

# LEGISLATIVE CONSENT MEMORANDUM

## BIODIVERSITY BEYOND NATIONAL JURISDICTION BILL

### Draft legislative Consent Motion

1. The draft motion, which will be tabled by the Minister for Agriculture, Environment and Rural Affairs, is:

*“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Biodiversity Beyond National Jurisdiction Bill, as introduced in the House of Commons on 10 September 2025, and contained in clauses 2-9, clause 11 and clause 13 of the Bill.”*

### Background

2. This memorandum has been laid before the Assembly by the Minister of Agriculture, Environment and Rural Affairs under Standing Order 42A(2). The Biodiversity Beyond National Jurisdiction Bill was introduced in the House of Commons on 10 September 2025. The latest version of the Bill can be found at:

<https://publications.parliament.uk/pa/bills/cbill/59-01/0302/240302.pdf>

### Summary of the Bill and its policy objectives

3. This bill is to enable the United Kingdom (UK) to implement the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of marine Biology Diversity of Areas Beyond national Jurisdiction (the BBNJ Agreement). The full text of the BBNJ Agreement can be found at:

<https://www.un.org/bbnjagreement/sites/default/files/2024-08/Text%20of%20the%20Agreement%20in%20English.pdf>

4. Areas Beyond National Jurisdiction (ABNJ) is defined in the BBNJ Agreement as the high seas and the seabed and ocean floor beyond the limits of national jurisdiction.
5. The Bill contains 26 clauses and one schedule, addressing three of the four substantive parts of the BBNJ Agreement, Part II: Marine Genetic Resources including the fair and equitable sharing of benefits, Part III: Measures such as Area-Based Management Tools, including Marine Protected Areas, and, insofar as it relates to marine licensing, Part IV: Environmental Impact Assessments. The other parts of the BBNJ Agreement are not specifically covered in this Bill as they do not require legislation for the UK to meet its obligations under the Agreement.
6. The Agreement cements the UN Convention on the Law of the Sea (UNCLOS) as the key legal framework of ocean governance. It aims to enable greater conservation of the two-thirds of the ocean that lies beyond national jurisdiction and will support the delivery of the Kunming-Montreal Global Biodiversity Framework – that includes the target to effectively conserve and manage at least 30% of the ocean by 2030. Primary legislation, and subsequent secondary legislation, is required before the UK can ratify the Agreement to ensure compliance with its obligations.
7. The BBNJ Agreement:
  - establishes new obligations to share the benefits of research into, and utilisation of, marine genetic resources (MGR) from areas beyond national jurisdiction and digital sequence information (DSI) on those MGR;
  - establishes a mechanism to designate area-based management tools (ABMTs), including marine protected areas (MPA), in areas beyond national jurisdiction;
  - builds upon provisions in UNCLOS requiring environmental impact assessments for planned activities in areas beyond national jurisdiction;
  - strengthens capacity-building for developing states, along with broader marine technology transfer; and
  - makes clear that the BBNJ Conference of the Parties should work with and alongside existing bodies such as the International Maritime Organisation (IMO) and its work must be consistent with the provisions of UNCLOS.

### **Provisions which deal with a Devolution Matter**

8. The UK Government is seeking legislative consent from the Northern Ireland Assembly for clauses 2-9, clause 11 and clause 13. The Department agrees with this devolution analysis.
9. The LCM process is engaged for clauses 2-9 as they relate to scientific research and education, which are devolved matters.
10. Part 2 of the Bill (clauses 2-9) establish the UK's domestic regime for implementing Part II of the BBNJ Agreement, which concerns the marine genetic resources (MGR) and digital sequence information which is generated on these MGR (referred to as "DSI on MGR") and the equitable sharing of benefits from their collection and use.
11. Part 2 of the Bill specifies the requirements that will apply to persons involved in the collection, storage and utilisation of MGR of ABNJ, and in the storage and utilisation of DSI on these MGR. The policy objective of Part II of the Agreement, which is reflected in the provisions of Part 2 of the Bill, is to enhance the transparency of, and share the benefits of, research undertaken on such MGR and DSI.
12. Part 3 of the Bill relates to the implementation of Part III of the BBNJ Agreement. Part III of the Agreement establishes a regime by which Area Based Management Tools (ABMTs) can be established and managed for the purpose of protecting the marine environment in ABNJ.
13. ABMTs are defined in the BBNJ Agreement as "a tool, including a marine protected area, for a geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular conservation and sustainable use objectives in accordance with this Agreement"
14. Although not specified in the Agreement, measures to implement ABMTs are likely to require control or restriction of activities within a geographic area for the purposes of meeting conservation or sustainable use objectives (for example, restrictions on Loans for research.
15. The LCM process is engaged for clause 11 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.
16. Clause 11 enables the Secretary of State to make regulations to restrict or control an activity as required in ABNJ. 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 to ensure that the serious or irreversible harm is not exacerbated.

