

AGRICULTURE (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Sustainable Land Management

The objectives

14. This Part of the Act sets out four SLM objectives and imposes a duty on the Welsh Ministers to exercise certain functions in the way they consider best contributes to achieving those objectives. The objective is to ensure that the agricultural sector in Wales produces food and other goods in a way which is sustainable, responds to the climate and nature emergencies, conserves and enhances the countryside and cultural resources and promotes public access to them, and also promotes and facilitates use of the Welsh language.
15. A feature of each of the objectives is the intention to meet the needs of the present without compromising the ability of future generations to meet their needs – something that mirrors the “sustainable development principle” in section 5 of the Well-being of Future Generations (Wales) Act 2015. In addition, each objective is intended to complement the well-being goals in section 4 of that Act, designed to improve the economic, social, environmental and cultural well-being of Wales.
16. The SLM framework, consisting of the SLM objectives and SLM duty, has been developed through a comprehensive consultation process documented in *Brexit and our Land*¹, *Sustainable Farming and our Land*², and the *Agriculture (Wales) Bill White Paper*³. They are also in line with international programmes and initiatives such as the UN’s “Decade on Ecosystem Restoration 2021-2030”, declared on 1 March 2019.

Section 1 – The sustainable land management objectives

17. **Section 1** establishes four SLM objectives.
18. Subsection (2) provides that the first objective is to produce food and other goods in a sustainable manner. In practice, this is likely to require a focus on producing food and other goods in a way that is environmentally, economically and socially sustainable, that promotes high standards of animal health and welfare and that safeguards the ability of future generations to do the same.
19. Subsection (6) provides that for the purposes of the first objective, factors relevant to whether food and other goods are produced in a sustainable manner include, among other things, the resilience of agricultural businesses within the communities in which they operate and their contribution to the local economy.
20. Subsection (3) provides that the second objective is to mitigate and adapt to climate change.

¹ [Brexit and our land - securing the future of Welsh farming \(gov.wales\)](#) (2018)

² [Sustainable Farming and our land \(gov.wales\)](#) (2019)

³ [Agriculture \(Wales\) White Paper \(gov.wales\)](#) (2020)

21. Mitigating climate change is likely to involve reducing climate change through the reduction of operational and embedded greenhouse gas emissions as well as maintaining and increasing the capacity of agricultural land to drawdown and sequester carbon. Operational emissions are those emitted through the carrying out of an action, and embedded emissions are those emitted by a product or material in its production and transportation (e.g. emissions from the production of fertiliser).
22. Adapting to climate change is likely to involve taking action to minimise the effects of climate change. These actions may include, for example, changes in practice to ensure the continued production of food and other goods, natural flood management measures and the use of trees to provide shade.
23. Subsection (4) provides that the third objective is to maintain and enhance the resilience of ecosystems and the benefits they provide. Maintaining ecosystem resilience may require active management of ecosystems and actions to prevent degradation. Enhancing ecosystem resilience may require, for example, measures such as habitat creation and changes in practice (e.g. actions relating to water quality).
24. Subsection (7) describes specific factors that (among others) are relevant to the resilience of ecosystems for the purposes of the third objective. Resilient ecosystems, for example, may be more biodiverse, which can help to slow and reverse biodiversity decline, and more adaptive to change, including the effects of climate change.
25. The benefits provided by resilient ecosystems can include, for example, clean air, clean water, enhanced carbon storage, improved soil health and the increased presence and effectiveness of pollinators.
26. Subsection (5) provides that the fourth objective is to conserve and enhance the countryside and cultural resources and promote public access to and engagement with them, and to sustain the Welsh language and promote and facilitate its use.
27. The fourth objective is about protecting, maintaining and improving cultural resources and the countryside, and promoting access and engagement with them. The countryside includes, for example, farmland and woodland, as well as the beauty of the natural environment. Cultural resources may include, for example, historic sites and buildings. This objective is also about sustaining the Welsh language, for example by supporting the people and communities that use the Welsh language, as well as promoting and facilitating the use of the Welsh language so as to raise awareness and opportunities for its use and proliferation.
28. Subsection (8) defines ‘cultural resources’ for the purposes of the fourth objective.

