

**Consultation**



Llywodraeth Cymru  
Welsh Government

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# **Sustainable Farming and Our Land: Proposals to continue and simplify Agricultural Support for Farmers and the Rural Economy**

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**Date of issue: 31 July 2020**

**Action required: Responses by 23 October 2020**

## Overview

This consultation proposes a regulatory basis for the Welsh Government to continue to support farmers, land managers and the wider rural economy after the end of the EU Withdrawal Agreement Implementation Period, which is currently due to end on 31 December 2020. It provides a framework to support the competitiveness of farming and food production, whilst responding to the climate emergency in the interim period ahead of the planned introduction of an Agriculture (Wales) Bill in the next Senedd term.

## How to respond

### How to Respond

We appreciate you taking the time to read and respond to this consultation.

All consultation questions are optional, except for the 'About you' section. This shows us if the consultation has engaged with a diverse and broad range of people.

Responses on behalf of organisations will be analysed separately from responses from individuals, so it is important that we know in which capacity you are responding.

If you are responding on behalf of an organisation, we ask for your name and the organisation's name. However, you have the option to remain anonymous if you wish. Please refer to the Data Protection section for further information about how this is used.

The consultation will run from 31 July to 23 October 2020. Any responses received after this time will not be included in the analysis of the consultation responses.

Tell us what you think. Your views are important to us. They will help us refine and shape our proposals.

The closing date for the consultation is 23:59 on 23 October 2020.

You can reply in any of the following ways:

### Online

The consultation document can be accessed from the Welsh Government's website at:

<https://gov.wales/sustainable-farming-and-our-land-simplifying-agricultural-support>

**Further information and related documents**

**Large print, Braille and alternative language versions of this document are available on request.**

**Contact details**

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**Also available in Welsh at:**

<https://llyw.cymru/ffermio-cynaliadwy-tir-symleiddio-cymorth-amaethyddol>

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

e-mail:

[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113

Website: <https://ico.org.uk/>

## Ministers' Foreword

Welsh land matters to us all. It sustains livelihoods, supports communities and generates natural resources on which we all rely. Those who manage it contribute a huge amount to our economy, environment, our rural communities and our country.

Last year's, "Sustainable Farming and our Land" consultation document presented revised proposals to provide long term stability for Welsh farmers, foresters and land managers. No final decisions have yet been taken on the nature of any new scheme, but this work is ongoing and many stakeholders are engaged in the development of a new approach, designed around the Sustainable Land Management framework.

This consultation is concerned with simplifying the current CAP regulations, until the Welsh Government's plans for the future of agriculture and the rural economy are delivered through a White Paper and introduction of an Agriculture (Wales) Bill in the next Senedd term.

The proposals establish a simpler interim framework, which will support the competitiveness of farming and food production, whilst responding to the climate emergency, reversing biodiversity decline, ensuring high standards of animal health and welfare and protecting our natural resources.

I welcome your views on the proposals.



Lesley Griffiths MS  
Minister for Environment,  
Energy and Rural Affairs



## Consultation Summary

On the 31 January 2020 the United Kingdom (UK) left the European Union (EU) and entered the Implementation Period, which is due to end on the 31 December 2020.

To continue to support Welsh farmers and the wider rural economy until new agricultural support schemes are available, designed around the Sustainable Land Management principles, the Welsh Government is proposing to continue with the existing Common Agricultural Policy (“CAP”) regulatory framework, making some simplifications and integrating it with our unique legislative framework, specifically the Environment (Wales) Act 2016 and the Well-being of Future Generations (Wales) Act 2015.

The UK Agriculture Bill currently progressing through Parliament will afford Welsh Ministers the powers to make changes to retained direct EU legislation.

Schedule 5 to the Bill includes powers for the Welsh Ministers to amend and extend retained direct EU legislation to streamline the administration of the scheme or make its operation more efficient or effective; remove provisions which are spent or have no practical utility; remove or reduce burdens on persons applying for direct payments; ensure sanctions applied are appropriate and proportionate and to limit the application of the scheme to Wales.

Schedule 5 also includes broad powers for the Welsh Ministers to modify legislation which relates to support for rural development (“RDP”).

The proposals in this consultation set out a number of small but impactful changes to the scheme requirements, which retain the main elements of the current regulatory framework, and deliver the Welsh Government’s policy that high food safety, animal welfare and environmental standards must be maintained.

The proposed changes will only apply to the new domestic BPS and RDP, which will commence in scheme year 2021. The proposed changes are intentionally limited to adjusting or removing aspects no longer considered necessary in Wales. Significant changes are expected under the Sustainable Farming schemes which will be covered by the future Agriculture (Wales) Bill.

The existing EU funded BPS (claim year 2019 and earlier), and RDP schemes will continue to operate under EU law pursuant to the terms of the Withdrawal Agreement. This means the Welsh Government Rural Communities - Rural Development Programme 2014-2020 (the RDP) will continue until 31 December 2023 and continue to operate under EU Law; and any new domestically funded programme for rural development will operate under retained EU law, subject to any amendments made using powers in the UK Agriculture Bill.

The proposed changes ensure these support programmes for the rural economy remain closely aligned until the future Agriculture (Wales) Bill is available as part of a multi-year transition.

## **Basic Payment Scheme Proposals**

The BPS has been a major part of farm business incomes since 2015 and is currently the main vehicle to deliver funding to farmers in Wales. The following proposals allow the continuation of the regulatory framework whilst reducing complexity.

In our consultation, Sustainable Farming and our Land, we were clear on our intention to replace BPS, but also confirmed there would be sufficient time for farmers and land managers to transition to any new arrangements and proposed a multi-year transition period. In addition, to provide reassurance, in November 2019 the Minister for Economy, Environment and Rural Affairs announced the BPS would continue unchanged in 2021, subject to sufficient replacement funding being provided by UK Government.