17. 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.
18. The LCM process is engaged for this clause 13 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.
19. Clause 13 provides a power for the Secretary of State to issue directions to UK craft for the purpose of implementing emergency measures adopted under Article 24 of the BBNJ Agreement. These measures may be adopted by the Conference of Parties where a natural phenomenon or human-caused disaster has caused, or is likely to cause, serious or irreversible harm to marine biological diversity in ABNJ.
20. 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

## **Reasons for making the Provisions**

21. The Bill will provide the legal framework for the United Kingdom to fully implement fully its international obligations under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (the BBNJ Agreement).
22. The BBNJ Agreement has been ratified by over 60 countries meaning it will enter into force on 17 January 2026. The first Conference of Parties must take place within one year of entry into force.
23. To ensure the UK is in a position to ratify the Agreement and fully participate in decision-making at the Conference of Parties, the UK

Government must secure Royal Assent and pass the necessary secondary legislation by early 2026. To achieve this, legislative consent motions need to be secured from the devolved governments by the final amending stage in the House of Lords, which could come as early as December 2025.

### **Reasons for utilizing the Bill rather than an Act of the Assembly**

24. 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.
25. The Bill amends the Marine and Coastal Access Act 2009 and the Marine Works (Environmental Impact Assessment) Regulations 2007 to align the marine licensing regimes with the BBNJ EIA process in respect of activities in areas beyond national jurisdiction. This legislation operates on a UK-wide basis and therefore it is appropriate for a Westminster Bill to introduce the provisions rather than an Assembly Bill.

### **Consultation**

26. The Natural History Museum and the National Oceanography Centre, as the organisations holding the main collections of MGR of ABNJ in the UK, were consulted both during the negotiation of the Agreement and in the development of the UK's approach to its implementation.

### **Human Rights and Equality**

27. Foreign Secretary Yvette Cooper has made the following statement under section 19(1)(a) of the Human Rights Act 1998: In my view the provisions of the Biodiversity Beyond National Jurisdiction Bill are compatible with the Convention rights.
28. In accordance with its duty under section 75 of the Northern Ireland Act 1998, it is the Department's assessment that there are no equality, human rights or good relations issues associated with the provisions in the Bill.

### **Financial Implications**

29. The UK Government has assessed the public sector financial costs to be low on the basis that there will be no significant costs to the public sector above business as usual. There are no financial implications for the Northern Ireland Departments arising directly from the draft Bill (as introduced).

## **Summary of Regulatory Impact**

30. The UK Government has assessed the overall regulatory impact to be neutral. The impact assessment indicates there will be minimal impacts on businesses. There is a possibility that as a result of access and benefit sharing under the BBNJ Agreement, greater dissemination of information enables the development of new and improved solutions in the pharmaceutical, life sciences, agri-tech, cosmetics, nutraceuticals and bulk chemical sectors. This could have significant benefits to UK businesses and households. However, due to long lead-times for research, any impacts are likely to be negligible to begin with.

## **Engagement to date with the Committee for Agriculture, Environment and Rural Affairs**

31. The Agriculture, Environment and Rural Affairs Committee has been notified and will be provided with briefing as part of the legislative consent process.

## **Conclusion**

32. The view of the Minister of Agriculture, Environment and Rural Affairs is that, in the interest of good government, the provisions of the Bill dealing with devolutions matters should extend to Northern Ireland.

**Department of Agriculture, Environment and Rural Affairs**  
**24 November 2025**