



Department of  
**Agriculture, Environment  
and Rural Affairs**

An Roinn

**Talmhaíochta, Comhshaoil  
agus Gnóthaí Tuaithe**

Depairtment o'

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**DATE: 02 DECEMBER 2025**

**TO: DR. JANICE THOMPSON  
AERA COMMITTEE CLERK**

**Legislative Consent Motion for the Biodiversity Beyond National Jurisdiction (BBNJ) Bill**

**Summary:** This written briefing is to support the AERA Committee in its consideration of the clauses in the Biodiversity Beyond National Jurisdiction Bill that deal with devolution matters.

**Business Area:** Marine Fisheries Division, Marine Environment Policy.

**Issue:** The UK Government introduced the Biodiversity Beyond National Jurisdiction Bill to the House of Commons on 10 September 2025. The provisions of the Bill extend and apply to England, Wales, Scotland and Northern Ireland, apart from clauses 17 and 18 which extend and apply to Scotland only.

The UK Government is seeking legislative consent from the Northern Ireland Assembly for clause 2-9, clause 11 and clause 13.

**Restrictions:** Elements of this briefing are likely to be deemed non-disclosable under the policy exemption (Section 35)

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**Action Required:** The AERA Committee is asked to note this update and highlight if any further information or briefing is required to assist the Committee with its consideration of the provisions of the Bill that deal with devolution matters.

**Officials Attending:** Not applicable, this is a written briefing only.

## **BACKGROUND**

The United Nations Convention on the Law of the Seas (UNCLOS) is an international agreement that establishes a legal framework for all marine and maritime activity. As a coastal state, the UK is responsible for the marine area up to 200 nautical miles from the coastline and this is managed through legislation such as The Marine and Coastal Access Act 2009, The Marine Strategy Regulations 2010, The Marine Act (Northern Ireland) 2013 and The Marine Works (Environmental Impact Assessment) Regulations 2007. This existing legislation applies to Northern Ireland.

The Biodiversity Beyond National Jurisdiction (BBNJ) Agreement has been made under the UNCLOS to address a governance gap that existed in areas beyond national jurisdiction. The BBNJ Agreement provides a system for establishing area-based management tools, including the creation of marine protected areas. Decisions relating to area-based management tools will be taken by the BBNJ Conference of Parties.

The BBNJ Agreement also applies to marine genetic resources. These include the genetic information marine organisms host enabling them to produce a wide range of biochemicals that can benefit humankind through pharmaceutical compounds, cosmetics, food supplements, research tools, and in industrial processes. Genetic resource obtained from terrestrial areas and / or marine waters within national jurisdiction fall within the scope of Access and Benefit Sharing provisions under the Nagoya Protocol. This is an international legal framework that enables equitable sharing of genetic material. Researchers in Northern Ireland who use non-human genetic resources have a legal obligation to comply with the Nagoya Protocol.

## **The Biodiversity Beyond National Jurisdiction Bill**

The Foreign, Commonwealth and Development Secretary introduced the Bill to the House of Commons on 10 September 2025. These policy proposals relate to international affairs and were primarily developed by officials in Ocean Policy Unit of the Foreign, Commonwealth and Development Office with support from colleagues with Defra and the Devolved Governments.

This bill is to enable the UK to implement the BBNJ Agreement. The UK must be able to implement its international obligations in full before it can ratify the Agreement.

The proposals in the Bill extend requirements that already apply in the UK marine area to the high seas and are expected to impact a very small number of researchers at Northern Ireland universities and research institutions.

The Bill is making progress through Westminster and had its 1<sup>st</sup> reading in the House of Lords on 18 November and is scheduled for the 2<sup>nd</sup> reading on 2 December 2025. Committee stage is scheduled for 16 and 18 December 2025. The report is likely to follow early January 2026.

Legislative consent must be obtained from the devolved parliaments at the report stage and before the 3<sup>rd</sup> reading in the House of Lords.

A memorandum was initially laid in the NI Assembly on 24 September 2025 which did not include a draft Legislative Consent Motion as the devolution analysis had not yet been completed. The Department has now completed the devolution analysis and agrees with the devolution analysis undertaken by the UK Government.

