

UK Agriculture Bill and Northern Ireland

Written evidence to the AERA committee from Northern Ireland Environment Link

Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the built and natural environment of Northern Ireland. Its 65 Full Members represent over 120,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

This briefing has been prepared by Nature Matters NI - our public facing campaign created to protect nature in NI and secure the best future for our environment after we leave the European Union (EU).

We welcome the opportunity to provide evidence regarding the UK Agriculture Bill and the associated implications for Northern Ireland to the AERA Committee.

Summary

- **Agriculture is a vital actor in efforts to restore nature and help the UK achieve net zero emissions.**
- **New agricultural legislation across the UK must facilitate a transition towards sustainable agricultural policies and address environmental issues.**
- **Reforming future payments to focus on ‘public money’ for ‘public goods’ is one of the most important steps that governments can take to fight the climate and nature emergency.**
- **UK wide assessments of food security should include the sustainability of food consumed in the UK, whether produced locally or from overseas.**
- **Provisions relating to Northern Ireland are not currently time-bound, presenting the risk that business as usual may continue indefinitely.**
- **Whilst the schedule provides much needed certainty in the short term, Northern Ireland still needs a long-term vision for how agriculture and the environment will be supported in the future, or clarity around what outcomes a future policy framework should aim to deliver**
- **Ultimately, through subordinate legislation, Northern Ireland needs a bespoke sustainable agriculture and land management policy in the form a NI Agriculture Act.**
- **Domestic legislation and policy must be designed to deliver a step-change in approach, in order to move away from ‘business as usual’ (as outlined within the NI Schedule)**
- **Any Subsequent Agriculture Act for NI should be shaped around the concept of ‘public money’ for ‘public goods’ effectively integrating environmental issues and should be supported by long-term funding which enables farm businesses to thrive in a new landscape underpinned by sustainability**
- **As a priority, the Minister should set out a timeline for the development of such an Act, outlining how agricultural policy will deliver for nature, farming and climate.**
- **Some powers included within the NI Schedule raise the potential to re-adopt farm support measures which represent a regressive step in the development of fit for purpose agriculture policy. Alternative approaches should be considered e.g. Eco Scheme where for example, livestock are required for habitat management but production is not economic.**

Background

Northern Ireland has a unique and beautiful environment that is essential for our health, economy and biodiversity being home to over 20,000 different species. However habitat loss, fragmentation and degradation has resulted in significant biodiversity declines, water & air quality is deteriorating and agriculture accounts for 27% of NI's greenhouse gas emissions. These are urgent problems which need to be addressed through legislation and policy.

The farming sector also needs certainty and stability. The Agriculture Bill is the first step towards achieving a sustainable future that combines and integrates these priorities. Our aspiration is that everyone in NI can enjoy clear air & water, a countryside where nature is recovering, natural capital assets are protected/enhanced, and a carbon neutral future is secured for future generations to mitigate against climate change. As such under the Agriculture Bill, a framework is required that enables the development of appropriate policy tools to achieve these objectives supporting investment in nature's recovery, mitigating against climate change through natural solutions and improving the quality of air and water.

A 'New Decade, New Approach' is needed for agriculture providing long term support for farmers, landowners and foresters who are willing to **positively manage our environment to produce multiple benefits for society**, shifting the focus from food production which remains the primary driver for this sector integrating environmental needs and priorities. This would leave a legacy for future generations ensuring that NI is fit for purpose and a great place to live and work. The Agriculture Bill provides the foundations for these policies, potentially leading to a better and greener future for farming and our countryside as we leave the EU.

A comprehensive environmental regulatory framework already exists through the transposition of retained EU law into NI domestic legislation. This should be further strengthened through an Environment Act underpinned by the development of the NI Environment Strategy. Agriculture will play a key role in delivering positive environmental outcomes and the Government legislative framework needs to enable the development of policy tools to facilitate this transition. As such, the Bill needs to focus on a range of policy tools including incentivisation and education to enable agriculture to deliver better environmental outcomes.

The Agriculture Bill enables the NI Government to carry forward the CAP framework into domestic law including agri-environment and education provision providing the mechanism to tailor future policy development to the needs of Northern Ireland.

