

AGRICULTURE (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - General

Section 49 – Power to make consequential, transitional etc. provision

262. **Section 49** provides that the Welsh Ministers may, by regulations, make such supplemental, incidental, consequential, transitional, transitory or saving provision as they think necessary or appropriate for the purpose of, in consequence of, or for giving full effect to any provision of the Act. Such regulations may modify any enactment (as defined in Schedule 1 to the Legislation (Wales) Act 2019), including the provisions contained in this Act.

Section 50 – Regulations under this Act

263. **Section 50** makes general provision about regulations made under this Act and sets out the Senedd Cymru procedure applicable to those regulations.
264. Subsection (3) provides that a power to make regulations under the Act includes power to modify retained direct EU legislation.
265. Subsection (4) provides that a power to make regulations under the Act includes power to make supplemental, incidental, consequential, transitional, transitory, or saving provision.
266. Subsection (7) sets out the provisions of the Act to which the affirmative procedure applies, ie under which regulations may not be made unless a draft of the instrument containing them has been laid before, and approved by resolution of, Senedd Cymru. Subsection (8) provides that the affirmative procedure is also applicable where regulations modify any provision of primary legislation.

Section 51 – Meaning of “agriculture” and related references

267. The meaning of “agriculture” is central to certain provisions of the Act, particularly the SLM duty (section 2) and the power of support (section 8). Section 51 defines “agriculture” for the purposes of the Act. The definition is wide in scope. This is intended to reflect the broad range of farming activities currently undertaken in Wales, and to capture activities that are commonly considered to be traditional farming activities, e.g. the growing of crops for food, as well as more modern farming activities, e.g. controlled environment agriculture which captures more recent developments such as vertical farming.
268. “Livestock” forms a component part of the definition of “agriculture”, and for clarity, subsection (2) provides a definition of what is meant by this term. Similarly, the definition of “agriculture” includes a reference to “controlled environment agriculture”, which is a relatively new, evolving practice. Subsection (2) provides a definition of this term.

269. Subsection (3) clarifies that certain terms are to be construed in accordance with the definition of “agriculture”, including “agricultural businesses”.

Section 52 – Meaning of “ancillary activity”

270. Section 52 defines “ancillary activity” for the purposes of the Act.
271. In the definition, paragraph (a) specifies certain activities carried out on land used for agriculture (as defined in section 51), while paragraph (b) refers to other listed activities, which need not take place on land used for agriculture, but which must relate to products derived from agriculture.
272. The definition is intended to recognise the activities the agricultural sector undertakes, alongside its core actions, in support of its business and environmental outcomes.

Section 53 - Power to amend sections 51 and 52

273. Section 50 confers power on the Welsh Ministers to amend the definitions of “agriculture” and “ancillary activity” by regulations.
274. Subsections (2) to (7) detail the procedure that must be followed when exercising the power to amend sections 51 and 52. This procedure requires consultation before the regulations are made, and a statement to be laid before the Senedd.
275. The availability of this power is intended to ensure that the Act is able to adapt to, for instance, any future changes in agricultural or farming practices that might result from land management or technological advances in the future.

Section 54 - Other interpretation

276. Section 54 defines further words and terms used in the Act.

Section 55 - Consequential amendments and repeals etc.

277. Subsection (1) gives effect to Schedule 2, which makes minor and consequential amendments, relating to Parts 1 to 3, to existing primary legislation.
278. Subsection (2) gives effect to Schedule 3, which makes amendments to the CMO Regulation.

Section 56 – Coming into force

279. Section 56 brings the provisions of the Act into force.
280. Subsection (1) brings the following provisions of the Act into force on the day after the day of Royal Assent: Part 4 (but only for the purpose of making regulations under section 32 of the Forestry Act 1967) and Part 6 (except section 55, and Schedules 2 and 3).
281. Subsection (2) brings the following provisions into force at the end of the period of two months beginning with the day of Royal Assent: Part 1 (SLM); Chapter 1 of Part 2 (Welsh Ministers’ power to provide support); Chapter 2 of Part 2 (power to modify legislation relating to financial and other support);, and Part 5 (wildlife)
282. Subsection (3) brings certain provisions of Schedule 2 into force at the end of the period of two months beginning with the day of Royal Assent, and section 55 to the extent that it relates to those provisions. (In the case of the provisions specified in paragraphs (a) and (b), they are commenced only for specified purposes.) This is to ensure that, to the extent that consequential amendments and repeals in Schedule 2 relate to the provisions of the Act commenced by subsection (2), those amendments and repeals themselves come into force at the end of the two-month period.

*These notes refer to the Agriculture (Wales) Act 2023
(c.4) which received Royal Assent on 17 August 2023*

- 283. Subsection (4) provides that all other provisions of the Act come into force on a day appointed in an order made by the Welsh Ministers.
- 284. Subsection (5) allows an order under subsection (4) to appoint different days for different purposes and to make transitory, transitional and saving provision.

Section 57 – Short title

- 285. This section gives the short title of the Act as the “Agriculture (Wales) Act 2023”.