



Agricultural Law in Wales

Summary of the Scoping Report

THE LAW COMMISSION'S REVIEW OF AGRICULTURAL LAW APPLICABLE IN WALES

	Who are we?	<p>The Law Commission of England and Wales is an independent body established by statute to make recommendations for reform of the law in England and Wales.</p>
	What are we doing?	<p>We have been asked by the Welsh Government to review the existing body of agricultural law applicable in Wales and identify what legislation is suitable for inclusion in a prospective code of agricultural law for Wales ("the prospective Code").</p>
	What is this document about?	<p>This is a summary of our scoping report. The purpose of this summary is to explain the below matters.</p> <ul style="list-style-type: none">• Our conclusions about the legislation that should form part of the prospective Code.• Any technical issues we have identified with the legislation under review that may require or benefit from changes or adjustments being made to the law.• Those issues that may require further consideration in the context of establishing the prospective Code.
	Where can I find the report?	<p>The full scoping report is available on our website in both Welsh and English at https://lawcom.gov.uk/project/agricultural-law-in-wales/.</p>
	What happens next?	<p>The Welsh Government will consider our scoping report and decide whether to establish the prospective Code. If the Welsh Government chooses to establish the prospective Code, it will also decide whether to adopt the model proposed in our scoping report.</p> <p>In addition, the Welsh Government will consider whether further work is required to address any of the technical issues with existing agricultural legislation or wider issues for consideration which we highlight in the scoping report.</p>

THIS SUMMARY

This summary explains the agricultural law in Wales project and sets out our proposed model for the prospective code of agricultural law for Wales (“the prospective Code”). It also summarises those issues which may require further consideration if work is undertaken to establish the prospective Code.

We have not reproduced every detail of the scoping report in this summary. Instead, we have focused on the most important issues. If you want to know more about the law, or how and why we think it needs to change, we encourage you to look at the relevant section of the scoping report. If you need this summary to be made available in a different format, please email: agriculturewales@lawcommission.gov.uk.

INTRODUCTION

The purpose of the scoping report

In April 2024, we were asked by the Welsh Government to examine the existing body of agricultural law applicable in Wales with a view to:

1. identifying what legislation should clearly form part of the prospective Code;
2. considering whether there are technical issues with the existing agricultural legislation that may require changes or adjustments to the law aimed at simplifying and modernising the law in this area; and
3. highlighting those issues that may require more detailed consideration.

A code of Welsh law

The term “a code of law” can be understood in several ways. In the Welsh context, the term has a distinct meaning. A code of Welsh law is a comprehensive statement of the primary and secondary legislation and relevant guidance on a particular devolved subject.

A code of Welsh law is not intended to be a new type of legal instrument or enactment. Instead, a code of Welsh law is a discrete collection of

primary and secondary legislation that are together stated to form a code of Welsh law on a particular subject.

The primary legislation that forms part of a code of Welsh law could be brought together in one or multiple Acts of the Senedd. This means that the primary legislation forming part of a code of Welsh law may be brought together in one of the following ways.

1. One or more consolidation Acts of the Senedd.
2. One or more Acts of the Senedd that deliver wholesale reform.
3. A mixture of consolidation Acts and Acts delivering wholesale reform.

Consolidation generally involves bringing fragmented laws on a particular topic together in a single Act or series of related Acts, incorporating any amendments made to the original legislation since it was enacted and modernising the language, drafting style and structure. By comparison, an Act of the Senedd that delivers wholesale reform is one which replaces the existing law with a different legal framework underpinned by new policy objectives.

The provisions of an Act of the Senedd can make it explicitly clear that the Act is to form part of a code of Welsh law on a particular subject. For example, section 1 of the Historic Environment (Wales) Act 2023 states that the Act forms part of a code of law relating to the historic environment of Wales.

Alongside bringing together the primary legislation for a subject, a code of Welsh law will usually include the key secondary legislation for that subject. For example, there are five sets of regulations made under the Historic Environment (Wales) Act which form part of the code of law relating to the historic environment of Wales.

Once the primary and secondary legislation has been brought together under a code of Welsh law, the intention is for that legislation to be published and made accessible via a webpage. This means it will be easier for individuals to find and access the legislation on a particular subject.

Legislation often needs amending at some point after it has been enacted. If there is a need to amend the legislation contained in a code of Welsh law, then those amendments should be made to the legislation forming part of the code rather than by creating new Acts sitting alongside the code. This helps ensure that the order achieved by a code of Welsh law is maintained.

Sometimes a code of Welsh law on a subject may not contain all the laws relevant to that subject. In such circumstances, any webpage that publishes the code of Welsh law in question could direct or signpost to those laws that fall outside the code, but which are relevant to its readers. Where we use the term signpost in this summary, we do so in line with the meaning set out in this paragraph.