Context

1. Agriculture is a vital actor in efforts to restore nature and help the UK achieve net zero emissions. Reforming future payments to focus on 'public money' for 'public goods' is one of the most important steps that governments can take to fight the climate and nature emergency. It is also crucial to deliver higher standards of animal welfare and to enhance people's wellbeing through access to nature.
2. 'Public goods' are the goods and services society need farmers to provide, but which cannot be paid for through the market; they include more wildlife, clean air and water, access to the countryside, high standards of animal welfare, and carbon storage and sequestration, amongst others. Some farmers are already leading the transition to tackle the climate and nature emergency. But to achieve these critical objectives, Agricultural legislation across the UK needs to be transformational and world leading.
3. The EU's Common Agricultural Policy (CAP) is widely regarded as inefficient, ineffective and inequitable¹. Many farmers have struggled with the existing system that has led to under-investment in farm businesses, erosion of farm profits and incentivised a model of farming that

¹ http://www.risefoundation.eu/images/files/2017/2017_RISE_CAP_Full_Report.pdf

resulted in poor land management and long-term declines in a range of environmental indicators². The current approach to farming and land use is not sustainable. If land continues to be used as it has been in the past, it will not be able to maintain long term, sustainable food production or provide the required solutions to address the nature and climate emergency. This has been recognised by a range of stakeholders, including the Committee on Climate Change, which has identified agricultural policy as one of the key mechanisms for incentivising and delivering sustainable land use. New agricultural legislation across the UK must facilitate this transition towards genuinely sustainable agricultural policies.

The 2020 Agriculture Bill

4. The Agriculture Bill was first tabled on 16th January 2020. The Bill builds on the Agriculture Bill previously tabled on 12th September 2018, which progressed through the early stages before falling when the December 2019 general election was called. The Bill grants the UK government powers to develop post-Brexit farming and land management legislation and policies in England, with specific schedules granting more limited powers to the Welsh and Northern Irish Governments. Specifically, it:
 - Provides enabling powers for Ministers to develop new farm support approaches in England. Current measures of farm support will be phased out from 2021 for a period of 7 years to be replaced by a new scheme which pays farmers for producing public goods. The range of public goods which can be allocated financial assistance are included in clause 1(1) of the Bill.
 - Provides ministers powers to intervene in agricultural markets in exceptional conditions, such as to provide farmers with financial support or operate public intervention and private storage aid schemes
 - Sets out measures to increase transparency and fairness in the supply chain for farmers and food producers, through support to establish producer organisations, and to regulate the relationship between farmers and the purchasers of agricultural products.
 - Outlines the approach to meeting World Trade Organisation (WTO) rules associated with agricultural support, and mechanisms by which the UK will continue to meet these obligations.
5. Although the Bill mainly contains provisions setting a future agricultural policy framework for England, a number of provisions apply across the UK and some specifically to Wales and Northern Ireland. NIEL has comments on the following provisions for Northern Ireland;

Part 2 (clause 17) (Food security)

6. **Clause 17** introduces a new requirement on the Secretary of State to report to Parliament on UK food security at least once every five years. The report is to contain “an analysis of statistical data” on areas including global food availability, supply sources for food, resilience of the supply chain, household expenditure on food and consumer confidence in food. However, it’s crucial that this assessment includes a consideration of the environmental sustainability of food consumed in the UK, whether produced at home or overseas. This is not specified in the Bill, despite it being part of the last such assessment in 2010³.

Part 7 (Clause 45) (Provisions relating to Northern Ireland)

² https://www.rspb.org.uk/globalassets/images/campaigning-and-positions/let-nature-sing/birdsong-takeover/pdf/sonr/rspb_state-of-nature_summary-report_northern_ireland.pdf

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<https://webarchive.nationalarchives.gov.uk/20130402191246/http://archive.defra.gov.uk/foodfarm/food/pdf/food-assess-summary-100105.pdf>