This part of the consultation sets out proposals to deliver a simplified BPS scheme in Wales, providing a legislative and domestic framework to deliver direct agricultural support to Welsh farmers until the Agriculture (Wales) Bill is available.

### **1. BPS payment rates and annual allocation**

Background:

The funds for agricultural support, including BPS 2021, will be provided as part of the UK Government comprehensive spending review, anticipated in Autumn 2020. Once confirmed, the UK Agriculture Bill will then afford Welsh Ministers powers to provide for the amount available for BPS (the “direct payments ceiling”) for Wales in any relevant year.

Currently, the EU legislation that governs CAP requires individual budgets to be established for each element that make up the annual BPS payment (BPS, Greening, Re-distributive and Young Farmer). Those individual budgets are taken into account alongside the total number of hectares declared each year to calculate payment rates.

There are circumstances which may prevent the total budget being spent each year, including where administrative penalties are applied to claims or entitlements are held in the National Reserve, prior to being reallocated. In previous years, this unspent funding allocated to BPS has not been able to be repurposed and was instead retained by the European Commission as part of the EU wide Multiannual Financial Framework funding arrangement.

Proposal:

We propose to set the Welsh BPS ceiling annually, and provide flexibility for Welsh Ministers to allocate any remaining funding allocated to BPS

Q1. Do you agree with the proposal for Welsh Ministers to set the BPS ceiling, in regards to Wales?

Q2. Do you agree with the proposal to allow the Welsh Ministers flexibility to control any unspent funding allocated to BPS?

## **2. Cross border single application rule (UK wide)**

Background:

Where land is being used for agricultural purposes, separate claims are submitted to each Paying Agency in England, Scotland, Northern Ireland or Wales. EU Law requires those separate claims to be treated as a single claim across the whole of the UK.

Checks are completed against each BPS claim and results shared between respective paying agencies. Once completed the lead Paying Agency completes processing and payment (or notifies a debt).

The minimum claim size rules for Wales require a minimum of 5 eligible hectares to be declared in support of an eligible claim. There are approximately 600 cross border farms with land on either side of the England/Wales border and a few farms with land in Scotland.

Proposal:

It is proposed to only take Welsh land into account for calculating BPS claims in Wales. As a result, payments will be made as soon as checks in Wales are completed. Administrative penalties discovered on land located in other UK administrations will not be applied to Welsh claims. However, where less than 5 hectares of Welsh eligible land is available, the Welsh claim would be considered ineligible and rejected under the minimum claim size rules.

Q3. Do you agree with the proposal to remove cross-border applications and only consider Welsh land for BPS claims in Wales, removing the need to wait for checks from other paying agencies?

Q4. Do you agree with the proposal for minimum claim size to remain unchanged and not to make any provision for farmers who currently rely on land in another part of the UK to achieve the minimum claim size area of 5 eligible hectares?

## **3. Greening**

Background:

As part of the BPS, farmers must undertake mandatory agricultural practices which are beneficial for the climate and environment, commonly referred to as Greening.

Claimants cannot forego the Greening requirements and still claim the remaining BPS payment.

BPS claimants receive an additional payment linked to their main BPS payment for meeting the Greening rules. The payment is calculated using 30% of Wales' share of the Direct Payments (Pillar 1) budget.

Currently, around 97% of Welsh claimants meet the Greening requirements, and therefore receive this payment, via their permanent pasture declarations as opposed to having to carry out additional environmentally beneficial practices.

The Greening requirements are:

- Crop diversification:

On eligible arable land between 10 and 30 hectares in size, farmers are required to grow two different crops. The main crop may not exceed 75% of the land. If the eligible arable land is larger than 30 hectares in size, you will need to grow at least 3 different crops, none of which may cover more than 75% of your arable land. The two largest crops together must not cover more than 95% of your arable land.

- Maintaining existing permanent grassland:

Land designated as environmentally sensitive permanent grassland (ESPG) in 2015 may not be ploughed or converted to arable use under the Greening rules.

The Welsh Government took the option to include Sites of Special Scientific Interest (SSSI) in the definition going beyond the minimum requirement to designate Special Areas of Conservation (SAC) or Special Protection Areas (SPA). Recognising some individual field parcels deliver environmental benefits if occasionally ploughed or used to grow specific arable crops (e.g. Gwent levels), provision is made for Natural Resources Wales (“NRW”) to approve those changes in land use.

No more than 5% of land in Wales classified as permanent grassland may be ploughed or converted to other uses in any year.

- Having Ecological Focus Area (EFA) on the agricultural area:

Where the arable land of a holding covers more than 15 hectares, the farmer shall ensure, from 1 January 2015, an area corresponding to at least 5 % of the arable land of the holding the farmer declared is an EFA.

Operational experience of delivering the Greening requirement has led to the conclusion that it offers limited additional environmental benefit in Wales.

Monitoring confirms there are low levels of arable cropping and minimal land use change affecting permanent grassland (including ESPG). Typically the hedgerows and stonewalls declared to deliver EFA requirements are already protected as Landscape Features under the Good Agricultural and Environmental Condition (“GAEC”) of Cross Compliance checks.

Additionally, the current system of Greening measures has received audit criticism since introduction and are not considered to deliver against the original environmental ambitions.