The duty

Section 2 - Welsh Ministers’ duty in relation to the objectives

29. **Section 2 (1)** requires the Welsh Ministers to exercise certain of their functions in the way they consider best contributes to achieving the sustainable land management objectives, so far as consistent with the proper exercise of the function.
30. In order to comply with this duty, the Welsh Ministers will need to consider all four SLM objectives when they are exercising a function to which the duty applies and will then need to exercise the function in the way they consider best contributes to achieving those objectives (taken together), so far as consistent with the proper exercise of the function. The SLM objectives are intended to be complementary, and, in some cases, this will mean that action can be taken that contributes to all of the objectives, though not necessarily equally. In other cases, this may not be possible, for example, where the exercise of a particular function has no effect in respect of one or more of the objectives.
31. In each case, the Welsh Ministers will be required to exercise relevant functions in the way they consider best contributes to the objectives (so far as consistent with the proper

exercise of the function). This means that where there is more than one option for the Welsh Ministers, they will be required to choose the option that they consider is most beneficial in terms of its contribution to achieving the SLM objectives.

32. The Welsh Ministers' functions to which the duty applies are specified in subsection (2) and (3) and are subject to the exceptions at section 3.
33. Subsection (2) provides that the functions to which the duty applies are:
 - functions under this Act (section 2(2)(a));
 - functions under any other enactment that require or allow the Welsh Ministers to provide support for (i) agriculture, or other activities carried out on land used for agriculture, or (ii) ancillary activities (section 2(2)(b));
 - functions under any other enactment that require or allow the Welsh Ministers to regulate (i) agriculture, or other activities carried out on land used for agriculture, or (ii) ancillary activities (section 2(2)(c)).
34. Subsection (3) provides that that the SLM duty applies to the functions referred to in subsections (2)(b) and (2)(c) only to the extent that those functions are exercised to provide support for, or to regulate, (a) agriculture, or other activities carried out on land used for agriculture, or (b) ancillary activities (and not, therefore, to the extent that those functions are exercised for some other purpose).
35. "Agriculture" is defined at section 51; "ancillary activity" is defined at section 52; and "functions" is defined at section 54.
36. Other activities carried out on land used for agriculture may include, for example, leisure activities or events where the main use of land remains primarily agricultural e.g. activities or events held for only a specific number of days in any given year.

Section 3 - Exceptions from the duty in section 2

37. **Section 3** provides that the duty in section 2 does not apply to the functions listed at paragraphs (a) to (f).
38. The functions excepted relate principally to the basic payment scheme, including consequential and transitional provision relating to the basic payment scheme and the common agricultural policy. The basic payment scheme is a universal income support system that does not contribute to the achievement of the SLM objectives.

Monitoring and reporting

39. The monitoring and reporting provisions place requirements on Welsh Ministers to monitor and report on the progress made towards achieving the SLM objectives. The provisions detail the requirement to set indicators and targets, as well as to prepare a report. The reporting and monitoring provisions make provision for scrutiny and engagement with stakeholders and the Senedd. They also act to provide an on-going evidence base for the support of future policy trends and best practice to be identified.

Section 4 – Sustainable Land Management indicators and targets

40. **Section 4** requires the Welsh Ministers to prepare and publish indicators and targets to measure progress towards achieving the SLM objectives through the exercise of the functions to which the duty in section 2 applies.
41. Subsection (1) requires the Welsh Ministers to prepare a statement which sets out indicators that are to be applied to measure progress towards achieving the SLM objectives through the exercise of the functions to which the duty in section 2 applies, and targets in relation to those indicators.

