisation.
33. As such, where an application by farmers in a devolved nation is supported by that nation's devolved Government but objected to by the Secretary of State, the Bill in its current form would fail to place any weight on the view of the devolved administration, despite that administration having a range of other powers over agriculture (including many granted through the Bill).

## **Part 4: Matters relating to farming and the countryside**

### **Part 4, Section 32: Identification and traceability of animals**

34. The FUW has significant concerns that Section 32 allows the Secretary of State to assign functions to a body established under Section 87(1)(a) of the Natural Environment and Rural Communities (NERC) Act 2006 relating to the identification of animals, and collecting, managing and making available information on animal identification, movement and health in all parts of the UK.
35. Under Sections 87(2) and (3) of the NERC Act, an order may specify only one geographic area in relation to which assigned functions are exercisable, but Section 32(1) of the Agriculture Bill may grant powers to that body relating to other geographic areas.

36. As such, a body governed by a board comprising members from, or representing only one geographic area, with current powers to act in only that area, may, under Section 32, be granted powers relating to the identification of animals, and collecting, managing and making available information on animal identification, movement and health in other geographic areas of the UK.
37. Such an outcome would significantly undermine devolved administrations and democratic answerability in an unacceptable way, and the FUW therefore believes that significant changes should be made to Section 32 to negate these concerns.
38. Notwithstanding this, the FUW fully supports the maintenance of single UK databases which collate information relating to animal traceability and identification from national databases in order to rapidly respond to, for example, disease outbreaks. However, the FUW believes that the responsibility for such data should sit with a UK Government body.

#### **Part 4, Section 33: Red meat levy: payments between levy bodies in Great Britain**

39. The FUW fully supports the provisions under Section 33 given that many millions have been paid by Welsh farmers to levy bodies outside Wales, effectively making such funds unavailable for promotion, research and other activities under the direction of the Welsh levy board Hybu Cig Cymru.

#### **Part 5: Marketing standards, organic products and carcass classification**

##### **Part 5, Section 35: Marketing standards and Section 38: Carcass classification**

40. Given that Section 35 relates to marketing standards for agricultural products marketed in England; that Part 4 of Schedule 5 of the Bill relates to marketing standards for products marketed in Wales; and the degree of trade between England and Wales, we would suggest that the Bill should include an obligation for the Secretary of State and Welsh Ministers to avoid any adverse impacts caused by divergence while respecting devolved powers and needs.
41. Similar concerns exist in relation to Section 38 and the equivalent part of Schedule 5 in terms of differences between carcass classifications introduced in England and Wales.

## **Part 5, Sections 36 and 37: Organic products**

42. Whilst Section 36 relates to organic standards and related matters across the UK, Section 37 provides powers relating to Section 36 to the Secretary of State in any case, and to each of the devolved administrations where the regulations would be within the legislative competence of that administration.
43. On the one hand, this raises concerns about divergence between standards required of organic producers in different parts of the UK despite major supply chains extending across all four nations, while on the other, Section 37(1)(a) implies that the Secretary of State might be able to override decisions made by devolved administrations.
44. This gives rise to significant concerns and confusion, and once again we would emphasise the need for the Bill to ensure divergence can take place only within thresholds agreed by all UK administrations, such that devolution is respected but unfair competition and market distortion minimised.
45. Section 36(5) allows regulations to be made in relation to the import of organic products into the UK.
46. The FUW welcomes this provision, but believes that, where possible in terms of World Trade Organisation rules, the Bill should be amended to include equivalent Sections which prevent the import of products which do not comply with those standards, including environmental and animal health and welfare standards, required of UK farmers either by law or under certification schemes other than those related to organic products.

## **Part 6: WTO agreement on agriculture**

### **Part 6, Section 41: Regulations under section 40: limits on provision of domestic support in the United Kingdom**

47. It is notable that Section 41 stands in stark contrast to the regimes currently and previously in place under the Common Agricultural Policy, in that regulations relating to the latter set a multitude of thresholds which include both minimum and maximum percentages for different types of support and intervention.
48. By contrast, Section 41 appears to refer only to maximum limits, potentially allowing major divergence between overall and targeted spending in each of the UK nations.
49. As such, the FUW believes that Section 41 should be amended to allow regulations to be introduced, following consultation and agreement between the four UK nations,

which specify both minimum and maximum spending thresholds in relation to specific policy areas<sup>3</sup>.

### **Part 6, Section 42: Regulations under section 40: classification of domestic support and provision of information**

50. The FUW welcomes the provisions under Section 42 in terms of categorising different types of support and dispute resolution. However, as indicated at 49., it is believed that multiple categories of support should be defined and considered.

### **Schedule 3: Agricultural tenancies**

51. The FUW generally welcomes the proposed amendments to the Agricultural Holdings Act 1986 and the Agricultural Tenancies Act 1995.
52. However, the FUW would support further amendments to those Acts in line with its response to the 2019 Agricultural Tenancy Reform Consultation, either through the Bill or under separate legislation.

### **Schedule 5: Provision relating to Wales**

53. Notwithstanding the concerns expressed in relation to the need for frameworks which reduce the scope for divergence between the UK nations, the FUW generally supports the provision relating to Wales.
54. Schedule 3 of the previous (2017-2019) Agriculture Bill provided the Welsh Ministers with significantly less flexibility than is currently the case under the (now transposed) EU Regulations, as it merely replicated the equivalent English section of the Bill, focussing on mechanisms by which to replace the Basic Payment Scheme with a public goods scheme. Moreover, the similarities were such that even the agricultural transition period for both the English and Welsh sections were identical, despite the two administrations having consulted on different transition periods.
55. As such, the FUW welcomes the fact that the new Agriculture Bill makes no such prescriptive proposals, either for Wales or England, thereby allowing both administrations to design genuinely innovative schemes in light of post-transition period trading arrangements and modern needs and priorities.

---

<sup>3</sup> Please see page 15 (Financial Frameworks) of [Filling the Void - Steps towards a post-Brexit UK policy framework. FUW Discussion Paper, July 2018](#)

### **Schedule 5, Part 1: Financial support after EU exit**

56. The FUW welcomes those provisions allowing the Welsh Ministers to extend, modify, simplify or improve the Basic Payment Scheme and make penalties more proportionate.

### **Schedule 5, Part 2: Interventions in agricultural markets**

57. The FUW would reiterate the comments made at 25. and 26. in relation to Chapter 2 of the Bill, particularly in relation to the need to ensure that the the Welsh Ministers have regard for the need to work with other administrations in order to minimise market distortion and unfair competition.

### **Schedule 5, Part 3: Collection and sharing of data**

58. The FUW would reiterate the comments made at 27. to 30. in relation to Part 3 Chapter 1, particularly in relation to possible divergence between data collection and sharing requirements in different parts of the UK, and the need therefore for the Welsh Ministers to work closely with other administrations to ensure relative uniformity.

### **Schedule 5, Part 4: Marketing standards and carcass classification**

59. The FUW would reiterate the comments made at 40. and 41. In relation to Chapter3, Part 5, Sections 35 and 38, particularly in relation to the need for the Bill to include an obligation that administrations avoid any adverse impacts caused by divergence while respecting devolved powers and needs.

*February 2020*