The European Court of Auditors (ECA) published a special report in 2017, “*Greening: a more complex income support scheme, not yet environmentally effective (2017)*”, seeking to influence future CAP reforms which has looked at the impact of Greening regulations in some detail. The report found that:

- Greening is unlikely to provide significant benefits for the environment and climate, mainly because of the significant deadweight which affects the

policy, and it estimated greening led to changes in farming practices on only around 5% of all EU farmland;

- likely results of Greening do not justify the significant complexity which its inclusion adds to the CAP. Part of this complexity results from overlaps between greening and other environmental instruments of the CAP, including GAECs. Greening resembles GAECs in that it is also, essentially, a set of basic environmental conditions applicable to income support; and
- concluded that Greening, as currently implemented, is unlikely to significantly enhance the CAP's environmental and climate performance.

The 2020 ECA report "*Biodiversity on Farmland: CAP contribution has not halted the decline*", found;

- the positive impact on farmland biodiversity (of Greening practices) cannot be clearly demonstrated. Moreover, Greening requirements are generally undemanding and largely reflect normal farming practice; and
- crop diversification rarely leads to a change in land management practices. A Commission Staff Working Document (Commission doc SWD (2018) 479) has concluded that it is the Greening measure with the fewest environmental benefits.

The Welsh Government's policy is clear that high food safety, animal welfare and environmental standards must be maintained in Wales, Greening as currently implemented contributes very little to this policy.

Proposal:

Improving environmental practices and standards is a top priority for the Welsh Government, and this will be a fundamental part of the Agriculture (Wales) Bill in the next Senedd term. In the meantime, we propose maintaining existing environmental standards and practices, retaining any environmental benefits of the Greening processes, but removing some of the existing complexities by moving retained requirements, which are undertaken by around 3% of claimants who do not automatically qualify by virtue of their permanent grassland, into cross-compliance.

By delivering annual monitoring of land use changes and protecting Permanent Grassland and EFA requirements through cross-compliance, our aim is simply to minimise more complex requirements which do not result in additional environmental benefits. We do, however, propose to remove Crop Diversification element of Greening. This practice was included in the Greening standards to prevent monoculture farming regimes. In Wales where this kind of farming is less common than in other parts of the EU it has become an unnecessary requirement for farmers.

The 30% budget currently provided for Greening will no longer be required as the Permanent Grassland and EFA requirements will be delivered under the Cross-Compliance system. Instead the budget will be included as part of funding allocated to BPS. Welsh farmers would not be financially disadvantaged as a result of this proposal

as there are no planned reductions to the amount of direct payment received as a result of the Greening requirement restructure.

Q5. Do you agree with the proposal to retain the environmental benefits of Greening practices through Cross-Compliance?

Q6. Do you agree with the proposal to remove the Crop Diversification rule from the Greening requirements?

#### **4. Young Farmer Scheme**

Background:

Currently, the Young Farmer Scheme provides additional support for farmers who start to run their own farm business by the age of 40 by providing a small top up to BPS payments for a maximum of 5 years.

The payment is calculated using 25% of the Wales average 2020 BPS Entitlement value, multiplied by the number of BPS Entitlements the young farmer has activated for the scheme each year up to a maximum of 25 hectares. The payment uses only 0.2% of Wales' share of the total budget.

Welsh Ministers are committed to supporting the future agricultural industry in Wales and recognise the need to encourage a younger demographic into the industry. The current scheme benefits a small number of Welsh farmers, as illustrated by the 0.2% share of the total budget.

Given the relatively small number of farmers eligible to claim support under the Young Farmers Scheme in Wales, we need to consider whether the scheme goes far enough to deliver support to the agricultural industry as a whole

Proposal:

One option would be to close Young Farmer scheme to new applications from BPS 2021 onwards. Young farmers already eligible for the scheme will continue to receive any remaining top up payments, with those who applied in 2017 due to received their final payment in 2021, and those who applied and were eligible in 2020 retaining the annual top up payments until 2024.

Closing the scheme to new applications after BPS 2020 reduces administrative burdens and ensures that this does not become a "legacy scheme" which would continue into future Sustainable Farming programmes.

The closure of the scheme would also lead to a small increase to all BPS entitlements which is of benefit to a larger applicant pool.

Young Farmers would continue to be a priority category eligible to apply for BPS Entitlements from the National Reserve.

Q7. Do you believe we should close this scheme to new applicants from 2021?

Q8. Other than the option to close the Young Farmers Scheme to new applications from 2021, are there further options which could be considered?

## **5. Late supporting documentation rules for BPS**

### Background:

Under the current rules, all supporting documentation must accompany a valid claim, and be submitted by 15 May, or face late penalties of 1% per working day, and, potentially, rejection, if submitted after the final date of Single Application Form (SAF) submission.

### Proposal:

We propose to increase flexibility for claimants by extending the deadline for submitting BPS supporting documents until midnight on 31 December of the relevant claim year. Whilst we expect most claimants will continue to submit their supporting documents with their claim, the extension provides as long as possible to confirm if each year's claim is eligible. If the proposal to pay an advance is implemented (detailed below, proposal 9), the absence of supporting documentation would prevent an advance payment being made, as this would be one of the basic eligibility checks.

We propose no change to the rule requiring the application form to be submitted by 15 May, as it also covers ongoing RDP schemes operating under EU Law. We also propose no change to the late penalties (1% per working day) and eventual rejection if submitted after the final date of submission.

Similarly no changes are proposed to the late claim amendment rules with amendments permitted to the application form without penalty until 30 May, followed by 1% per working day until the final date of submission.

Q9. Do you agree with the proposal to extend the BPS supporting document submission date to 31 December?

Q10. Do you agree with the proposal to keep the application deadline and late claim penalties unchanged?

## **6. National Reserve**

### Background:

The National Reserve is currently available for 'New Entrants' and 'Young Farmers' wishing to apply for new BPS Entitlements.

The National Reserve is replenished annually from a number of sources, including Entitlements which have not been activated ("claw back") for payment during two consecutive years.

