Strategic Planning and Corporate Services Group
Strategic Support Division

Department of
Agriculture, Environment and Rural Affairs
An Roinn
Talmhaíochta, Comhshaoil agus Gnóthaí Tuaithe
Depairtment o'
Fairmin, Environment an' Kintra Matthers
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Your reference
Our reference: ACP/26/229

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10 November 2026

Dear Janice,

Fisheries, Aquaculture and Water Environment Bill – Delegated Powers

Thank you for your letter of 21 October, in which you sought clarification from the Department on two issues relating to the Bill. The first was in regard to Clause 6. You have asked the Department to clarify the intended scope of the fee-making powers including the maximum financial penalty and the purposes for which fees may be charged.

Clause 6 of the Bill replaces the current section 26 of the Fisheries Act (NI) 1966 and sets out what may be included in regulations made under this section. Currently section 26(1)(i) of the 1966 Act permits the Department to make regulations regarding "the duties payable in respect of fishing licences" and these are set out in Schedule 3 to the Fisheries Regulations (NI) 2014. It is envisaged that the provision at paragraph (3) of the new section 26 will be used in a similar way. Any regulations made under this new section 26 which include fees will be subject to the draft affirmative procedure in the

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Assembly and those fees will be set in accordance with the Managing Public Money NI guidance document.

Clause 6 does not contain a provision enabling the Department to introduce financial penalties, however, Clause 11 of the Bill would permit the Department to introduce fixed penalties for an offence under the replaced section 26 by way of subordinate legislation. The levels of the fixed penalties have not been determined at this point and will require the Department to develop these in conjunction with stakeholders.

Secondly, you raised concerns regarding Clause 13 and the limits on fixed penalty notices, the relationship between Clause 10 and regulations made under Clause 13(1)(j) of the Bill, and the circumstances in which criminal proceedings may be commenced after payment of a fixed penalty.

As noted above, the financial limits on fixed penalty notices are still to be determined. Clause 10 of the Bill provides that where a fixed penalty notice is paid by a person, that person is discharged from any criminal liability. Clause 13(1)(j) replicates section 294(4)(i) of the Marine and Coastal Access Act 2009 and the subordinate legislation made under this section provides that proceedings may be taken forward (within a specific timeframe) in the following two circumstances where a penalty has been paid.

1. Where penalty notices are issued to different persons for the same offence arising out of the same set of circumstances (connected penalties) whereby payment by one person is treated as being payment from the other. A “notice of deemed payment” is then issued to all persons which must indicate that the notice of deemed payment will be treated as having been paid unless the person gives written notice indicating that it should not be so treated (“notice of objection”). Where a person objects that the payment should not be treated as paid in relation to their penalty notice then the notice is deemed not to have been paid and they are liable for the offence.

2. Where a master, owner or charterer of a fishing boat that is from outside the UK and who has paid a penalty may request to be tried for that offence, in which case the penalty notice will be treated as never having been issued and the penalty will

be repaid in the event of acquittal or discontinuance of the related court proceedings.

While the Department does not envisage replicating the second circumstance, the scenario in the first requires further consideration and the Department, when the Bill was being drafted, considered that it would be prudent to enable the Department to set out circumstances in which proceedings may be brought following the payment of a penalty if necessary.

I hope this is of assistance but should you require anything further please contact me directly.

Yours sincerely,



Paul McGranaghan
Departmental Assembly Liaison Officer

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