

**Mr A Hicks,
Clerk
Committee for OFMDFM
Room 416
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX**

25 January 2013

Dear Alyn

UK ANTARCTIC BILL – LEGISLATIVE CONSENT MOTION

1. The purpose of this letter is to provide the Committee with notice of the laying of a Legislative Consent Memorandum in relation to the UK Antarctic Bill. The Bill extends to Northern Ireland and includes a provision making the regulation of activities in the Antarctic an excepted matter and therefore requires a Legislative Consent Motion to be passed by the Assembly.
2. Neil Carmichael MP introduced the Antarctic Bill (as a Private Member's Bill with Government support) on 20 June 2012. It has received cross-party support, and completed its passage without amendment, in the Commons; and had its First Reading on 21 January in the Lords. The Bill has widespread support from those that work in and visit Antarctica, and non-governmental organizations such as the WWF and the Antarctic Heritage Trust.
3. The Bill's primary aim is to enhance the protection of the Antarctic environment. It does so by implementing a new Antarctic Treaty known as the Liability Annex, which places a responsibility on Antarctic operators to respond to an environmental emergency caused by their activities or to pay for the costs of the clean up. This reflects the UK's international obligation, as an Antarctic Treaty Consultative Party, to give effect to the Annex in UK law. The Bill also makes changes to the Antarctic Act 1994 to further enhance environmental protections for marine plants and invertebrates and to further protect Antarctica from non-native invasive species.

4. During the course of the drafting of the Bill it was identified that Antarctica had been omitted from the list of excepted matters in the Northern Ireland Act 1998 and of reserved matters in the Scotland Act 1998. While no functions under the Antarctic Act 1994 were transferred to the Northern Ireland Departments on devolution in 1999, the passing of the Northern Ireland 1998 has, in the view of the UK Government, inadvertently resulted in the Northern Ireland Assembly having legislative competence to implement the UK's international obligations under the Antarctic Treaty. The UK Government has therefore requested that Antarctica be made an excepted matter in relation to Northern Ireland.
5. The coming into force of section 11 of the Scotland Act 2012 has now made the regulation of activities in Antarctica a reserved matter as far as the Scottish Parliament is concerned. This effectively means that all responsibility for Antarctica, with the exception of the Assembly's legislative competence, rests with the UK Government. In the view of the First Minister and deputy First Minister there is little or no rationale for the Assembly to have this legislative competence given that no Department here has, or is likely to seek, any corresponding functional powers. They therefore support clause 17 of the Antarctic Bill which corrects the current anomaly by making the regulation of activities in Antarctica an excepted matter as far as we are concerned.
6. This provision, while having no practical effect, nevertheless alters the legislative competence of the Assembly and a Legislative Consent Motion is therefore required. It is, therefore, the intention of the First Minister and deputy First Minister to lay a Legislative Consent Memorandum before the Assembly seeking its support for the extension of the Antarctic Bill to Northern Ireland and in particular to the making of the regulation of activities in the Antarctic an excepted matter.
7. Ministers hope that following the consideration of the formal Memorandum, the OFMDFM Committee will be in a position to support an appropriate Legislative Consent Motion when tabled for the Assembly's consideration in due course.

Yours sincerely
Signed Colette Kerr
COLETTE KERR