### This could be due to:

- not declaring sufficient land to activate all Entitlements.
- failing Active Farmer checks.
- failing to declare 5 hectares of eligible land.
- if claimants are found to be avoiding 'capping'.

### Proposal:

We propose to retain the 2 year usage rule in order to “claw back” un-activated BPS Entitlements. In addition, we propose to allow farmers who have purchased new land or committed to a long term lease of 5 years or above, since 2015, to apply.

Q11. Do you agree with expanding the National Reserve categories to include additional land acquired?

Q12. Are there any other categories or proposals which you believe should be taken into consideration for the National Reserve?

## **7. Inspection Rates**

Background:

The on-the-spot-checks control rate for Direct Aid schemes is generally 5% of the claim population, although this can vary depending on the individual schemes that make up the BPS payment.

For BPS, the European Commission control rate is set at 5% of claimants, however, due to the high standard of mapping and administrative controls in place, the use of online geo-spatial application and low rate of historic errors, the Welsh Government are permitted in the EU legislation to reduce this to 3% of claimants.

This provision cannot currently be applied to reduce control rates for Greening and Young Farmer, which are set at 5%, even though there are adequate control systems in place and low error rates. This results in the overall control rate exceeding the 3% required for BPS.

Proposal:

We propose to require an overall 3% selected sample of the full combined scheme population to be inspected, as opposed to up to 5% of individual and separate schemes. We would continue to monitor error rates to assess if additional inspections are needed to ensure satisfactory levels of compliance.

We also propose to fully utilise cases selected as part of the European Commission RDP inspection controls to contribute towards the overall BPS control rates.

These proposals will reduce the number of inspections for individual claimants but retain appropriate inspection control rates to meet the combined requirements of EU law and domestic legislation.

Q13. Do you agree with this proposed reduction in BPS inspection rates?

## **8. Over-declaration of land**

Background:

Currently, claimants must declare all land at their disposal on 15 May when applying for BPS. Specific crop codes must be used to distinguish land eligible for payment. Inaccurate over-declaration of eligible areas, leads to reductions and financial penalties.

Where the difference between the eligible area declared and area determined for a crop group is more than either 3% or 2 hectares, of the determined area, the area eligible for payment will be reduced by 1.5 times the difference found.

However, where the difference between the area declared and area determined for a crop group is more than either 3% or 2 hectares, but no more than 10% of the determined area, a 'Yellow Card' will be applied to the penalty for that scheme. This means the penalty applied will be calculated (as described above) and will be reduced by 50%. This currently applies separately for each of the schemes - BPS, Greening, Redistributive and Young Farmer. A 'Yellow Card' can be applied only once per scheme.

If the farm business over-declares any eligible area the following year, a penalty for that over-declaration will be applied and, in addition, the remaining 50% of the penalty from the previous year will also be applied/payment recovered.

Proposal:

We propose to simplify the over declaration arrangements by removing the restriction that 'Yellow Card' can only apply once per scheme and remove the requirement to repay the Yellow Card (the remaining 50%) if there is an over declaration in the following year.

This means when the difference between the area declared and area determined for a crop group is more than either 3% or 2 hectares the area eligible for payment will only ever be reduced by 1.5 times the difference found.

Q14. Do you agree with the proposal to remove the "Yellow Card" restriction?

## **9. BPS Payment window for un-validated claims**

Background:

Eligible BPS claims submitted every year by 15 May are normally paid between 1 December and 30 June of the following year, once all administrative validation checks are complete. For a small number of farmers e.g. when claims are selected for inspection, checks can take significant time to complete.

In recent years a BPS Support Scheme has been made available, in 2018 linked to the severe weather and in 2019 to provide financial support as part of a wider package of EU Exit 'No Deal' preparations. This domestically funded advance allowed a percentage of the anticipated claim value to be paid before all checks were complete.

Proposal:

We propose to change the payment model and remove the need for claims to be fully validated before making an advance of payment of 70% of the anticipated claim value.

The advance would be made automatically to all BPS claimants in October every year, subject to basic eligibility checks, with the balance payment made from February the following year once full validation checks are completed.

Any overpayment of advance payment, would be offset in the balance payment, or recovered under the established debt process if required.

Q15. Do you agree with the proposal to introduce an advance and balance payment model and the removal the requirement for claims to be fully validated before an early advance payment?

## **10. Active Farmer Requirement**

Background:

Definition of a Farmer;

To activate BPS Entitlements and receive payment, a claimant must meet the BPS definition of a 'Farmer' by undertaking 'Agricultural Activity' and also qualify as an "Active Farmer", which also affects farmers participating in the Glastir Organic scheme.

Minimum Agricultural Activity:

A 'Farmer' is a person/group of people, or a business that carries out an 'Agricultural Activity', which means doing at least one of the following activities:

- the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes
- maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries. In Wales, this means the control of non-native invasive weeds and scrub;
- carrying out a minimum activity on agricultural areas naturally kept in a state suitable for grazing or cultivation. In Wales, agricultural areas naturally kept in a state suitable for grazing or cultivation are defined as areas of saltmarsh and sand dunes. The minimum activity required is that the area is grazed to a minimum average annual stocking density of 0.01 to 0.05 livestock

Active Farmer – the negative list test:

The 'negative list' was introduced into the EU CAP in 2015 but became optional following further CAP reforms in 2018. In Wales the 'negative list' includes those claimants who operate railways, waterworks, real estate services or sports and recreational grounds.

Claimants on the 'negative list' must provide evidence to requalify as Active Farmers. The few claimants who trigger this test requalify as Active Farmers by virtue of satisfying one of the readmission criteria, usually by having 21 hectares of eligible agricultural land declared.