7. Part 7 operates in conjunction with Schedule 5 and 6, alongside the Bill to outline the extent and nature of the application of the Bill to Wales and Northern Ireland. With these, there is an important difference. Section 44 outlines that the main provisions applying to Wales will expire in 2024 whilst there is no 'sunset clause' outlined for the provisions relating to Northern Ireland, due to the fact that the Bill was created in the absence of an operational Assembly. This is important, as the presence of a sunset clause relating to the Welsh Schedule creates an onus for Welsh government to develop domestic legislation in a time-bound manner. This was also bolstered by a statement from Lesly Griffith Welsh Minister for Environment, Energy and Rural Affairs who legislated for a new approach by the end of 2020⁴. It is expected that a White paper will be published to pave the way for a new Agriculture Bill for Wales. The absence of a 'sunset clause' relating to the NI Schedule creates a risk that the development of a future agricultural policy framework for Northern Ireland is further delayed.

Schedule 6. Northern Ireland

8. These powers have been included to provide a legal basis to continue existing farm support measures following exit from the EU. The schedule allows DAERA to modify Direct Payment Regulations to 'simplify' and 'improve' how they operate in Northern Ireland. The NI schedule also includes powers to collect and share agricultural data and to intervene in agricultural markets during times of severe market disturbance, similar to powers granted to the DEFRA Secretary of State and Welsh Ministers. The schedule was developed during the lack of a functioning Northern Ireland Executive and as a result, many of these powers are intended to provide flexibility to develop future agricultural policy to meet local circumstances.
9. Whilst the schedule provides much needed certainty in the short term, Northern Ireland is still left without a long-term vision for how agriculture and the environment will be supported in the future, or clarity around what outcomes a future policy framework should aim to deliver. This is despite widespread recognition from stakeholders that the current system is unfit for purpose. Although DAERA have undertaken valuable work with a range of environmental and agricultural stakeholders on the development of a draft future agricultural policy framework⁵, the direction of travel remains unclear. Now that the NI Assembly is operational, a future agricultural policy framework must be set out as a matter of urgency.
10. Northern Ireland is facing considerable challenges, in terms of species and habitat loss⁶, agricultural GHG emissions⁷, water quality⁸ and market volatility⁹ among others. The way in which we manage and use land will directly impact upon our ability to both mitigate and adapt to climate change as well as helping meet a range of other environmental commitments. With the NI Assembly recently declaring a climate emergency¹⁰ there is an urgent need to reform how we farm and manage our land and move towards a resilient, profitable and environmentally sustainable farming sector. The need to outline a future direction of travel, is of paramount importance. Currently, a risk exists that the provisions within the NI schedule could continue indefinitely. This would result in the long-term continuation of direct payments in their current form, which have

⁴ <https://gov.wales/written-statement-uk-agriculture-bill>

⁵ <https://www.daera-ni.gov.uk/consultations/northern-ireland-future-agricultural-policy-framework>

⁶ https://www.rspb.org.uk/globalassets/images/campaigning-and-positions/let-nature-sing/birdsong-takeover/pdf/sonr/rspb_state-of-nature_summary-report_northern_ireland.pdf

⁷ <https://www.daera-ni.gov.uk/sites/default/files/publications/daera/ghg-inventory-statistical-bulletin-2017.pdf>

⁸ <https://www.daera-ni.gov.uk/sites/default/files/publications/daera/NIEA%20-%20WFD%20Statistics%20Report%202018.pdf>

⁹ <https://www.daera-ni.gov.uk/sites/default/files/publications/daera/Farm%20Incomes%20in%20Northern%20Ireland%202017-18%20Final.pdf>

¹⁰ <https://www.bbc.co.uk/news/uk-northern-ireland-51364077>

been criticised by a range of stakeholders¹¹ and do little to address the numerous crises farming and the environment currently face.

11. Northern Ireland needs a bespoke sustainable land management policy, legislated for in the form of a NI Agriculture Act. This must be designed to deliver a step-change in approach, in order to move away from 'business as usual' presented within the NI Schedule. An Agriculture Act for NI should be shaped around the concept of 'public money' for 'public goods' and should be supported by long-term funding which enables farm businesses to thrive in a new landscape underpinned by sustainability. As a priority, the Minister should set out a timeline for the development of such an Act, outlining how agricultural policy and support will deliver for nature, farming and climate.

Other powers outlined within the NI schedule

12. Some powers included within the NI Schedule raise the potential to readopt farm support measures which represent a regressive step in the development of a sustainable land management policy. For example, the Schedule allows for the re-establishment of a Voluntary Coupled Support Scheme and payments for Areas of Natural Constraint.
13. Coupled support is directly tied to agricultural production. Under previous iterations of the CAP, support was directly linked to production. This resulted in a range of unintended consequences including overproduction, market distortion and significant environmental degradation¹².
14. In recognition of these flaws, the CAP has gradually removed (decoupled) the link between the receipt of income support payments and the production of specific products. This is to avoid overproduction and make sure that farmers are responding to genuine market demand and managing environmental impact.
15. However, in certain circumstances CAP regulations (provided they meet a number of conditions¹³) allow for targeted coupled support to some sectors or sub sectors if they are experiencing specific difficulties, which could cause abandonment, resulting in consequent impacts on other parts of the supply chain, associated markets and rural communities. Some member states have availed of the VCS, including the UK (Scotland)¹⁴. However, the risk of negative environmental impact and market distortion still exists¹⁵. Northern Ireland chose not to develop a VCS scheme during the current CAP cycle following a consultation with stakeholders in 2016 and the move towards a flat rate payment structure. DAERA stated at the time, that if production is to expand in Northern Ireland it should be built on a platform of profitability not subsidy¹⁶.
16. Similarly, payments for Areas of Natural Constraint come with little conditionality on how land is managed¹⁷. Unconditional support represents a significant missed opportunity to incentivise more sustainable land management in these areas (such as our uplands) which in many cases can deliver significant public benefits. It makes little financial or environmental sense to try and overcome natural 'disadvantage' through incentivising increased production. Areas of natural disadvantage may provide comparatively little value in terms of productive output; however, when managed sympathetically, they often provide significant public benefits through the delivery of environmental public goods. In these areas, it represents better value for money to

¹¹ <https://www.thersa.org/discover/publications-and-articles/reports/lay-of-the-land>

¹² <http://capreform.eu/two-steps-forward-one-step-back-coupled-payments-in-the-cap/>

¹³ Matthews, A 2017 The development-related impacts of EU agricultural subsidies
<https://www.tcd.ie/Economics/TEP/2017/tep1617.pdf>

¹⁴ Scotland has an annual budget of 38 million for Scottish mainland suckler beef and 6.6 to cover Scottish islands – 8 million has been allocated for upland sheep payments

¹⁵ <http://capreform.eu/brakes-removed-from-voluntary-coupled-support/>

¹⁶ <https://www.daera-ni.gov.uk/sites/default/files/consultations/dard/Review%20of%20CAP%20Coupled%20Support%20Options.pdf>

¹⁷ <https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2016/07/evaluation-less-favoured-area-support-scheme-ifass-development-areas-natural/documents/00502550-pdf/00502550-pdf/govscot%3Adocument/00502550.pdf>

support and reward farmers for delivering these. As such, our view is that alternative policy tools could achieve a greater impact for both farming and the environment and improve farm resilience whilst accepting that the economics of farming in uplands is challenging.

17. In marginal areas there is also a role for public policy to support farm businesses to adopt practises that improve profit margin. Recent research suggests that in certain scenarios businesses in upland areas can improve profitability and increase resilience whilst delivering environmental outcomes, through lowering stocking densities in line with the natural carrying capacity of the land. This occurs as the business reduces its reliance on corrective inputs such as fertiliser, bought in feed, concentrates, additional housing and vets' bills, thereby reducing costs and improving profit margin¹⁸. As well as being more profitable, these farm businesses can deliver better environmental outcomes. A future policy framework should seek to provide farmers with the tools to improve business performance, whilst delivering high quality environmental outcomes, through the provision of business and environmental advice¹⁹.
18. Rather than returning to blunt policy mechanisms of the past, the focus should be directed firmly on the future and how public policy can be designed to protect and restore the environment, whilst delivering a viable future for the sector. A policy framework based on the principle of public money for public goods will play a pivotal role in achieving this vision.

Other issues

NI protocol the UK Internal Market and the need for Common Frameworks

19. As part of the Ireland/Northern Ireland Protocol, agricultural produce will have to comply with a range of EU rules and regulations in order to ensure that an open border between NI-ROI does not endanger the integrity of the EU single Market. These include Directives and regulations in relation to chemicals, pesticides, GMOs, agricultural feedstuffs, animal welfare and others. NI will have to continue to monitor and enforce these rules providing information to the EU as appropriate. This raises a number of complexities in relation to maintaining access to the GB market, especially in the case of regulatory divergence between GB and the EU²⁰.
20. The fact that many areas of agriculture and the environment fall within devolved competencies adds further complications to the future integrity of the UK internal market. In the absence of agreed UK-wide common frameworks in these areas there is a risk that one or more devolved nations may adopt differing approaches in relation to agricultural regulation and standards, thereby creating further restrictions in the UK internal market. This would have significant implications for producers in NI who will continue to be bound by the range of rules specified within the NI protocol. To avoid this, it is imperative that Northern Ireland, Wales, Scotland and England work together on an ambitious common framework for agriculture that prevents a deregulatory race to the bottom. This must include an appropriate degree of flexibility to allow implementation to be tailored to the specific environmental and legislative context in each nation.
21. This must also include robust shared governance arrangements (e.g. clear monitoring and reporting obligations and associated enforcement mechanisms) as a means of holding all four nations to account and resolving disputes following the loss of the functions currently carried out by the EU institutions. There is a clear need for a common framework, in order to achieve sustainable management of shared natural resources and address trans-boundary objectives, such as climate change and biodiversity conservation, ensuring that the UK Government can meet its international environmental obligations.

¹⁸ <https://www.wildlifetrusts.org/sites/default/files/2019-11/Hill%20farm%20profitability%20report%20-%20FINAL%20agreed%2015%20Nov%202019.pdf>

¹⁹ <https://www.wildlifetrusts.org/sites/default/files/2019-09/Paying%20for%20public%20goods%20final%20report.pdf>

²⁰ <https://blogs.sussex.ac.uk/uktpo/files/2020/01/07012020-Implications-of-Northern-Ireland-arrangements-for-Wales-FINAL.pdf>

22. As agriculture is a devolved competence, the development of any future common UK framework must be achieved through an open and collaborative process between the UK Government and devolved administrations. This should include shared environmental ambition to meet the UK's national and international commitments and obligations associated with biodiversity, climate change and sustainable development. At the same time, it must also allow for a significant degree of flexibility to tailor policy to different situations across the UK, and reflect the differing environmental, social and political contexts in each of the four countries.

Looking Forward

Looking forward, if NI is to make progress:

- Any Agriculture Bill and subsequent subordinate legislation must focus on climate change mitigation and resilience, biodiversity enhancement, water and air quality improvement.
- The Bill must recognise that the maintenance of viable farm incomes is central to delivery of any agriculture strategy
- Farmers will need to be adequately educated, trained and supported to deliver environmental outcomes as part of any future NI Agricultural Bill.
- NI has a substantial carbon resource locked in its peatlands and organic soils. Central to any climate change mitigation and biodiversity enhancement policy is the protection, retention and growth of our carbon stocks in peat and soil. Appropriate grazing strategies and support for peatland restoration which take into consideration the support for farmers to deliver them, must be key elements of any future support measures. Outcome-based support measures will be pursued wherever possible and appropriate.
- Specific to NI is addressing the problems of intensive livestock production. The knowledge and science is available to deliver more carbon-friendly livestock systems by a range of technologies including innovative and more widespread use of trees, more diverse pastures and natural dietary enhancement, coupled with genetic advances in plant and animal breeding. These technologies can also be applied to addressing the ongoing problem of dispersed nutrient enrichment from ammonia.
- Encouragement should be given for growth of the arable sector to provide livestock feed import substitution while improving soil health through more innovative practices.
- NI has the potential for more sustainable and secure food production by expanding fruit and vegetable growing.

Conclusion

Transitioning to a sustainable viable future for agriculture and the environment will require careful strategic planning to avoid unintended consequences and ensure that policies are fit for purpose for current and future generations. These policies need to be delivered with purpose and urgency. The Agriculture Bill is the first step in this process and it is recommended that the Committee endorses Schedule 6 for NI having given due consideration to the points raised in this briefing.