The Executive considered the draft legislative consent motion on 20 November 2025 and agreed that the endorsement of the Assembly by means of a Legislative Consent Motion should be sought in relation to the clauses that deal with devolution matters.

## **KEY ISSUES**

The Bill contains 26 clauses and one schedule. Legislative consent is required for clauses 2-9, clause 11 and clause 13 as these provisions engage devolved matters within the legislative competence of the Assembly.

### **Clauses 2-9 – Marine Genetic Resource provisions.**

The LCM process is engaged for these clauses as they relate to scientific research and education, which are devolved matters. The BBNJ Agreement extends the principles of the Nagoya Protocol and provides a system for sharing the benefits of marine genetic resources that are collected from the high seas. Researchers in Northern Ireland will therefore be required to comply with the requirements of the BBNJ Agreement. This includes activities such as collecting, logging, storing and sharing marine genetic resources, and any derived digital sequencing information.

### **Clause 11 – Area Based Management Tools – Power to make Regulations.**

The LCM process is engaged for this clause on the basis that the future use of the measures, which is primarily for the implementation of future BBNJ Conference of Parties decisions, could involve devolved matters.

Decisions relating to area-based management tools will be taken by the BBNJ Conference of Parties and Clause 11 will give the Secretary of State power to implement these decisions. This clause enables the Secretary of State to make regulations to restrict or control an activity as required in areas beyond national jurisdiction. This includes emergency measures, which may be adopted under Article 24 of the Agreement and are measures to be applied on an emergency basis when a

natural phenomenon or human-caused disaster has caused, or is likely to cause, serious or irreversible harm to marine biological diversity.

Northern Ireland citizens participating in a project on the high seas would be required to comply with these regulations. Clause 11 (4) provides an enabling power to create a civil sanction or a criminal offence in relation to a failure to comply with requirements imposed by or under the regulations. Department for Justice officials have confirmed that Clause 11 (5) references the correct statutory maximum for penalties capable of being imposed upon summary conviction in Northern Ireland.

### **Clause 13 – Directions**

The LCM process is engaged for this clause on the basis that the future use of the measures, which is primarily for the future implementation of BBNJ Conference of Parties decisions, could involve devolved matters. Clause 13 will provide powers for the Secretary of State to give a direction to implement emergency decisions taken by the BBNJ COP to UK craft. A Northern Ireland craft would be required to comply with this direction. Clause 13(7) creates a criminal offence for failure to comply with a direction without reasonable excuse. Clause 13(8) sets out the penalties for this offence, being a fine on summary conviction and on conviction on indictment, a fine, imprisonment for up to 2 years, or both. Clause 13(9) provides that proceedings for an offence committed outside the UK may be taken in the UK and the offence treated as if committed in the UK

Clauses 11 (4), 11 (5), 13 (7) and 13 (8) provide a proportionate enforcement system that is consistent with the system provided by the Marine and Coastal Access Act 2009 for offences that are committed within the UK marine area. The Department of Justice has confirmed that the proposed criminal offences are necessary, consistent and proportionate.

Any regulation or direction that is made under these provisions will apply to a very low number of persons working on research projects and are not expected to have a detrimental impact on the justice system.

### **POSITION IN GB/IRELAND/EU**

The Bill applies UK-wide (except clauses 17 and 18 which apply to Scotland only). The legislative consent process in the Scottish Parliament is at a similar stage as the NI Assembly. The Welsh Government assessed that the Bill did not require legislative consent from the Welsh Parliament.

Ireland has ratified the BBNJ Agreement and is expected to bring forward its own implementing legislation.

The EU signed the BBNJ Agreement and is developing an implementation framework consistent with UNCLOS and the Kunming-Montreal Global Biodiversity Framework.

## **NEXT STEPS**

The Legislative Consent Memorandum (Annex A) was laid in the Assembly on 24 November 2025.

The Committee is asked to report on the matter and highlight if any further information or briefing is required to assist with the consideration of the provisions of the Bill that deal with devolution matters.



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