Proposal:

We propose to remove the Active Farmer 'negative list' check, but retain the checks to ensure BPS beneficiaries are undertaking minimum levels of 'Agricultural Activity'.

Q16. Do you agree with the proposal to remove the Active Farmer negative list requirement and retain the minimum levels of 'Agricultural Activity'?

## 11. Hemp

### Background:

Land used to grow hemp for fibre or other purposes can be declared and may be used in support of a BPS claim. If growing hemp, certified seed types of an eligible variety must be used. The original seed labels, confirming the variety, must be supplied with your SAF submitted to the Welsh Government.

Declaring this crop also requires evidence of Home office approval to cultivate hemp to be submitted by 30 June and testing of the tetrahydrocannabinol ("THC") content required to be undertaken.

A minimum of 20% of the total area growing hemp must be inspected to ensure the THC content of the crop does not exceed the prescribed level. For each variety sown, three distinct parts of each field claimed must therefore be maintained, each part comprising of at least 4,000 plants, until at least 10 days after flowering, in case sampling is necessary.

### Proposal:

We propose land used for the cultivation & production of hemp be removed from the list of eligible crop codes as no successful claim has been made in Wales since 2015. It will no longer be eligible for BPS.

Q17. Do you agree with the proposal to remove land used for the cultivation & production of hemp from the list of eligible crop codes and no longer be eligible for BPS?

## **Domestic Rural Development Proposals**

### **Background:**

The European Agricultural Fund for Rural Development (EAFRD) is provided by the second pillar of the CAP, which provides EU co-financing of a multi-annual programme to support rural development. The Welsh Government Rural Communities – Rural Development Programme for Wales 2014 – 2020 was approved in May 2015, and will continue to deliver rural support under the terms of the Withdrawal Agreement, and the European Union (Withdrawal Agreement) Act 2020, until 2023.

Analysis undertaken in 2012 demonstrated the following 3 objectives set out in EU legislation were and remain relevant to Wales, and the Programme is addressing these:

- to increase the productivity, diversity and efficiency of farming and forestry businesses, improving their competitiveness and resilience, reducing their reliance on subsidies
- to improve the environment, encouraging sustainable land management practices, the sustainable management of our natural resources and climate action
- to promote strong, sustainable rural economic growth and encourage community-led local development

This part of the consultation paper sets out proposals to deliver a custom framework for rural support in Wales. The proposed framework and domestic programme will be distinct from and in addition to the existing and ongoing activities delivered through the Welsh Government Rural Communities - Rural Development Programme 2014-20, until the Agriculture (Wales) Bill is available.

### **1. Principles, mission, objectives and priorities**

#### **Background:**

EU environmental policy is based on four environmental principles, namely precautionary, preventive, rectification at source and polluter pays which provide guidance for policy and decision-making.

Under the current rules, financial support provided through the EU programme is subject to the following 'mission':

“The EAFRD shall contribute to the Europe 2020 Strategy by promoting sustainable rural development throughout the Union in a manner that complements the other instruments of the CAP, the cohesion policy and the Common Fisheries Policy. It shall contribute to the development of a Union agricultural sector that is more territorially and environmentally balanced, climate-friendly and resilient and competitive and innovative. It shall also contribute to the development of rural territories.”

Support for rural development must contribute to achieving the following objectives:

- fostering the competitiveness of agriculture;
- ensuring the sustainable management of natural resources, and climate action;

- achieving a balanced territorial development of rural economies and communities including the creation and maintenance of employment.

The following six EU priorities for rural development must be pursued:

- fostering knowledge transfer and innovation in agriculture, forestry and rural areas;
- enhancing the viability and competitiveness of all types of agriculture, and promoting innovative farm technologies and sustainable forest management;
- promoting food chain organisation, animal welfare and risk management in agriculture;
- promoting resource efficiency and supporting the shift toward a low-carbon and climate resilient economy in the agriculture, food and forestry sectors;
- restoring, preserving and enhancing ecosystems related to agriculture and forestry;
- promoting social inclusion, poverty reduction and economic development in rural areas.

Each of these priorities shall contribute to the cross-cutting objectives of innovation, environment and climate change mitigation and adaptation.

The proposed framework

At the end of the EU Implementation Period, there will be an opportunity for new domestically funded support for rural development in Wales to contribute towards objectives and priorities specific to Wales, whilst continuing to apply the four EU environmental principles to the development of environmental policy.

The Environment (Wales) Act 2016 and the Well-being of Future Generations (Wales) Act 2015 provide a framework in which support for rural development in Wales can be delivered. The Environment (Wales) Act 2016 also puts in place a delivery framework for the sustainable management of natural resources:

- State of natural resources which provides a national evidence base on the risks and opportunities for Wales' natural resources
- A national natural resources policy, setting out Welsh Ministers priorities and policies for the sustainable management of natural resources
- Area statements, which facilitate the implementation of the natural resources policy in a local context.

Proposal:

It is proposed that the current EU mission, objectives and priorities are replaced with a following definition of rural development to provides support for the rural economy and complements Wales' ambition to respond to the climate emergency.

Support for rural development should contribute to the sustainable management of natural resources as set out in the Environment (Wales) Act 2016:

- (a) using natural resources in a way and at a rate that promotes achievement of the objective in subsection (2),

- (b) taking other action that promotes achievement of that objective, and
- (c) not taking action that hinders achievement of that objective.

(2) The objective is to maintain and enhance the resilience of ecosystems and the benefits they provide and, in so doing;

- (a) meet the needs of present generations of people without compromising the ability of future generations to meet their needs; and
- (b) contribute to the achievement of the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015.