Problems with the current law

Agricultural law applicable in Wales is voluminous, fragmented and, in places, difficult to understand.

The law that applies to the agricultural sector in Wales is not set out in one place. Instead, it is scattered across a patchwork of primary legislation, such as Acts and Measures, and secondary legislation, such as regulations, rules, and orders.

While agriculture is devolved, that has not always been the case. This means that the laws applicable to the agricultural sector in Wales are made up of legislation enacted by the Senedd and separately by the UK Parliament.

In some cases, those Acts of the UK Parliament that apply to the agricultural sector in Wales have been amended so that they make different provision for Wales or for England. Acts of the UK Parliament may also contain provisions that apply to Wales only or, alternatively, do not apply to Wales at all. This means it can be difficult to identify the exact body of agricultural law applicable in Wales.

Agricultural law applicable in Wales also includes secondary legislation, such as regulations or orders, that has been enacted by the Welsh Ministers, UK Ministers or, in some cases, a combination of both. Secondary legislation can also be subject to frequent amendment. Secondary laws that apply to both England and Wales can also contain provisions which apply to

Wales differently than to England or provisions which apply to only one country and not the other.

Furthermore, while the UK was a member of the EU, the EU institutions could make laws concerning agriculture and other related areas which applied in the UK. Although the UK is no longer a member of the EU, much of the law originating from the EU which applies in the agricultural context now forms part of our domestic law as assimilated law. Many assimilated laws have been subject to substantial amendment to ensure that they can operate effectively following the UK's departure from the EU.



In addition, agricultural law applicable in Wales dates back in some cases to the nineteenth century and, in places, uses outdated language. There are also instances where agricultural law may not reflect modern farming practices or the current aims or policy objectives of the Welsh Government.

Taken together, the above factors mean it is challenging to identify the body of agricultural law that applies and further to identify, and understand the effect of, such legislation.

The Welsh Ministers and the Counsel General have a duty to publish a programme of planned work that is intended to improve the accessibility of Welsh law. Among other matters, that programme must include activities that are intended to contribute to an ongoing process of consolidating and codifying Welsh law.

The codification of Welsh law is a long-term programme of work. To date, there are two codes of Welsh law in development.

1. The Historic Environment (Wales) Act 2023 establishes a code of law relating to the historic environment of Wales.
2. The Planning (Wales) Bill will, if enacted, establish a code of law relating to planning law in Wales.

OUR APPROACH

What is agricultural law?

In order to identify what legislation should form part of the prospective Code, it is important first to consider what is meant by “agricultural law”. However, defining agricultural law is not easy.

As described above, agricultural law is scattered across different pieces of legislation that originate from different sources. The policy objectives underpinning agricultural legislation have also evolved over time to keep pace with technological development and the changing priorities, needs and attitudes of society. This means it can be difficult to identify common legal principles which can be used to determine which laws form part of the body of agricultural law. While there are some leading textbooks on agricultural law, the range of available resources on this body of law – as it applies in Wales – is limited.

There are, however, certain areas of law which we identified as falling outside the scope of our review. For example, our scoping report does not consider those laws that relate to matters that are reserved to the UK Parliament. This is because the Welsh Government has set out that a code of Welsh law would only encompass legislation falling within the Senedd's competence.

We also do not review the law relating to horses, fish or bees. While the laws concerning these species are relevant to the agricultural sector, we consider the legislation in question to form part of other distinct areas of Welsh law.

Our areas of focus

As we emphasise above, agricultural law is voluminous and potentially vast in scope. This meant it was important that we placed sensible parameters on the scope of our review. To help identify where to direct our attention, we considered a wide variety of resources on agricultural law, spoke to a broad range of stakeholders, and attended several key agricultural events in Wales. Further details are presented in our scoping report.

The table to the right sets out those areas of agricultural law that our approach and engagement identified as the areas of focus for our review.



Area of law	Summary of rationale
The Agriculture Acts and other Acts, Measures or laws which can be readily identified, from their title and content, as being primarily or solely concerned with agriculture.	Together, these Acts provide the Welsh Ministers, and other public authorities or statutory bodies, with powers and duties to regulate or support agriculture in Wales.
Laws that regulate agricultural activity or agricultural land use, and which are aimed at protecting the environment and wildlife, mitigating climate change, managing natural resources and access to the countryside.	Approximately 90% of land in Wales is used for agriculture meaning that the agricultural sector has the potential to significantly affect the environment, natural resources and wildlife of Wales.
Laws that concern animal health and welfare, and which apply to livestock.	78% of agricultural land in Wales is used for livestock farming. 78% of farm types in Wales are livestock grazing farms.
Laws that concern plants (including agricultural crops), forests and hedges and which apply in the agricultural context.	Approximately 6% of agricultural land is used for horticulture and arable crops. In addition, 7.5% of agricultural land in Wales is used as farm woodland ¹ and 42% of all woodland in Wales is located on Welsh farms.
Laws relating to the lease of agricultural land, housing of agricultural workers and other land management or development laws applicable to agricultural land.	Approximately one third of agricultural land in Wales and England is tenanted. It is reported that diversification activities on Welsh farms, which can engage wider land management and development laws, have grown over the past decade. In 2017, diversification activities represented, on average, 3.4% of farm revenues in Wales.
Laws that apply to the supply chain for agricultural produce and goods. ²	Agricultural activities form part of the initial stage of the supply chain for agricultural produce ("the agricultural supply chain"). Other stages in the agricultural supply chain can include processing, packaging, transport and retail. There are a relatively substantial number of laws which apply to activities that take place throughout the agricultural supply chain.