42. Indicators will provide metrics by means of which the contribution of an action to the SLM objectives can be measured. Targets will set out the desired level of progress against the metric a specific indicator details.
43. For example, the third objective (“maintain and enhance the resilience of ecosystems and the benefits they provide.”) may be addressed by several indicators, one of which could be a decrease in the levels of pollutants in rivers downstream of agricultural and ancillary activities. A specific target would then be set against that indicator and both the indicator and target would be reported against in the SLM report prepared under section 6.
44. Subsection (2) provides that the statement must contain, as a minimum, at least one distinct indicator for each SLM objective, and at least one distinct target relating to at least one distinct indicator for each SLM objective. This is to ensure accurate and effective accounting of progress.
45. Subsection (3) to (5) provides that the statement may also set out further indicators (each of which may be for one SLM objective or more than one), and further targets (each of which may relate to one indicator, whether set under subsection (2) or subsection (3), or to more than one).
46. Subsection (6) provides that an indicator or target may relate to Wales or any part of Wales.
47. Subsection (7) provides that a target may be set by reference to any period that the Welsh Ministers consider appropriate.
48. Subsection (8) provides that the statement must be published and laid before Senedd Cymru by the Welsh Ministers no later than 31 December 2025.
49. Subsection (9) provides that the Welsh Ministers may review and revise the statement at any time and subsection (10) provides that subsections (2) to (8) apply in relation to a revised statement as they apply to the original statement.
50. Subsection (11) provides that where the Welsh Ministers revise the statement, they must, as soon as reasonably practicable, publish the revised statement and lay it before Senedd Cymru.

Section 5 – Steps to be taken in preparing or revising indicators and targets

51. **Section 5** sets out the steps that must be undertaken in preparing or revising indicators and targets.
52. Subsection (2) requires the Welsh Ministers to have regard to certain reports, policies and other matters when preparing or revising indicators and targets.
53. This seeks to ensure that the SLM monitoring and reporting takes appropriate account of wider sustainability goals, policies and reporting, to the extent that they are relevant.
54. Subsection (3) requires the Welsh Ministers to consult the Future Generations Commissioner for Wales and any other persons they consider appropriate when preparing or revising indicators and targets.

Section 6 – Sustainable Land Management reports

55. **Section 6** requires the Welsh Ministers to prepare and publish SLM reports and details the content and timings of those reports.
56. Subsection (1) requires the Welsh Ministers to prepare a report in relation to each reporting period (as defined by subsection (9)).
57. Subsection (1)(a) provides that the report must set out the Welsh Ministers’ assessment of the cumulative progress made, since section 2 came into force, towards achieving

the SLM objectives through the exercise of the functions to which the duty in section 2 applies.

58. Subsection (1)(b) also requires the report to set out the Welsh Ministers' assessment of the progress made, during the reporting period, towards meeting those objectives through the exercise of those functions.
59. Subsection (2) states that the report must set out, in relation to each indicator in the statement (or revised statement) published under section 4, the progress made in relation to that indicator during the reporting period and how that has contributed to achieving the SLM objectives.
60. Subsection (3) provides that the report must also set out, in relation to each target in the statement (or revised statement), whether the target has been achieved during the reporting period.
61. Subsections (4) to (6) specify the provision the report must make depending on whether during the reporting a period a target has been achieved (subsection (4)), has not been achieved (subsection (5)), or the Welsh Ministers have not yet been able to determine whether a target has been achieved (subsection (6)).
62. Subsection (7) sets out other matters that SLM reports may assess and report on. These may include the key priorities, risks and opportunities in relation to achieving the SLM objectives, and the effect that the progress made towards achieving those objectives has on the achievement of other goals e.g. Wales's net zero 2050 goal.
63. Subsection (8) provides that the Welsh Ministers must, no later than 12 months after the end of each reporting period, publish the report that relates to the reporting period and lay it before the Senedd.
64. Subsection (9) defines the "reporting period" and subsection (10) confers powers on the Welsh Ministers by regulations to amend subsection (9). This regulation making power enables the Welsh Ministers to amend, for example, the length of the reporting period. This power to make regulations is subject to the affirmative resolution procedure (section 50(6) and (7)).

Section 7 – Steps to be taken in preparing reports

65. **Section 7** sets out the reports, policies and other matters that the Welsh Ministers must have regard to in preparing SLM reports. It seeks to ensure that SLM reporting is conducted in the context of wider reporting and sustainability actions undertaken in Wales and that appropriate data is considered in the reporting of progress towards the SLM objectives. It also seeks to encourage a cohesive approach to the reporting, of environmental and other actions across Wales.