The proposal is that support for rural development should contribute to the ‘principles of sustainable management of natural resources’ to support the achievement of the following objectives:

- (a) manage adaptively, by planning, monitoring, reviewing and, where appropriate, changing action;
- (b) consider the appropriate spatial scale for action;
- (c) promote and engage in collaboration and co-operation;
- (d) make appropriate arrangements for public participation in decision-making;
- (e) take account of all relevant evidence and gather evidence in respect of uncertainties;
- (f) take account of the benefits and intrinsic value of natural resources and ecosystems;
- (g) take account of the short, medium and long term consequences of actions;
- (h) take action to prevent significant damage to ecosystems;
- (i) take account of the resilience of ecosystems, in particular the following aspects;
  - i. diversity between and within ecosystems;
  - ii. the connections between and within ecosystems;
  - iii. the scale of ecosystems;
  - iv. the condition of ecosystems (including their structure and functioning);
  - v. the adaptability of ecosystems.

The following definition is proposed:

““Rural Development” means “measures which are conducive to”:

- (a) the conservation or enhancement of the natural beauty or amenity of the countryside (including its flora and fauna and geological and physiographical features) or of any features of archaeological interest there; or
- (b) the promotion of the enjoyment of the countryside by the public; or
- (c) starting, or improving the productivity of, an agricultural, horticultural or forestry activity or a rural business; or
- (d) starting, promoting or improving rural services.

The Welsh Government remains committed to continuing to apply the four EU environmental principles to the development of environmental policy post EU implementation period, and in advance of legislation to enshrine them in Welsh law, the proposals in this consultation have been developed in line with the principles.

Q18. Do you agree with replacing the EU mission, objectives and priorities for rural development support with Welsh specific definition for rural development?

## 2. Measures

Background:

The EU legislation provides a selection of Measures available to support rural development. Descriptions of the all relevant measures and the corresponding Articles in the European Regulation(s) are set out in Table 1.

The respective RDP sets out an Intervention Logic flowing from the Situational and SWOT analysis, through a Needs Assessment to select the appropriate Measures.

The Welsh Government Rural Communities - Rural Development Programme for Wales 2014-2020 (EU RDP for Wales) did not implement every available Measure in the EAFRD.

Table 1:

The Measures marked with an asterisk are not currently implemented in the Welsh Government Rural Communities - Rural Development Programme for Wales 2014-2020.

<b>Measure code</b>	<b>Measure title</b>	<b>Articles and Regulation(s)</b>
<b>1</b>	Knowledge transfer and information actions	Article 14 of Regulation (EU) No 1305/2013
<b>2</b>	Advisory services, farm management and farm relief services	Article 15 of Regulation (EU) No 1305/2013
<b>3*</b>	Quality schemes for agricultural products and foodstuffs	Article 16 of Regulation (EU) No 1305/2013
<b>4</b>	Investments in physical assets	Article 17 of Regulation (EU) No 1305/2013
<b>5*</b>	Restoring agricultural production potential damaged by natural disasters, adverse climatic events and catastrophic events and introduction of appropriate prevention actions	Article 18 of Regulation (EU) No 1305/2013
<b>6</b>	Farm and business development	Article 19 of Regulation (EU) No 1305/2013
<b>7</b>	Basic services and village renewal in rural areas	Article 20 of Regulation (EU) No 1305/2013
<b>8 &amp; 15</b>	Forestry	Articles 21-26 and 34 of Regulation (EU) No 1305/2013
<b>9*</b>	Setting up of producer groups and organisations	Article 27 of Regulation (EU) No 1305/2013
<b>10</b>	Agri-environment-climate	Article 28 of Regulation (EU) No 1305/2013
<b>11</b>	Organic farming	Article 29 of Regulation (EU) No 1305/2013

<b>12*</b>	Natura 2000 and the Water Framework Directive Payments	Article 30 of Regulation (EU) No 1305/2013
<b>13*</b>	Payments to Areas Facing Natural and other Constraints	Articles 31 & 32 of Regulation (EU) No 1305/2013
<b>14*</b>	Animal welfare	Article 33 of Regulation (EU) No 1305/2013
<b>16</b>	Cooperation	Article 35 of Regulation (EU) No 1305/2013
<b>17*</b>	Risk management	Articles 36-39 of Regulation (EU) No 1305/2013
<b>19</b>	Support for LEADER local development (Community-Led Local Development)	Article 32-35 of Regulation (EU) No 1303/2013 Articles 42-44 of Regulation (EU) No 1305/2013

Following the UK's departure from the EU, retaining the full range of measures is considered necessary to provide Welsh Ministers with a complete framework to provide support through new interventions until the Agriculture (Wales) Bill is available. This includes those Measures not currently supported in the Welsh Government Rural Communities - Rural Development Programme for Wales 2014-2020.

It should be noted the inclusion of all the relevant Measures/Articles in the framework does not mean all will be used.

Welsh Ministers may select appropriate Measures taking into account all relevant information including but not limited to the future trading relationship with the EU, availability of funding and compatibility with supporting a "Green" recovery from the COVID-19 pandemic.

### **Proposals to amend the Measures**

The end of the EU Implementation Period provides an opportunity to simplify some of the Measures for the purposes of delivering a domestic RDP.

It is proposed to make the following amendments:

- Measure 1, Knowledge Transfer – extend to make specific reference to animal health and welfare.
- Measure 4, Investment in Physical Assets – extend the objectives to include cultural heritage objectives.
- Measure 7, Basic Services and Village Renewal – extend to allow for revenue as well as capital funding projects; include options for cultural heritage assets to be supported.
- Measures 8 and 15, Forestry – extend to reference the cultural as well as the environmental value of forests.
- Measure 14, Animal Health – extend to refer to animal health and welfare.

Proposal:

It is proposed to retain all the Measures in Table 1 and make minor amendments as set out above.

Q19: Do you agree with the proposed amendments of the Measures?