Our criteria for inclusion

To determine those laws which we consider suitable for inclusion in the prospective Code, we applied consistent criteria to assess suitability.

Specifically, we propose that the prospective Code should include those laws that:

1. are concerned with the subject of agriculture; and
2. have a practical application that is limited to, or primarily concerned with, agriculture.

This meant we assessed whether the subject matter of the law in question concerned agriculture. For each of the laws reviewed, we also considered whether it is primarily farmers who must comply with, or are affected by, the legislation in question.

Where possible, we relied upon statistical information and other authoritative sources of information when making these assessments. Examples of the sources of information relied upon included explanatory notes to legislation, academic works, and government guidance. We also benefited significantly from our engagement with external experts and stakeholders who helped us

identify those laws of central importance to the agricultural sector.

We applied our criteria for inclusion to those areas of agricultural law which we identified as requiring our focus (see above). In total, our scoping report considers approximately 150 different pieces of legislation. In the following sections, we provide an overview of the types of legislation we reviewed for each area of agricultural law.

AGRICULTURE ACTS AND RELATED ACTS

We reviewed 20 different pieces of primary legislation that are either titled as Agriculture Acts or Agriculture (Miscellaneous Provisions) Acts or which otherwise have a title which indicates the legislation is concerned with agriculture.

The primary legislation in question provides the Welsh Ministers and, in some cases, other public bodies with powers to regulate or support the agricultural sector in Wales. The primary laws in question are made up of Acts and Measures made by the Senedd and Acts made by the UK Parliament.

Examples of the laws which we identified as being suitable for inclusion in the prospective Code are set out below.

Examples of Acts	Summary
The Hill Farming Act 1946 ("the 1946 Act")	The 1946 Act provides the Welsh Ministers with powers to regulate certain matters relating to agriculture such as the power to issue regulations restricting the controlled burning of heather and other specified vegetation.
Agricultural Sector (Wales) Act 2014 ("the 2014 Act")	The 2014 Act requires the Welsh Ministers to establish an Agricultural Advisory Panel for Wales. Among other matters, the Agricultural Advisory Panel for Wales is responsible for preparing orders that set the agricultural minimum wage.
Agriculture (Wales) Act 2023 (Part 1, Chapters 1 to 3 of Part 2 and Chapters 1 and 3 of Part 3) ("the 2023 Act")	In broad terms the provisions of the 2023 Act listed in the left-hand column provide the Welsh Ministers with powers or duties to support or regulate agriculture in Wales.

LAWS AIMED AT PROTECTING THE ENVIRONMENT, WILDLIFE AND NATURAL RESOURCES

There is an abundance of environmental legislation which applies to farmers in Wales. We therefore reviewed those primary and secondary laws that apply to the agricultural sector, and which are aimed at protecting the environment, wildlife and natural resources. The types of laws we reviewed were broad in their subject matter and, for example, included laws that:

- provide for permitting or licensing regimes in respect of activities that could harm the environment;
- protect areas that are deemed to be important to the environment or wildlife; and
- aim to prevent or minimise the risk of agricultural water pollution.

Examples of the laws we identified as being suitable for inclusion in the prospective Code are set out in the table below.

There are a relatively high number of laws which are aimed at protecting the environment, wildlife and natural resources but which we conclude are unsuitable for inclusion in the prospective Code even though farmers must comply with them. This is typically because those laws have a subject matter which is more closely connected to the environment than to agriculture and which apply in practice to contexts including but extending beyond agriculture. We therefore suggest that any webpage which publishes the prospective Code could signpost its readers to those environmental laws which fall outside the code, but which are relevant to farmers.

We recognise that the tool of signposting may be an imperfect solution where the webpage which publishes the prospective Code needs to signpost to a high volume of environmental laws. However, our work for this project contributes to a wider programme to improve the accessibility of the law applicable in Wales as led by the Welsh Government. This means that the development of the prospective Code does not represent the only opportunity to improve the accessibility of those environmental laws that specifically apply in the agricultural context.

Examples of legislation	Summary
The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (“the CoAP Regulations 2021”)	The CoAP Regulations 2021 aim to prevent or reduce the risk of pollution by setting rules for certain farming practices. Specifically, the regulations impose controls on the use, application and storage of silage, slurry, organic manure and nitrogen fertilisers.
The Crop Residues Burning Regulations 1993 (“the 1993 Regulations”)	The 1993 Regulations prohibit the burning of specified kinds of crop residues (for example, cereal straw and stubble, oilseed residue) on agricultural land unless certain exemptions apply.

LAWS CONCERNING THE HEALTH AND WELFARE OF LIVESTOCK

The health and welfare of livestock is integral to the Welsh agricultural sector, which is dominated by livestock farming. This means that those laws which concern livestock health and welfare form an important part of the body of agricultural law applicable in Wales.



In broad terms, we reviewed those laws which:

- provide for the welfare of livestock on farm, during transport and at slaughter; and
- aim to eliminate or prevent the spread of animal diseases affecting livestock.

The below table lists examples of the legislation concerning the health and welfare of livestock which we consider suitable for inclusion in the prospective Code.

There are some welfare laws which apply to livestock but also other animals. Examples include the Animal Welfare Act 2006 and the Welfare of Animals (Transport) (Wales) Order 2006. In such instances, we suggest that the webpage publishing the prospective Code could signpost to those laws which fall outside of the prospective Code, but which are still relevant to the health and welfare of livestock.

In the longer term, we suggest that consideration could also be given to expanding the scope of the prospective Code to encompass the law on the health and welfare of animals generally. This suggestion is to be read alongside our conclusion that the prospective Code should include the law on plant health and plant varieties (see the next section). This means that the prospective Code would become a code of law on agriculture, animals and plants.

Examples of legislation	Summary
Welfare of Farmed Animals (Wales) Regulations 2007 ("the 2007 Regulations")	The 2007 Regulations protect the welfare of farmed animals by setting minimum standards for their care and husbandry. Farmed animals are defined as animals bred or kept for the production of food, wool or skin or other farming purposes.
Animal Health Act 1981 ("the 1981 Act") and the Foot-and-Mouth Disease (Wales) Order 2006 ("the 2006 Order")	The 1981 Act regulates the prevention, control and eradication of animal diseases. It creates a regime that requires certain notifiable animal diseases to be reported to the relevant authorities. The 2006 Order makes provision for disease control and eradication measures in the event of a suspected or confirmed outbreak of foot and mouth disease.
Sheep and Goats (Records, Identification and Movement) (Wales) Order 2015 ("the 2015 Order")	The 2015 Order imposes requirements relating to the identification and tracing of sheep and goats for disease control purposes.

LAWS CONCERNING PLANTS, FORESTRY AND HEDGEROWS

Roughly 6% of agricultural land is used for horticulture and arable crops.³ In addition, farm woodland amounted to 7.5% of the 1,770,100 hectares of agricultural land in Wales in 2025,⁴ and 42% of all woodland in Wales is located on Welsh farms.⁵

Trees and hedgerows can offer a multitude of benefits to farms including acting as barriers for livestock, marking boundaries on land and offering additional income streams, such as commercial woodlands. Trees can also help mitigate agricultural water pollution.

It is therefore vital to the agricultural sector that crops and trees are healthy, well-preserved and can adapt to ever-changing conditions.

Accordingly, we reviewed those laws that:

- govern forestry both as a natural resource and source of commercial timber;
- seek to protect plant health by providing measures aimed at preventing the spread of plant diseases; and
- provide a framework for intellectual property rights vested in eligible varieties of plants and trees.

For forestry law, our review firstly involved consideration of whether the forestry sector forms part of the agricultural sector and secondly whether the legislation in question was suitable for inclusion in the prospective Code. We conclude that forestry is generally regarded as a closely related but separate sector. Applying this conclusion, we found that the practical application of forestry law is not primarily concerned with agriculture. It therefore followed that forestry law did not satisfy our criteria for inclusion in the prospective Code. We acknowledge however that forestry law is highly relevant to farmers and therefore we suggest that any webpage which publishes the prospective Code could signpost to such legislation.

Examples of the plant health and plant varieties legislation which we concluded are suitable for inclusion in the prospective Code are set out in the table below.



Examples of legislation	Summary
Plant Health Act 1967 (“the 1967 Act”)	The 1967 Act helps prevent the introduction and spread of pests in the UK. It gives the Welsh Ministers the power to make orders to pursue that aim.
UK Regulation (EU) 2016/2031 on protective measures against pests of plants (“the UK Regulation (EU) 2016/2031”)	UK Regulation (EU) 2016/2031 provides a proactive framework for dealing with pests and diseases that would otherwise injure plants. The Regulation introduced plant passports as a requirement for professional operators who move plants within or into Great Britain.
Plant Varieties Act 1997 (“the 1997 Act”)	The 1997 Act governs the intellectual property right: plant breeders’ rights. Plant breeders’ rights give the owners of registered plant varieties exclusive commercial rights over the plant material (such as the seeds).

LAWS CONCERNING AGRICULTURAL TENANCIES AND OTHER LAND MANAGEMENT MATTERS

Approximately a third of agricultural land is tenanted and there is a specific legislative framework which regulates the relationship between landlords and tenants in the agricultural context. There is also a range of legislation which governs other land management matters such as those concerning the development of land, public access to land and the registration and use of common land.

Examples of the legislation we identified as being suitable for inclusion in the prospective Code are set out in the table below.

The Law Commission has recently announced a project to review agricultural tenancy law. Since agriculture is a devolved area of law, the project could include consideration of the law in relation to Wales. This is a matter to be discussed in due course with the Welsh Government. If our agricultural tenancy project were to include the law as applicable in Wales, our report suggests that any decision on whether and how to bring agricultural tenancy law within the prospective Code may be usefully informed by the outcome of our review.⁶



Examples of legislation	Summary
Agriculture Act 1947, sections 10 and 11 (“the 1947 Act”)	Sections 10 and 11 of the 1947 Act impose obligations on landlords and tenants (or other occupiers of agricultural land) to manage agricultural land to certain standards that ensure the land is fit for agricultural production.
Agricultural Holdings Act 1986 (“the AHA 1986”)	The AHA 1986 governs agricultural holdings (often referred to as AHA tenancies) created before 1 January 1995. The Act defines the AHA tenancy and sets out rights and obligations that arise.
Agricultural Tenancies Act 1995 (“the ATA 1995”)	The ATA 1995 created a new type of tenancy, called farm business tenancies. The Act defines farm business tenancies and sets out rights and obligations that arise.

OUR PROPOSED MODEL FOR THE PROSPECTIVE CODE

Having applied our criteria for inclusion, we identify a relatively high number of laws which we consider suitable for inclusion in the prospective Code. This encompasses:

- 14 Acts of the UK Parliament;
- 1 Act of the Senedd; and
- approximately 70 pieces of secondary legislation and assimilated laws.

We also identify a further six pieces of primary legislation which may be suitable for inclusion subject to issues requiring further consideration.

Given the volume of legislation in question, we propose that the primary legislation suitable for inclusion in the prospective Code could be brought together under four Acts of the Senedd which are each stated to form part of the prospective Code.

1. An initial consolidation Act bringing together provisions contained in certain Agriculture Acts and other Acts which primarily provide the Welsh Ministers and other public bodies with powers to regulate or support the agricultural sector.
2. An Act of the Senedd which consolidates or substantively reforms the primary legislation on agricultural tenancies.
3. An Act of the Senedd which consolidates or substantively reforms the primary law concerning animal health.
4. An Act of the Senedd which consolidates or substantively reforms the primary law concerning plant health and plant varieties.

 See Chapter 11 for a detailed account of the laws and provisions that we consider could be contained within the four Acts of the Senedd.

Alongside bringing the primary legislation together into Acts of the Senedd, we propose work be undertaken to rationalise the secondary legislation we identify as being suitable for inclusion in the prospective Code. The rationalisation of secondary law could, for example, include streamlining existing secondary laws concerning a similar

subject matter into a single Welsh statutory instrument.

To ensure the work involved in establishing the prospective Code is manageable, we set out in our report a proposed sequence of work for establishing the prospective Code.

 See Chapter 11

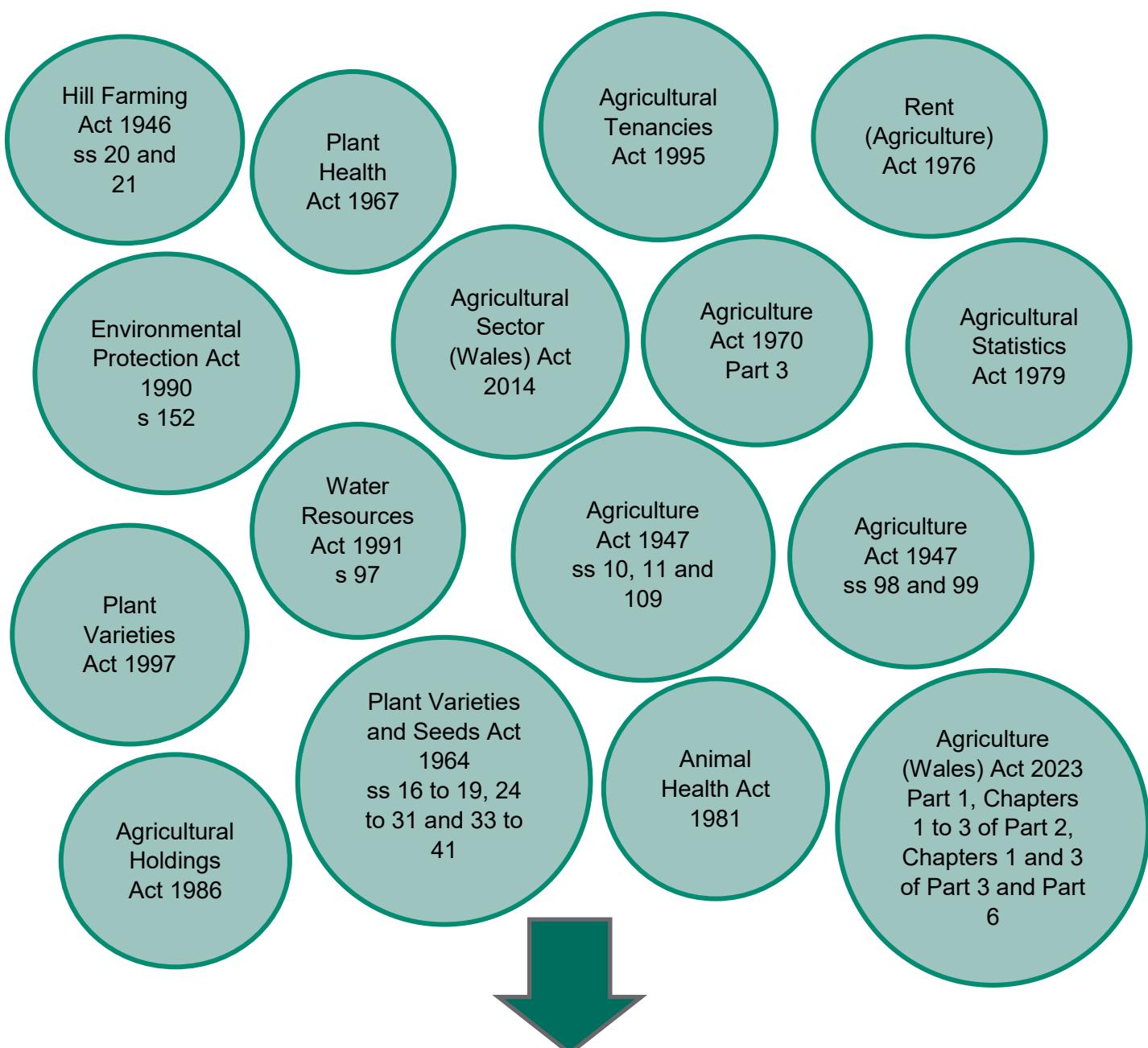
OTHER RELEVANT FACTORS THAT MAY INFORM THE FORM AND CONTENT OF THE PROSPECTIVE CODE

We acknowledge that the model of the prospective Code proposed in our scoping report is one of many possible models for a code of agricultural law for Wales. Consolidation and codification are particularly technical, drafter-led exercises, and the process, once underway, may lead to the model we have offered in our scoping report being varied or altered.

Beyond our criteria for inclusion, there are also other factors which may inform decisions as to the form and content of the prospective Code. These include the matters outlined below.

- The resourcing implications associated with establishing the prospective Code and thereafter maintaining the prospective Code.
- Political priorities that may inform which areas of law are prioritised for codification.
- Calls for substantive reform that may also influence which areas of agricultural law are prioritised for codification and whether those laws are codified in a consolidation Act of the Senedd or an Act of the Senedd delivering wholesale reform.
- The Welsh Government's wider political commitments, for example, as set out in relevant common frameworks. Common frameworks are governmental agreements which are intended to facilitate common approaches between the four UK nations in relation to certain matters which were formerly governed and coordinated at an EU level.
- The parameters of the Senedd's legislative competence.

PRIMARY LEGISLATION AND PROVISIONS CONTAINED IN PRIMARY LEGISLATION SUITABLE FOR INCLUSION IN THE PROSPECTIVE CODE



Consolidation of Agriculture Acts

Agricultural tenancy law

Animal health and livestock welfare law

Plant health, varieties and seeds law

BENEFITS OF ESTABLISHING THE PROSPECTIVE CODE

Having reviewed the existing fragmented body of agricultural law and applied our criteria for inclusion to that legislation, we consider that agricultural law is suitable to be brought together in a code of agricultural law for Wales.

Furthermore, we consider that the development of the prospective Code should serve to deliver a number of important benefits that together will improve the accessibility of agricultural law applicable in Wales. Key examples are set out in the table below.

Benefit	Summary
Tackling the existing fragmentation of agricultural law	A body of law that is fragmented and voluminous is difficult to navigate and understand. Bringing that law together in a discrete number of enactments that together form part of the prospective Code will in principle make that legislation easier to identify and access.
Modernisation and simplification	Bringing legislation together in a consolidation Act that forms part of the prospective Code presents an opportunity to make technical changes to the law which do not change the effect of the law but are aimed at modernising or simplifying it. The introduction of such technical changes or adjustments can make the law easier to understand and ensure that it reflects established practice.
Incorporation of modern legislative drafting practice	There are bespoke principles and techniques that the Welsh Government applies to its legislative drafting of Bills and Welsh statutory instruments. Bringing together existing agricultural legislation into an Act of the Senedd presents an opportunity to ensure the laws are drafted in line with modern legislative drafting practice in Wales.
Making the division of policy and executive responsibility clearer	Currently, many of the Welsh Ministers' powers to regulate or support the agricultural sector are contained in provisions set out in Acts of the UK Parliament. However, it is not always clear from those Acts that the statutory functions are exercisable by the Welsh Ministers in relation to Wales. Instead, it is necessary to look at separate pieces of legislation to determine who can exercise the power in question. Bringing the legislation in question together under an Act of the Senedd forming part of the prospective Code means that it can be made clearer on the face of the law where executive responsibility and power lie in the agricultural context.
Bilingual legislation	Many of the Acts we identify as being suitable for inclusion in the prospective Code are Acts of the UK Parliament which are currently available only in English. By contrast, the laws enacted by the Senedd are made in both Welsh and English, unless limited exceptions apply. Bringing agricultural legislation within the scope of the prospective Code means that the law in question will be made in both Welsh and English.

TECHNICAL ISSUES WITH THE LEGISLATION UNDER REVIEW

Our primary task for this project has been to identify the legislation suitable for inclusion in the prospective Code. Alongside that primary task, we also consider whether the legislation under review may require or benefit from technical changes or adjustments which are aimed at simplification, modernisation or streamlining. When reviewing agricultural legislation to identify examples of such technical issues, we have been guided by the types of technical reform that are permitted to be made under a consolidation Act of the Senedd.

The technical issues we have identified with the agricultural legislation reviewed can be grouped into four categories. We present those categories in the table below alongside illustrative examples.

 See Chapter 11

Category of technical reform	Example
Updates to reflect current drafting practice for Welsh legislation	We identify that consolidation would present an opportunity to re-state the Welsh Ministers' powers to make secondary legislation in a manner which aligns with modern Welsh legislative drafting practice. For example, powers to make secondary legislation in the form of orders could be restated as powers to make regulations. We identify examples of order-making powers which we consider could be restated in an Act of the Senedd as powers to make regulations.
Modernisation, for example, where the law does not reflect established practice	We identify that the Animal Health Act 1981 states that certain notifiable animal diseases must be notified to the police, whereas in modern-day practice notification must be made to the Animal Health and Plant Agency ("the APHA"). Similarly, we identify that relevant secondary legislation made under the Animal Health Act 1981 could make clearer that notification must be made to APHA.
Clarification where the terms used in the law lack clarity or provisions are inconsistent in their wording	We highlight that the rules applicable to the re-letting of statutory smallholdings to spouses or civil partners of deceased tenants could be made clearer; particularly with regard to how they apply to widowers of deceased tenants.
Removal of provisions which are redundant or obsolete	We consider whether section 18 of the Hill Farming Act 1946 – which allows the Welsh Ministers to regulate for the control of rams – is suitable for repeal. We note that the power has not been exercised in over 50 years.

ISSUES FOR FURTHER CONSIDERATION

Overarching issues for further consideration

In proposing a potential model for the prospective Code, we recognise that there may be issues requiring further consideration in the context of developing the Code. We set out below the examples of such issues as identified in our scoping report.



Chapter	Issue
Chapter 4	Large areas of agricultural law are regulated by assimilated law. Decisions on whether to revoke or replace those assimilated laws that concern agriculture will involve policy-based assessments. There are various options for restating, revoking or modifying assimilated law. We consider that bringing assimilated laws within the scope of the prospective Code has the potential to improve the accessibility of that law.
Chapter 4	The establishment of the prospective Code will require consideration as to whether the inclusion of secondary legislation in the prospective Code ought to be made contingent upon inclusion of the corresponding enabling provisions. Enabling provisions are powers provided for under primary legislation to enact secondary legislation such as regulations or orders. We conclude that a flexible approach to this issue should be adopted which allows for the inclusion of a secondary law in the prospective Code, even if the corresponding enabling provisions are excluded. We acknowledge that this is an issue for consideration likely to arise in the context of developing other codes of law on different subjects.
Chapters 4 and 5	We examine the differing statutory definitions of the term “agriculture”: identifying 13 distinct definitions of the term. We consider opportunities to streamline or modernise statutory definitions of “agriculture” that are contained in primary legislation. We further examine the implications of streamlining and modernising those definitions, including the potential effect on any related legal rights and obligations.
Chapter 7	The existing statutory powers to enforce animal health law are fragmented. Owing to the piecemeal development of the law in this area, those legislative provisions conferring enforcement powers in the animal health context can be inconsistent in their wording. Bringing animal health law within the prospective Code presents an opportunity to examine whether the wording of enforcement powers, as applicable in Wales, would benefit from standardisation.
Chapter 7	The establishment of a prospective Code presents an opportunity to examine whether the maximum fines which may be imposed for criminal offences in the agricultural context are consistent. We do not make proposals as to the appropriate maximum fines which may be imposed for individual offences. Instead, we point to an example where the maximum fines which may be imposed in the context of livestock identification offences appear potentially inconsistent.

Calls for substantive reform meriting further consideration

In addition to the overarching issues outlined above, we acknowledge that it may be considered undesirable to consolidate primary legislation where there are widespread calls for substantive reform of the law in question, or where there are plans to undertake such legislative reform.

Consequently, throughout our scoping report we have highlighted examples of calls for substantive reform of legislation applicable to agriculture. In light of these calls for reform, we consider that the areas of agricultural law in question may require further analysis before being subsumed within the prospective Code. In the below table, we present examples of those calls for substantive reform, as highlighted in our scoping report.

Chapter	Calls or proposals for substantive reform
Chapter 5	We consider sections 98 and 99 of the Agriculture Act 1947 which concern the control of agricultural pests, rabbits and captive animals. We highlight relevant recommendations for reform of these sections as presented in our 2015 Wildlife law reform report.
Chapter 6	We point to well-established calls for the consolidation of wildlife legislation. We consider the extent to which any such work to consolidate wildlife law could benefit users of the prospective code of agricultural law for Wales.
Chapter 8	We examine a recent independent report recommending reform of the law on hedgerows discussing how the policy direction proposed in that report may influence decisions on whether the law on hedgerows is suitable for inclusion in the prospective code of agricultural law for Wales.
Chapter 9	We summarise calls for substantive reform of the law governing agricultural tenancies as it applies in Wales. We point to our recently announced review of agricultural tenancy legislation and consider how and whether the outcome of that review may influence decisions on how and whether agricultural tenancy legislation is brought within the prospective Code.
Chapter 9	We summarise calls and proposals for reform of aspects of the statutory smallholdings regime as provided for under Part 3 of the Agricultural Holdings Act 1970.
Chapter 10	We refer to calls for substantive reform of the law on pesticides and separately the law relating to slaughterhouses.

NEXT STEPS

It is now for the Welsh Government to consider our scoping report and decide whether to establish the prospective Code and whether to do so in line with the model of the prospective Code proposed in our scoping report.

In addition, the Welsh Government will also consider whether further work is required to address:

1. any of the technical issues we identify with existing agricultural legislation; and
2. those wider issues for consideration which we highlight in the scoping report.

Under the Protocol between the Welsh Ministers and the Law Commission of England and Wales, the Welsh Ministers will provide an interim response to a Law Commission report as soon as possible and in any event within six months of publication of the report unless otherwise agreed with the Commission.⁷

The Welsh Ministers will provide a full response as soon as possible after the interim response and in any event within 12 months of publication of the scoping report, unless otherwise agreed with the Commission.



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ENDNOTES

[1] Forest Research reported 132,000 hectares of farm woodland in Wales while the survey of agriculture and horticulture identified a total of 1,770,100 hectares of agricultural land in total.

[2] Our report does not, however, consider all laws that apply throughout the agricultural supply chain. For example, laws regulating veterinary surgeons fall outside of the scope of this report as such laws relate to reserved matters (for further detail see para 7.101 of the scoping report).

[3] Welsh Government, *Survey of agriculture and horticulture* (2025) <https://www.gov.wales/sites/default/files/pdf-versions/2025/12/2/1765272643/survey-agriculture-and-horticulture-june-2025.pdf>, p 6.

[4] Forest Research reported 132,000 hectares of farm woodland in Wales in its 2025 report while the 2024 survey of agriculture and horticulture identified a total of 1,775,200 hectares of agricultural land in total.

[5] Forest Research, *Forestry Statistics 2025* (2025) https://cdn.forestryresearch.gov.uk/2025/09/FS2025_Ch1-68d4f71b97f6f.pdf, ch 1, pp 9 and 48.

[6] See ch 9 for further information.

[7] Protocol between the Welsh Ministers and the Law Commission (July 2015) https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/54/2024/11/Law_Commission_Welsh_Protocol.pdf.