Q20: Are there any further amendments or options you would like to suggest for any Measure?

### **3. Governance and Administrative arrangements**

Background:

#### **Content and amendment of new domestic RDP**

Under EU regulations, there are detailed requirements relating to the content of RDP and their amendment.

Each RDP “must work towards at least four of the six priorities of the EAFRD. Countries must set targets according to specific focus areas, identifying the measures they will use and the funding they will need in order to achieve these targets.”<sup>1</sup> The European Commission approves and monitors each programme. In Wales the Welsh Ministers make decisions regarding the selection of individual projects and payment of claims.

The end of the implementation period provides an opportunity to strengthen the role of the Welsh Ministers in overseeing the programme governance and strategic direction, by aligning requirements with standard Welsh Government procedures and Senedd scrutiny.

#### **Finance**

There are detailed EU requirements relating to resources and their distribution, fund contribution (the EU contribution to the programme), eligibility of expenditure, verifying and controlling measures, and making advance payments.

The end of the Implementation Period provides an opportunity to replace these requirements with Welsh Government procedures and Senedd scrutiny for the new domestic RDP only.

#### **Managing Authority (and other roles)**

Currently, the Managing Authority is responsible for “managing and implementing the programme in an efficient, effective and correct way.” Currently, this role is delivered by the Welsh Government.

Welsh Ministers designate a co-ordinating body, acting jointly with other UK Ministers, which is then responsible for accrediting each Paying Agency (in Wales, Rural Payments Wales) and appointing a certification body (in Wales, Audit Wales) to undertake legality and regularity audit checks on behalf of the European Commission.

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<sup>1</sup> [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/rural-development\\_en#latest](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/rural-development_en#latest)

There are detailed EU rules concerning all these roles, the Managing Authority has responsibility for data collection, recording and sharing statistical information; monitoring and evaluation; providing information; drawing up an annual progress report; and ensuring publicity of the programme, through the Wales Rural Network.

Following the end of the withdrawal period there is an opportunity to strengthen the role of the Welsh Ministers through the managing authority in terms of overseeing the new domestic RDP, by aligning with standard Welsh Government procedures and Senedd scrutiny. The role of the Co-ordinating Body and Certification Body have been removed through EU Exit legislation making operability corrections.

It is proposed to remove the following requirements from the role of the Managing Authority on the basis that these functions are already incorporated in Welsh Government procedures:

- ensuring that there is an appropriate secure electronic system to record, maintain, manage and report statistical information on the programme and its implementation;
- ensuring that beneficiaries and others are informed of their obligations resulting from the aid granted;
- providing the Programme Monitoring Committee (PMC) with the information and documents needed to monitor implementation and delivery of the programme;
- ensuring that the Paying Agency receives all necessary information;
- ensuring publicity for the programme.

The EU Regulations include a number of additional requirements including:

**Breakdown of EU support for rural development in all Member States for each year of the programme.**

It is proposed Welsh Ministers will determine the support for rural development through Welsh Government centralised budget settlement procedures and Senedd scrutiny.

**Amounts and Support rates for different measures.**

It is proposed to convert the EU thresholds into Sterling.

**Biophysical criteria for the delimitation of areas facing natural constraints.**

Following the end of the EU implementation period, if Measure 13 is implemented in any new RDP, it will be necessary to establish criteria to define areas facing natural constraints. It is proposed to retain Annex 3 of Regulation (EU) 1305/2013.

It is proposed the remaining Annexes of Regulation (EU) 1305/2013 with respect to Thematic Sub programmes; ex-ante conditionalities for rural development; and relevance of measures to EU priorities, be omitted.

Proposal:

- To replace detailed requirements relating to the content and amendment of a future domestically funded RDP with Welsh Government procedure and Senedd scrutiny.

- To strengthen the role of the Welsh Ministers in overseeing the new domestic RDP, by aligning with Welsh Government procedures and Senedd scrutiny.
- To remove regulatory provisions relating to finance for any new domestic RDP and replace with Welsh Government and Senedd accounting procedures.

Q21. Do you agree with removing detailed requirements for the content and amendment of a future rural development programme?

Q22. Do you agree with strengthening the Managing Authority's role?

#### **4. European networking**

Background:

The EU legislation requires participation in the European Network for Rural Development (ENRD). The ENRD, acts as a hub of information on how rural development policy, programmes, projects and other initiatives are working in practice and how they can be improved to achieve more. It aims to engage and reach anyone with an interest in and commitment to rural development in Europe. The ENRD supports the effective implementation of EU countries' RDP by generating and sharing knowledge, as well as through facilitating information exchange and cooperation across rural Europe.

The European Innovation Partnership for agricultural productivity and sustainability (EIP-Agri) also supports the goals of rural development by encouraging innovation in agriculture and rural communities. The EIP-Agri was created to bridge the gap between the innovative solutions created by researchers and the uptake of new technologies by those living and working in rural areas.<sup>2</sup>

Following the end of the EU Implementation Period, it will be desirable to share information, knowledge and ideas regarding rural development within and between Wales, the UK and Europe. The Welsh Government will continue to encourage and support networking opportunities but it may no longer need to be set out in legislation.

Proposal:

The proposal is to remove the regulatory requirements relating to networking.

Q23. Do you agree with removal of the requirements relating to networking?

#### **5. Monitoring & evaluation and reporting**

Background:

Currently there are detailed regulatory requirements relating to the monitoring and evaluation including the objectives and indicators used for this purpose, which are aligned at EU level and, thereafter, International level including United Nation Sustainable Development Goals.

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<sup>2</sup> [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/rural-development\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/rural-development_en)

There is currently a Programme Monitoring Committee (PMC) in place which, along with the Managing Authority, is responsible for monitoring the quality of the implementation and delivery of the programme.

Monitoring enables evaluation of policies and programmes against their objectives and establishes if the desired outcomes have been secured in an equitable and cost effective manner. Monitoring and evaluation is critical to ensuring public funds are used in the most effective manner and that progress is made towards strategic goals.

Following the end of the EU Implementation Period there is an opportunity to better integrate monitoring and evaluation of the new domestic RDP across Environment, Energy and Rural Affairs (EERA) in Welsh Government. This should be aligned to the Environment (Wales) Act 2016 and Well-being of Future Generations (Wales) Act 2015.

This can be achieved by bringing together the different aspects, activities and resources associated with monitoring and evaluation within EERA and by developing a set of objective indicators better aligned to Environment (Wales) Act 2016 and Well-being of Future Generations (Wales) Act 2015 and thereafter International reporting.

Measuring support for rural development against Welsh-specific objectives and indicators could also make scrutiny and accountability more straightforward in future.

Proposal:

It is proposed

- to retain regulatory requirements to monitor and evaluate public expenditure on rural development, but to enhance and integrate processes and indicators.
- to develop a set of objective indicators better aligned to Environment (Wales) Act 2016 and Well-being of Future Generations (Wales) Act 2015 and thereafter International reporting
- to retain the requirement to report annually on the implementation of any domestic rural development programme.

Q24. Do you agree with integration and enhancement of monitoring and evaluation of support for rural development, using Welsh-specific objectives and indicators?

Q25. Do you agree the Welsh Government should report annually on the implementation of its rural development programme?

**Next Steps:**

Exit from the European Union is the catalyst for land management reform in Wales. There is a strong case for continuing to support our land managers, but we need to do it a different way to harness all the benefits that our land can yield for the nation. Welsh Government has committed to publishing a White Paper in 2020 with a view to introducing the Agricultural (Wales) Bill in the next Senedd term and to work with the industry to understand the impact of moving from an entitlement based income support scheme to a voluntary scheme that rewards the production of outcomes.

The feedback from the proposals outlined in this consultation will help inform scheme practices and requirements from 2021, until final decisions are taken on nature of the new schemes and provide the beginning of a transition period sufficient in length to enable farmers to adjust their existing business models.

Welsh Government will publish a summary of responses in response to the feedback collected from this consultation.

**Consultation  
Response Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

**Summary of Questions:**

**1. BPS payment rates and annual allocation**

Q1. Do you agree with the proposal for Welsh Ministers to set the BPS ceiling, in regards to Wales?

Q2. Do you agree with the proposal to introduce additional measures allowing the Welsh Government greater flexibility to control any unspent BPS budget?

**2. Cross border single application rule (UK wide)**

Q3. Do you agree with the proposal to remove cross border applications and only consider Welsh land for BPS claims in Wales, removing the need to wait for checks from other paying agencies?

Q4. Do you agree with the proposal for minimum claim size to remain unchanged and not to make any provision for farmers who currently rely on land in another parts of the UK to achieve the minimum claim size area of 5 eligible hectares?

**3. Greening**

Q Q5. Do you agree with the proposal to maintain greening practices through cross compliance?

Q6. Do you agree with the proposal to remove the Crop Diversification rule from the Greening requirements?

**4. Young Farmer Scheme**

Q7. Do you believe we should close the Young Farmers Scheme to new applications from 2021?

Q8. Other than the option to close the Young Farmers Scheme to new applications from 2021, are there further options which could be considered?

**5. Late supporting documentation rules for BPS**

Q9. Do you agree with the proposal to extend the BPS supporting document submission date to 31 December?

Q10. Do you agree with the proposal to keep the SAF deadline and late claim penalties unchanged?

**6. National Reserve**

Q11. Do you agree with expanding the national reserve categories to include additional land acquired?

Q12. Are there any other categories or proposals which you believe should be taken into consideration for National Reserve?

## **7. Inspection Rates**

Q13. Do you agree with this proposed reduction in BPS inspection rates?

## **8. Over-declaration of land**

Q14. Do you agree with the proposal to remove the “yellow card” restriction?

## **9. BPS Payment window for un-validated claims**

Q15. Do you agree with the proposal to introduce an advance and balance payment model and the removal the requirement for claims to be fully validated before an early advance payment?

## **10. Active Farmer requirement**

Q16. Do you agree with the proposal to remove the active farmer negative list requirement and retain the minimum levels of ‘agricultural activity’?

## **11. Hemp**

Q17. Do you agree with the proposal to remove land used for the cultivation & production of hemp from the list of eligible crop codes and no longer be eligible for BPS?

## **Domestic Rural Development Proposals;**

### **1. Mission, objectives and priorities**

Q18. Do you agree with replacing the European Union mission, objectives and priorities for rural development support with Welsh specific definitions for rural development?

### **2. Measures**

Q19: Do you agree with the proposed amendments of the Measures?

Q20: Are there any further amendments or simplifications you would like to suggest for any Measure?

### **3. Administrative arrangements**

Q21. Do you agree with removing detailed regulations setting out requirements for the content and amendment of a future rural development programme?

Q22. Do you agree with strengthening the Managing Authority’s role?

### **4. European networking**

Q23. Do you agree with removing regulatory requirements relating to networking?

### **5. Monitoring & evaluation and reporting**

Q24 Do you agree with integration and enhancement of monitoring and evaluation of support for rural development, using Welsh-specific objectives and indicators?

Q25. Do you agree the Welsh Government should report annually on the implementation of its rural development programme?

**Additional Questions:**

Q26. We would like to know your views on the effects that the suggested proposals to the Basic Payment Scheme and Domestic Rural Development Scheme would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Q27. Please also explain how you believe the proposed options could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Q28. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: