

# Second Supplementary Legislative Consent Memorandum

## Biodiversity Beyond National Jurisdiction Bill

### Background

1. This memorandum has been lodged by Gillian Martin MSP, Cabinet Secretary for Climate Action and Energy, in accordance with Rule 9B.3.1(c) of the Parliament's Standing Orders. It should be read in conjunction with the Scottish Government's previous [Legislative Consent Memorandum](#) ("first LCM") and [supplementary LCM](#) ("first supplementary LCM") on the Bill lodged on 25 September 2025 and 22 December 2025 respectively.
2. The Biodiversity Beyond National Jurisdiction Bill ("the Bill") was introduced by the UK Government in the House of Commons on 10 September 2025. The Bill is available on the UK Parliament website via this link: [Biodiversity Beyond National Jurisdiction Bill - Parliamentary Bills - UK Parliament](#). Since its introduction, the Bill has been amended, including changes to the numbering of certain clauses. This memorandum refers to the latest version of the Bill, published on 16 December 2025. Where clause numbering differs from that used in the first LCM and first supplementary LCM, references to the previous numbering are provided. Having completed its second reading, the Bill is currently at the House of Lords Report stage, due to take place on 12 January 2026. The third reading of the Bill is expected to take place on 19 January with the final stages (Royal Assent) taking place during the week of 26 January 2026.
3. The first LCM for the Bill was lodged on 25 September 2025 (LCM-S6-64). This first LCM recommended consent to Clauses 15-19 of the Bill (which are now Clauses 15-17 and 19-20) and did not take a position on the remaining clauses. It was noted that a supplementary LCM outlining the Scottish Government's position on consent for remaining clauses will be lodged in due course.
4. The first supplementary LCM concerning amendments to the Bill tabled on 8 December 2025 for the House of Lords committee, relating to changes to the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (SSI 2017/115) ("2017 Regulations") (now contained in Clause 18 of the Bill) and powers for the Scottish Ministers to make regulations previously contained in Clause 18 of the Bill (now Clause 19), was lodged on the 22 December 2025 (LCM-S6-64a) and recommended consent to these clauses. As noted in the first supplementary LCM, these amendments were tabled by the UK Government with agreement from the

Scottish Government. It was noted in that supplementary LCM that a further supplementary LCM (“second supplementary LCM”) would be lodged following the conclusion of negotiations with the UK Government on the remaining clauses. Those negotiations have now concluded.

5. This second supplementary LCM follows amendments tabled on 5 January 2026 for the House of Lords Report Stage and provides a recommendation to the Scottish Parliament that it consent to all remaining clauses requiring a consent position (Clauses 2-14, 22 and 26). The amendments were tabled by the UK Government with the agreement of the Scottish Government. They introduce clauses (as yet unnumbered), providing for concurrent regulation-making powers for the Scottish Ministers, alongside a duty on the Secretary of State to consult the Scottish Ministers before exercising the powers provided under Clause 9 (Part 2 of the Bill) and Clause 11 (Part 3 of the Bill) where devolved matters are engaged. The amendments also update Clause 26(2) to make provision for commencing the changes to the 2017 Regulations introduced in Clause 18 of the Bill. A full copy of the amendments can be found on pages 1 to 8 in the [Running List of All Amendments on Report tabled up to and including 5 January 2026](#).

## Content of the Bill

6. The Bill concerns biodiversity beyond national jurisdiction (known as “BBNJ”) and makes provision to implement the Agreement 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 (“BBNJ Agreement”). The BBNJ Agreement aims to ensure the conservation and sustainable use of marine resources in areas beyond national jurisdiction (“ABNJ”) (i.e., beyond 200 nautical miles (“nm”)).

7. The current version of the Bill contains 27 clauses and one schedule, addressing three of the four substantive parts of the BBNJ Agreement, namely: Part II: Marine Genetic Resources (“MGR”), including the fair and equitable sharing of benefits (implemented in Part 2 of the Bill); Part III: Measures such as Area-Based Management Tools (“ABMTs”), including Marine Protected Areas (implemented in Part 3 of the Bill); and, insofar as it relates to marine licensing, Part IV: Environmental Impact Assessments (implemented in Part 4 of the Bill). The amendments tabled on 5 January 2026 will insert a further six clauses into the Bill (as yet unnumbered).

8. The remaining clauses requiring a consent position in this second supplementary LCM relate to Parts 2-5 of the Bill. This memorandum addresses each part of the Bill in turn, setting out, for each part, the provisions of the Bill that make provision for purposes within the legislative competence of the Scottish

Parliament and/or alter the executive competence of the Scottish Ministers, and why consent is recommended.

## Overview of devolved competences in relation to the BBNJ Agreement implementation

9. Various aspects of the implementation of the BBNJ Agreement are within the legislative competence of the Scottish Parliament. These can be explained as follows:

- a) The BBNJ Agreement covers matters in the high seas, which comprise the waters beyond the exclusive economic zone (i.e., beyond 200 nm), and in the deep seabed beyond national jurisdiction (i.e., the sea floor beyond the continental shelf), which form the ABNJ. The marine environment in the ABNJ (which is the main focus of the BBNJ Agreement) is a devolved matter. The observation and implementation of international obligations is also devolved to the Scottish Ministers (Scotland Act 1998, schedule 5, part I, paragraph 7(2)(a)). Therefore, provided that the matters being implemented are “in or as regards Scotland” in accordance with section 29(2)(a) of the Scotland Act 1998, they fall within the legislative competence of the Scottish Parliament.
- b) “Scotland” is defined as including the UK’s internal waters and territorial sea adjacent to Scotland (as set out in the Scotland Act 1998, section 126(1)). This would cover various aspects of BBNJ activities to the extent that they take place on land “in Scotland” (e.g. before and after collection of MGR in the high seas) or involve activities from Scottish ports.
- c) The term “*as regards* Scotland” (emphasis added) is a broad one. As set out in the Explanatory Notes to the Scotland Act 1998, it encompasses activities with “some connection or nexus with Scotland”. The term “as regards Scotland” necessarily includes an extra-territorial element. The term covers Scottish actors (e.g., Scottish companies, Scottish vessels or other users of Scottish ports) in relation to BBNJ activities in the ABNJ.

10. In addition to the overarching legislative competence of the Scottish Parliament “in or as regards Scotland” for marine environmental matters, the Scottish Ministers also exercise various specific executive functions in relation to marine environmental protection within what is commonly known as the Scottish offshore region, and these powers are also impacted by the Bill. The “Scottish offshore region” (as defined in the Marine Coastal Access Act 2009 (“2009 Act”), section 322(1)) includes the Scottish part of the UK’s exclusive economic zone (i.e., from 12 to 200 nm), plus the seabed and subsoil of the UK’s claimed extended continental shelf (“ECS”) out to the west beyond Rockall, in the Hatton-Rockall area. Within the Scottish offshore region, the Scottish Ministers exercise various executive functions under the 2009 Act in relation to marine licensing, marine planning and marine

protection. Notably, this includes functions over the area of ECS in the Scottish offshore region, where the water column above forms part of the high seas and is subject to the BBNJ Agreement.

## Provisions which require the consent of the Scottish Parliament

### Part 2 (Clauses 2 to 10 and Schedule, including three amendments) – MGR

11. Part 2 of the Bill sets out the domestic regime necessary to implement Part II of the BBNJ Agreement, concerning the MGR of ABNJ and digital sequence information (“DSI”) which is generated from these MGR as well as the equitable sharing of benefits from their collection and use. It imposes obligations in relation to collection and utilisation of MGR and associated DSI from ABNJ. These obligations include requirements for notification pre- and post-collection, storage, access, and reporting (Clauses 2-8 and Schedule). A power is provided to the Secretary of State to make regulations in relation to implementing obligations under Part II of the BBNJ Agreement on MGR (Clause 9). On 5 January 2026, with the agreement of the Scottish Government, the UK Government tabled three new clauses after Clause 9 to provide for concurrent regulation-making powers for the Scottish Ministers, alongside a duty for the Secretary of State to consult the Scottish Ministers before exercising the powers in Clause 9 where devolved matters are engaged. The new clauses also provide equivalent arrangements in relation to Northern Ireland. Already included within Part 2 is a duty for the Secretary of State to publish guidance about requirements imposed by Part 2 of the Bill (Clause 10).

12. In summary, Clauses 2 to 10 in Part 2 of the Bill and the three newly inserted clauses make the following provision.

13. **Clause 2 (Collection)** provides for notification requirements of pre-and post-collection information in connection with MGR collected by UK craft or UK equipment from ABNJ, including that pre-collection information must be provided to the Secretary of State 7 months in advance of collection taking place. This implements Article 12(2) to (5) of the BBNJ Agreement. Information must be provided in accordance with the Schedule to the Bill.

14. **Clause 3 (Utilisation)** provides for obligations for UK-based projects that use MGR or DSI on such MGR from ABNJ. The person in control of such a project must submit utilisation information to the Secretary of State, deposit physical samples in a publicly accessible repository, and record digital data in a suitable database, all within three years. Repositories and databases must follow current international

scientific practices and allow identification of the resources via identifiers of Article 12(3) of the BBNJ Agreement.

15. **Clause 4 (Onward Disclosure)** governs how the Secretary of State may share information received under Clauses 2 and 3 of the Bill. The provision allows for onward disclosure of information to the Clearing-House Mechanism established under the BBNJ Agreement, unless the information is protected under the National Security Act 2023 or exempt under Article 51(6) of the BBNJ Agreement.

16. **Clause 5 (Repositories)** governs UK repositories that store MGR samples from ABNJ. Repository controllers must ensure samples are identifiable according to international standards, provide access for utilisation (subject to conditions set out in Clause 7), and report access activity every two years to the Secretary of State. Reports must reference the specific identifiers (Article 12(3)) linked to the MGR involved.

17. **Clause 6 (Databases)** sets out obligations for UK-controlled, publicly accessible databases that store DSI on MGR from ABNJ. The person responsible for such a database must ensure the DSI is identifiable (by reference to any Article 12(3) identifier, as defined in Clause 21 (previously Clause 20)) and provide access to it under reasonable conditions. The clause also provides for reporting requirements to the Secretary of State in relation to how the DSI has been viewed and downloaded, which must be provided every 2 years. A person controls a database in the UK in case of an individual if the individual is habitually resident in the UK, and in any other case, the person is incorporated or formed under the law of any part of the UK.

18. **Clause 7 (Supplementary)** sets out supplementary provisions, including that access to MGR or DSI in the repositories and databases may be subject to conditions consistent with Article 14(4)(a) to (d) of the BBNJ Agreement and in relation to the reporting requirement under Clauses 5 and 6. It also provides that the Secretary of State may alter reporting deadlines by directions to comply with any timetable set by the access and benefit-sharing committee established under Article 15 of the BBNJ Agreement.

19. **Clause 8 (Exceptions)** sets out exceptions from the requirements of Part 2 of the Bill with respect to fishing and fishing related activities, military activities and military vessels and aircraft, activities in Antarctica, and the MGR and DSI of Antarctica.

20. **Clause 9 (Power to make regulations)** contains delegated powers for the Secretary of State to make regulations in subsection (2) covering the following topics:

- (a) Ensuring the UK's compliance with Part II of the BBNJ Agreement in a manner consistent with Article 5(2) (which concerns the relationship between the BBNJ Agreement and other instruments);
- (b) Implementing decisions of the BBNJ Agreement's Conference of Parties ("CoP") under Article 14(7) of the BBNJ Agreement (concerning the sharing of monetary benefits). This could include imposition of requirements to make payments or to disclose information relevant to calculation of those payments;
- (c) Making any changes to Part 2 of the Bill that are necessary due to determinations by the CoP under Article 51(2) of the BBNJ Agreement about the operation of the Clearing-House Mechanism (established by Article 51(1));
- (d) Limiting application of Part 2 of the Bill to give effect to Article 51(6) of the BBNJ Agreement (which provides that information need not be shared with the BBNJ Clearing-House Mechanism if domestic law protects it from disclosure);
- (e) Avoiding double regulation by ensuring that a person is not required to comply with both a provision under Part 2 of the Bill and with equivalent provision in the law of another State party to the BBNJ Agreement; and
- (f) Making provision about the enforcement of requirements under Part 2 of the Bill.

21. These powers can be exercised by the Secretary of State in relation to devolved matters. However, following Scottish Government negotiations, three new clauses have been inserted after Clause 9. As set out in the following paragraphs, these clauses provide equivalent regulation-making powers for the Scottish Ministers within devolved legislative competence, and they oblige the Secretary of State to consult the Scottish Ministers before exercising powers in Clause 9 in relation to matters within devolved legislative competence. These new clauses were added to Part 2 by amendments tabled on 5 January 2026 at the House of Lords Report Stage.

22. **After Clause 9, a new Clause (Power to make regulations: Scotland and Northern Ireland)** provides powers for the Scottish Ministers to make regulations that are within the scope of Clause 9(2) for the purposes of implementing the UK's obligations under Part II of the BBNJ Agreement. These powers are corresponding to the Secretary of State powers in Clauses 9(1) and (2), but are limited to matters that are within the legislative competence of the Scottish Parliament. Subclause 2(c) provides powers to make consequential changes (as further specified in subsection (5)). These consequential powers can be used by the Scottish Ministers to amend an enactment as defined in Schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010, which includes an Act of the Scottish Parliament or an Act of the UK Parliament.

23. **After Clause 9, a new Clause (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland))** makes provision for procedure relating to regulations under the new clause (Power to make regulations: Scotland and Northern Ireland). Regulations that amend an Act of the UK Parliament or an Act of the Scottish Parliament, or that create a civil sanction or change the maximum amount of a monetary penalty, must follow the affirmative procedure. Subclause (3) gives the option to change the procedure for making regulations under this clause from the negative procedure to affirmative procedure to give the Scottish Parliament an option for enhanced scrutiny of any regulations under this provision. The meanings of “subject to the negative procedure” and “subject to the affirmative procedure” are set out in sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010.

24. **After Clause 9, a new Clause (Consultation: Scotland and Northern Ireland)** requires the Secretary of State to consult the Scottish Ministers before making regulations under Clause 9 that contain provision that would be within the legislative competence of the Scottish Parliament.

25. **Clause 10 (Guidance)** requires the Secretary of State to publish, review, and revise guidance on the requirements under Part 2 of the Bill, and to lay all such guidance before the UK Parliament. In preparing this guidance, the Secretary of State must have regard to the importance of giving effect to the BBNJ Agreement.

26. **Schedule (Utilisation information)** sets out further details on information to be provided and relevant timescales in relation to Clause 3 in situations where utilisation of MGR leads to publications, patents, or product development or to commercialisation. It also provides that the Secretary of State may, by written notice to the relevant person, extend the period within which information has to be given.

### Part 3 (Clauses 11 to 13, including three amendments) – ABMT

27. Part 3 of the Bill relates to the implementation of Part III of the BBNJ Agreement. Part III of the BBNJ Agreement establishes a regime by which ABMTs can be established and managed for the purpose of protecting the marine environment in ABNJ. ABMTs are defined in Article 1 of 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”. Part 3 of the Bill comprises Clauses 11-13. However, three new clauses tabled on 5 January 2026 for inclusion in Part 3, introducing concurrent powers for the Secretary of State and the Scottish Ministers to make regulations to implement CoP decisions to establish, manage and enforce ABMTs for the purpose of protecting the marine environment in the ABNJ.

28. In summary, Clauses 11 to 13 in Part 3 of the Bill and the three newly inserted clauses make the following provision.

29. **Clause 11 (Power to make regulations)** empowers the Secretary of State to make regulations to implement ABMTs and related measures, including where the CoP takes a decision:

- a) On the establishment of ABMTs, including marine protected areas, and related matters under Article 22(1)(a) of the BBNJ Agreement;
- b) On measures compatible with other legal instruments and frameworks, and certain other matters under Article 22(1)(b) of the BBNJ Agreement; or
- c) To adopt measures to be applied on an emergency basis under Article 24(1) of the BBNJ Agreement.

30. Pursuant to Clause 11(2), the Secretary of State can make regulations for the purpose of meeting the UK's obligations under Article 25(1) of the BBNJ Agreement. Article 25(1) requires Parties to the BBNJ Agreement to ensure that activities under their jurisdiction or control that take place in ABNJ are conducted consistently with decisions taken under Part III of the BBNJ Agreement. As detailed further within Clause 11(3)-(5), these regulations may make provision that applies in ABNJ or otherwise outside the UK, relating to matters such as enforcement, the charging of fees, and the creation of civil sanctions and criminal offences with defined limits on penalties. Additionally, as provided in Clause 11(6), such regulations may make consequential provisions to amend or repeal provisions of Acts of Parliament whenever passed to ensure consistency and effectiveness in implementing ABMT-related decisions.

31. **Clause 12 (Procedure for regulations under section 11)** sets out the Parliamentary procedures for regulations made under Clause 11. The draft affirmative procedure applies to regulations that amend an Act of Parliament, create or alter civil sanctions or monetary penalties or create a criminal offence. The made affirmative procedure applies where such regulations relate to CoP decisions under Article 24(1) of the BBNJ Agreement and need to be made urgently. The negative procedure applies to all other regulations under Clause 11.

32. **After Clause 12, a new Clause (Power to make regulations: Scotland and Northern Ireland (No. 2))** provides for regulation-making powers for the Scottish Ministers to make regulations for the purpose of meeting the UK's obligations under Article 25(1) of the BBNJ Agreement. These powers are corresponding in scope to the powers of the Secretary of State under Clause 11(2) of the Bill (as read with Clause 11(3) to (5)), but are limited to matters which are within the legislative competence of the Scottish Parliament. The clause also provides for powers for the Scottish Ministers to make consequential changes. These consequential powers

could be used to amend an enactment as defined in Schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010 which includes an Act of the Scottish Parliament or an Act of the UK Parliament.

**33. After Clause 12, a new Clause (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland (No. 2)))** provides for the procedure for regulations made under the new clause (Power to make regulations: Scotland and Northern Ireland (No. 2)). Regulations that amend an Act of the Scottish Parliament or an Act of the UK Parliament that create a civil sanction or change the maximum amount of a monetary penalty, or that create a criminal offence must follow the affirmative procedure. If regulations relate to a decision under Article 24(1) of the BBNJ Agreement and the person making the regulations considers that they need to be made urgently to give effect to the measure, then the made affirmative procedure may be used. All other regulations under this power are subject to the negative procedure, although any provision that could be made under the negative procedure may also be included in regulations subject to either the affirmative or made affirmative procedure. Where regulations are subject to the made affirmative procedure, they must be laid before the Scottish Parliament as soon as reasonably practicable after being made and will cease to have effect after 28 days unless approved by resolution of the Scottish Parliament. When calculating this 28-day period, any time during which the Scottish Parliament is dissolved or in recess for more than four days is disregarded.

**34. After Clause 12, a new Clause (Consultation: Scotland and Northern Ireland (No. 2))** provides that the Secretary of State must consult the Scottish Ministers before making regulations under Clause 11 that contain provision that would be within the legislative competence of the Scottish Parliament, except where regulations need to be made urgently to implement CoP decisions relating to emergency measures (Article 24(1) of the BBNJ Agreement). Article 24(1) provides that emergency measures may be required when a natural phenomenon or human-caused disaster has caused, or is likely to cause, serious or irreversible harm to marine biodiversity, to ensure that the serious or irreversible harm is not exacerbated. Emergency measures can only be in place for up to two years (Article 24(4) of the BBNJ Agreement).

**35. Clause 13 (Directions)** provides for a separate emergency mechanism designed to enable immediate compliance with urgent international obligations, whereas Clause 11 and the new clause after Clause 12 (Power to make regulations: Scotland and Northern Ireland (No. 2)) govern the making of regulations to implement broader or longer-term measures. Clause 13 empowers the Secretary of State to issue emergency directions to UK craft to implement urgent measures adopted under Article 24 of the BBNJ Agreement, aimed at preventing serious or irreversible harm to marine biodiversity in ABNJ. These directions must be given in

writing (or confirmed in writing if delivered orally), laid before the UK Parliament, and may be varied or revoked, ceasing to have effect once the emergency measure ends. Failure to comply without reasonable excuse is a criminal offence, with penalties including fines or imprisonment, and offences committed outside the UK may be prosecuted within the UK. This power provides a means for the UK to comply with binding emergency measures without delay in situations where the urgency or exceptional nature of such measures mean that regulations would not be sufficiently responsive. The power is modelled on existing direction-making powers available to the Secretary of State's Representative under Schedule 3A of the Merchant Shipping Act 1995, which are used to respond to maritime emergencies.

## Part 4 (Clause 14) – Marine Licensing etc.

36. Part 4 of the Bill covers Clauses 14 to 19 and relates to implementation of Part IV of the BBNJ Agreement. The first LCM recommends consent to Clauses 15-17 and 19 (which were previously numbered as Clauses 15-19 of the Bill). Clause 18 was subsequently introduced, and the first supplementary LCM provides for a recommendation to provide consent in relation to the new Clause 18. This second supplementary LCM will address the remaining Clause 14 (Licensable marine activities) in Part 4, which still requires a consent position.

37. Clause 14 of the Bill introduces technical amendments to Part 4 of the 2009 Act to ensure the UK Government can meet its obligations under Parts III and IV of the BBNJ Agreement. These changes allow prospective UK activities in ABNJ to fall within the scope of the 2009 Act and the Marine Works (Environmental Impact Assessment) Regulations 2007. The amendments expand the existing order making powers of the Secretary of State in section 66 of the 2009 Act to add activities to the marine licensing regime to be used effectively for ABNJ, including making consequential changes to legislation where necessary. Specifically, new provisions clarify that orders adding licensable activities may designate them as related to BBNJ obligations and allow for consequential amendments to primary or secondary legislation. Further changes provide that exemption orders under section 74 of the 2009 Act can also amend legislation when linked to designated activities and remove the usual exemption for submarine cables where activities are designated.

38. Clause 14 makes amendments to the marine licensing regime in the 2009 Act. The 2009 Act applies in the Scottish offshore region. Clause 17 makes equivalent changes to the marine licensing regime contained in the Marine (Scotland) Act 2010 (“2010 Act”) which applies primarily in the Scottish inshore waters (i.e., out to 12 nm). In addition, both the 2009 Act and 2010 Act currently regulate certain licensable marine activities in ABNJ, and there is currently an overlap in powers between the UK and Scottish governments in relation to certain activities in ABNJ. This overlap arises from the licensing provisions under section 66

of the 2009 Act and section 21 of the 2010 Act, both of which apply to certain marine activities conducted "anywhere at sea." Under the Bill, this overlap continues, including in relation to amended powers under those provisions to regulate further licensable marine activities in ABNJ.

39. This overlap was recognised during the passage of the 2009 Act and the 2010 Act, and a pragmatic approach was adopted to avoid dual regulation at the time. It was agreed that certain activities would be exempted through secondary legislation. Specifically, the Marine Management Organisation ("MMO") was designated as the licensing authority for activities listed under items 2, 5, and 12 of section 66 of the 2009 Act, when carried out by British vessels, aircraft, or marine structures, including those registered in Scotland. To give effect to this arrangement, Article 35 of the Marine Licensing (Exempted Activities) (Scottish Inshore Region) Order 2011 (SSI 2011/204) exempts these activities from licensing under the 2010 Act, for the purposes of avoiding double regulation.

## Part 5 (Clauses 22 and 26) – General

40. Part 5 of the Bill makes general provision concerned with interpretation, powers to make consequential provision, the procedure for making regulations under the Bill, extent and commencement provisions. The Scottish Government considers that Clause 22 (Power to make consequential provision) and Clause 26 (Commencement) in Part 5 require the consent of the Scottish Parliament, as also identified in the [Report of the Delegated Powers and Law Reform Committee of 5 December 2025](#). Please note that Clause 22 was previously numbered as Clause 21 and Clause 26 previously formed Clause 25. These clauses were not identified by the UK Government as requiring the legislative consent of the Scottish Parliament in the table published in Annex A of the [Explanatory Notes](#) to the Bill and were not addressed in the first LCM.

41. **Clause 22** provides a power which allows the Secretary of State, by regulation, to make provision that is consequential on the provisions in the Bill. The power may be used to amend, repeal or revoke any provision made by or under an Act of Parliament passed before this Bill is passed or later in the same Parliamentary session. Regulations for this purpose must be made by statutory instrument following the negative procedure, unless they are amending primary legislation in which case the draft affirmative procedure applies.

42. **Clause 26** sets out how and when the provisions of the Bill will come into effect. The Bill will generally come into force on the day it is passed, except for certain clauses, specifically Clauses 2 to 8 (which deal with duties to provide information on the collection and use of MGR from ABNJ and related DSI), Clause 10 (which requires the Secretary of State to publish guidance on Part 2 of the Bill),

and Clause 15 (which concerns screening and procedure under Part 4). With the agreement of the Scottish Government, the UK Government tabled an amendment on 5 January 2026 to include commencement provision for Clause 18 (which makes changes to the 2017 Regulations) in Clause 26(2). The clauses listed in Clause 26(2), including Clause 18, will come into force on dates appointed by the Secretary of State by regulation. The Secretary of State also has the power to bring provisions into effect on different dates for different purposes and to make transitional or saving provisions in relation to commencement, which may also vary for different purposes. All regulations under this section must be made by statutory instrument.

## Reasons for recommending legislative consent

### Part 2 (Clauses 2 to 10 and Schedule) – MGR

43. As set out in more detail below, clauses within Part 2 of the Bill make relevant provision under Rule 9B.1.1 of the Standing Orders, as the amendments make provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament. As contemplated by Rule 9B.3.3(b)(i) of the Standing Orders, Part 2 makes provision for purposes within the legislative competence of the Parliament, as it makes provision in relation to marine research and environmental matters as regards Scotland and the implementation of international obligations in relation to devolved matters.

44. Specifically, Clauses 2 to 8 and the Schedule to the Bill impose new obligations relating to the collection and utilisation of MGR and associated DSI from ABNJ. They include requirements for notification pre- and post-collection, storage, access, and reporting. These new requirements also apply to Scottish vessels and actors involved in collection and utilisation of MGR and associated DSI from ABNJ (Clauses 2 and 3). They apply to repositories of MGR in Scotland (Clause 5) and databases of DSI controlled by a person in Scotland (Clause 6). These are matters that fall within the legislative competence of the Scottish Parliament in relation to scientific research and marine environment matters in or as regards Scotland and the implementation of international obligations.

45. Clause 9 (Power to make regulations) provides for the Secretary of State to make regulations relating to the implementation of Part II of the BBNJ Agreement, including in relation to matters within the legislative competence of the Scottish Parliament (namely, scientific research and marine environment matters carried out within Scotland or in the ABNJ with a nexus to Scotland, and implementation of international obligations). The new clause inserted after Clause 9 (Consultation: Scotland and Northern Ireland) requires that, if the regulations brought forward under Clause 9 contain provision within the legislative competence of the Scottish Parliament, they may only be exercised after consulting the Scottish Ministers. The

new clause inserted after Clause 9 (Power to make regulations: Scotland and Northern Ireland) provides the Scottish Ministers with their own regulation-making powers in relation to matters within devolved legislative competence, equivalent to the powers of the Secretary of State. The new clause (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland)) provides for the procedure for regulations under the new powers. These three new clauses after Clause 9 fall within the legislative competence of the Scottish Parliament concerning scientific research, marine environment policy, and the implementation of international obligations in relation to devolved matters.

46. Clause 10 (Guidance) requires the Secretary of State to publish guidance on the MGR requirements imposed by Part 2 of the Bill. Previously, the UK Government did not identify Clause 10 as requiring the consent of the Scottish Parliament; however, it is the Scottish Government's view that these matters do fall within the legislative competence of the Scottish Parliament. The purpose of the guidance is to give further meaning to the requirements provided in Part 2 of the Bill (Clauses 2-8), including through illustrative examples that support individuals and organisations in understanding how and when the obligations under Part 2 will apply to them. Since the requirements in Part 2 have been identified as falling within legislative competence of the Scottish Parliament, accordingly Clause 10 does also since the guidance relates to matters of marine environment and scientific research in Scotland or in ABNJ as regards Scotland and the implementation of international obligations for devolved matters.

47. Since the Bill was introduced on 10 September 2025, the Scottish Government has worked closely with the UK Government to reach agreement on a range of legislative amendments and underpinning non-legislative arrangements to ensure devolution is appropriately respected. The agreed combination of legislative and non-legislative protections for devolved competence provide a sufficient basis for the Scottish Government's recommendation that legislative consent should be given in relation to all clauses in Part 2 of the Bill (MGR).

48. The Scottish Government and the UK Government agree on the general approach to implementation of Part II of the BBNJ Agreement, as regards the introduction of a single, cross-UK domestic regime for MGR. This approach is pragmatic and proportionate and will help to ensure that, for example, new obligations on UK and Scottish research institutions to notify pre- and post- collection of MGR in ABNJ are consistent UK-wide. The Scottish Government recognises the value of establishing a single national focal point in the UK to support the operation of the Clearing-House Mechanism under the BBNJ Agreement to facilitate the sharing of information and benefits. There is limited scope for potential divergence in implementation of provisions on MGR. Accordingly, legislative consent is recommended for Clauses 2 to 8 and the Schedule to the Bill.

49. The three new clauses inserted after Clause 9 provide a duty that ensures that the Scottish Ministers are appropriately consulted and involved in the preparation of regulations where they impact on devolved competence and that the Scottish Ministers have equivalent powers to the Secretary of State to introduce regulations on devolved matters regarding Part 2 of the Bill as may be required. This will ensure that the expertise that sits within the Scottish Government on devolved matters is utilised so that Part II of the BBNJ Agreement can be effectively implemented in Scotland. In the unlikely scenario that the Scottish Government does not agree with the approach taken by the UK Government in relation to implementing requirements under Part II of the BBNJ Agreement which impact on devolved matters, the concurrent powers provided for the Scottish Ministers means they could legislate independently to address such a situation subsequently. It therefore will also require early engagement between governments in advance of decisions being taken under Part 2 of the Bill with potential impacts on devolved matters, to agree an approach regarding what parliamentary level regulations will be made (for example, at UK level, or Scottish level).

50. The Scottish Government has considered a variety of options to ensure adequate protections of, and compatibility with, devolved powers. These have been the subject of intergovernmental negotiation with the UK Government to ensure all options were thoroughly explored, with concerns on both sides addressed fully. The tabled amendments reflect a position that both the Scottish and UK governments consider provides the protections necessary for devolution, which is specific to the scope and nature of this particular Bill. Importantly, the UK Secretary of State can only legislate in devolved areas after consultation with the Scottish Ministers, and the Scottish Ministers have concurrent powers if required.

51. The Scottish Government has also obtained reassurances from the UK Government that it is committed to engagement with the Scottish Government in relation to future CoP activities, where matters may engage devolved competence or affect Scottish interests. The existing intergovernmental frameworks including the [Memorandum of Understanding between Governments, Concordat on International Relations](#) provides a framework for this engagement. This includes a commitment to engage with the Scottish Government at an early stage on the development of the UK negotiating position ahead of meetings of the CoP where matters may impact on devolved competences. In combination with the requirement to consult the Scottish Ministers in connection with the subsequent implementation of CoP decisions, it is anticipated that this approach will support details being shared with the Scottish Government and Scottish expertise being utilised to inform the most effective UK positions.

52. The three new clauses after Clause 9 together with reassurances in relation to non-legislative underpinning arrangements provide for sufficient safeguards to

protect devolved powers. Accordingly, legislative consent is recommended for Clause 9 and the three new clauses inserted after Clause 9.

53. Clause 10 provides for a duty on the Secretary of State to publish guidance regarding the requirements in Part 2 of the Bill. The Scottish Government has obtained assurances from the UK Government that where the development of the guidance may touch on devolved interests or affect Scottish actors, the UK Government will engage with the Scottish Government during the preparation of the guidance. This will be confirmed in an intergovernmental agreement on working arrangements to underpin the Bill, which is under development between governments. The Scottish Government considers that a UK-unified approach to guidance issued in connection with Part 2 of the Bill is desirable and that non-legislative assurances for involvement of the Scottish Government in the development of the guidance provides for sufficient protection of devolved interests in this instance. Accordingly, legislative consent is recommended for Clause 10.

### Part 3 (Clauses 11 to 13) – ABMT

54. Part 3 of the Bill makes provision for purposes within the legislative competence of the Scottish Parliament, as it includes provision in relation to environmental matters as regards Scotland and the implementation of international obligations in relation to devolved matters. Certain aspects of Part 3 also have the potential to impact on executively devolved functions of the Scottish Ministers in the UK's claimed area of ECS west of Rockall. An LCM is therefore required in accordance with Rule 9B.3.3(b)(i) and (ii) of the Standing Orders.

55. Specifically, Clauses 11 and 12 provide for delegated powers and accompanying procedure for the Secretary of State to make regulations including on matters which are within the legislative competence of the Scottish Parliament. The new clause inserted after Clause 12 (Consultation: Scotland and Northern Ireland (No. 2)) adds a consultation requirement, obliging the Secretary of State to consult the Scottish Ministers before making regulations under Clause 11 that contain provision within devolved legislative competence.

56. The regulation-making powers in Clause 11 (and the related procedure and process requirements in Clause 12 and the new clause inserted after Clause 12 (Consultation: Scotland and Northern Ireland (No. 2))) relate to the implementation of future CoP decisions to establish, manage, and enforce ABMTs. Under the BBNJ Agreement, State parties are required to ensure that activities under their jurisdiction or control occurring in ABNJ are conducted consistently with CoP decisions. Under the devolution settlement, some of activities in ABNJ are within the control of the UK Government, such as, for example, marine transport, which is a reserved matter. Other activities are devolved if there is a nexus to Scotland, including marine

environment protection, sea fisheries, deep seabed mining and various enforcement activities. An example of a future CoP decision could be to introduce a new marine protected area designated to protect a certain feature like a spawning ground for a migratory species at a particular time of the year. This would be a devolved matter and within the legislative competence of the Scottish Parliament to implement fishing restrictions in ABNJ applying, for example, to Scottish fishing vessels. Accordingly, these clauses require legislative consent.

57. In addition, these powers could potentially impact on executive functions of the Scottish Ministers exercised under the 2009 Act, within the UK's claimed ECS in Scottish waters (see further detail in para 10 above). For example, the Secretary of State may exercise their regulation-making powers to implement a CoP decision that relates to the water column above the ECS in this area, which could impact on the Scottish Ministers' executive functions in relation to marine environment protection and marine licensing in this area. Accordingly, these powers require legislative consent.

58. The further new clauses inserted after Clause 12 (Power to make regulations: Scotland and Northern Ireland (No. 2)) and (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland (No. 2)) provide for delegated powers for the Scottish Ministers corresponding to those of the Secretary of State to implement CoP decisions in relation to matters which are within the legislative competence of the Scottish Parliament. Accordingly, these powers require legislative consent.

59. Clause 13 allows the Secretary of State to issue directions to enable immediate compliance with CoP decisions on an emergency basis. This may apply to matters within the legislative competence of the Scottish Parliament. An example of an emergency measure could be to divert shipping traffic in the event of a disaster in an instance of where there is not sufficient time to make regulations first. Marine transport is a reserved matter, but the power could potentially also be exercised in relation to matters which are devolved in the ABNJ if there is a nexus to Scotland. In addition, the power could also potentially be exercised to impact on executively devolved functions of the Scottish Ministers. Accordingly, Clause 13 requires legislative consent.

60. The clauses in Part 3 provide for mechanisms to implement future CoP decisions on ABMTs. The Bill as introduced provided sole powers to the Secretary of State to make regulations in relation to Part 3 on ABMTs to implement CoP decisions, including on devolved matters. The Scottish Government has worked closely with the UK Government to amend Part 3 of the Bill to protect the devolution settlement. During this engagement, different options for amending Part 3 were considered to provide sufficient protection for devolved interests and competences.

61. Given the international aspect of these measures and respective responsibilities, the UK Government and the Scottish Government reached an agreement to amend the Bill to include concurrent powers for the Secretary of State and the Scottish Ministers to make regulations to implement CoP decisions (where they fall within devolved competence), combined with a duty to consult the Scottish Ministers before powers are exercised by the Secretary of State in relation to devolved matters (other than in relation to emergency measures).

62. The extent to which the Scottish Ministers choose to exercise delegated powers to implement future CoP decisions on devolved matters, rather than leaving implementation for the whole of the UK to the Secretary of State, will depend on several factors: the nature and detail of the measures, their impact on devolved areas (such as marine environment protection, sea fishing, marine licensing, and seabed mining), the flexibility available to parties in implementing them, the implementation timeline, and the desirability of maintaining a consistent UK-wide approach. The approach to legislating, in terms of which parliament (either UK or Scottish) is the most appropriate legislature to lay relevant regulations, is expected to be the subject of intergovernmental engagement in advance of decisions being made at the CoP which impact on devolved matters.

63. To the extent the Secretary of State will implement future CoP decisions for the whole of the UK, these amendments to Part 3 ensure that the Scottish Ministers are appropriately consulted before regulations are made and therefore involved in the preparation of regulations where they impact on devolved competences. This allows for scrutiny of draft regulations and ensures that the expertise on devolved matters in the Scottish Government, including in relation to existing legal requirements, are utilised. In the unlikely event that the Scottish Government disagrees with the UK Government's approach on the implementation of measures, the concurrent powers available to the Scottish Ministers provide a mechanism to legislate independently within devolved competence to address concerns.

64. The Scottish Government has also agreed working arrangements with the UK Government premised on the Concordat on International Relations in the Memorandum of Understanding between the UK and Devolved Administrations, in particular, on the formulation of UK policy and conduct of negotiations and implementation of international obligations where this impacts on devolved matters. This arrangement is designed to ensure that the Scottish Government is appropriately involved in ongoing work to formulate and negotiate a policy position for ABMTs under the BBNJ Agreement. This ensures that the Scottish Government is sighted on prospective measures, that measures are informed by Scottish expertise, and that the Scottish Ministers can take steps to prepare regulations to implement the measures within the 120-day deadline provided for under the BBNJ Agreement.

65. It is anticipated that the regulation-making powers in Clause 11 and the new clause after Clause 12 (Power to make regulations: Scotland and Northern Ireland (No. 2)) will be the primary means through which CoP decisions on ABMTs will be implemented. The direction issuing power in Clause 13 is intended for immediate operational responses in situations where the regulation-making powers are not sufficiently responsive in an emergency scenario. Directions are time-limited to up to two years following their entry into force. This applies to natural phenomenon or human-caused disasters, such as an oil spill, where there has been, or is likely to be, serious or irreversible harm to marine biological diversity in an ABNJ. For example, a direction could be issued to a UK vessel to direct it away from an area where there is a human-caused disaster if its presence could cause additional damage. Given the limited scope as well as the emergency nature of Clause 13, the Scottish Government is content that this direction issuing power for the Secretary of State is appropriate to ensure compliance with the BBNJ Agreement. The UK Government has undertaken to inform the Scottish Government of emergency measures adopted at the CoP, and the two governments are working to develop underpinning working arrangements that secure future engagement under this clause.

66. Legislative consent is recommended for Clauses 11, 12 and the new clause inserted after Clause 12 (Consultation: Scotland and Northern Ireland (No. 2)). These clauses provide for powers for the Secretary of State to implement CoP decisions on ABMT, including on matters within the competence of the Scottish Parliament, after consultation with the Scottish Ministers.

67. Legislative consent is recommended for the new clauses inserted after Clause 12 (Power to make regulations: Scotland and Northern Ireland (No. 2)) and (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland (No. 2))). These clauses provide for concurrent powers for the Scottish Ministers to implement CoP decisions on ABMTs within legislative competence of the Scottish Parliament and associated procedure.

68. Legislative consent is recommended for Clause 13 (Directions). This clause provides an additional emergency power for the Secretary of State which is necessary to ensure that immediate operational action can be taken in an emergency scenario to comply with international obligations.

## Part 4 (Clause 14) – Marine Licensing etc.

69. Clause 14 makes provision for purposes within the legislative competence of the Scottish Parliament and alters the executive competence of the Scottish Ministers, as it makes provision in relation to marine environment protection as regards Scotland and the implementation of international obligations in relation to devolved matters. Clause 14 also has the potential to impact on executive

devolved functions of the Scottish Ministers under the 2009 Act in the Scottish offshore region. An LCM is therefore required under Rule 9B.3.3(b)(i) and (ii) of the Parliament's Standing Orders.

70. The Scottish Ministers have executive functions under 2009 Act in relation to marine licensing in the Scottish offshore region, as amended by Clause 14. The Scottish offshore region includes the UK's claimed ECS where the water column above forms part of the ABNJ and is subject to the BBNJ Agreement (for further background see paragraph 10). In addition, Clause 14 amends section 66 of the 2009 Act, which contains powers for the Secretary of State to regulate marine licensable activities carried out by Scottish actors in the ABNJ. The regulation of marine licensing in ABNJ is a devolved matter if there is a nexus to Scotland, for example if the licensable activity is carried out by a Scottish company. Accordingly, Clause 14 requires legislative consent.

71. In the first LCM, the Scottish Government set out in paragraph 34 that it is content in principle with Clause 14, but that further work was required between the Scottish and UK governments to ensure the split of licensing responsibility agreed between them will operate effectively, in relation to BBNJ activities and in a manner that reflects the devolution settlement.

72. Before the UK can ratify the BBNJ Agreement, secondary legislation is required to make further changes to the marine licensing regimes contained in the 2009 Act and the 2010 Act, principally to extend licensable activities to the ABNJ. The Scottish Government and the UK Government worked collaboratively to agree a division of responsibilities for marine licensing in ABNJ which respect the devolution settlement. A joint consultation between the Scottish Government and UK Government was launched on 14 November 2025 in relation to the implementation of Part IV of the BBNJ Agreement, including in relation to the division of responsibilities for marine licensing responsibilities in ABNJ in secondary legislation. The consultation closed on 19 December 2025.

73. The Scottish Government has obtained an undertaking from the UK Government to proceed on the basis that the principal criterion for dividing up responsibility for licensing new activities in ABNJ is the nationality of the main entity or corporate body carrying out the activity in the ABNJ. This would mean that if a Scottish actor carries out the activity in ABNJ, the Scottish Ministers will be the responsible licensing authority and if the activity is carried out by a UK actor (that is not also Scottish), the MMO would be the responsible authority. The Scottish Government considers that this undertaking provides sufficient reassurance that existing powers in section 66 of the 2009 Act, as amended by Clause 14, will be exercised in a manner which respects the devolution settlement. Accordingly, legislative consent is recommended for Clause 14.

## Part 5 (Clauses 22 and 26) – General

74. Clause 22 grants powers on the Secretary of State to make consequential provisions. The powers of the Secretary of State in Clause 22 are limited to amend an Act. The term “Act” is defined in Schedule 1 of the Interpretation Act 1978: it means an Act of Parliament, and only covers primary legislation passed by the UK Parliament. Accordingly, the powers in Clause 22 cannot be exercised to amend Acts of the Scottish Parliament. But powers in Clause 22 could potentially be exercised to amend an Act of the UK Parliament passed before devolution which contains devolved content. Separately, the powers in Clause 22 could be exercised to amend an Act of the UK Parliament which contains executively devolved functions for the Scottish Ministers. Accordingly, legislative consent is required.

75. Clause 26 provides for early commencement of Bill provisions which are not listed in Clause 26(2). Clause 26(2) gives the Secretary of State powers to appoint, through regulations, the date by which provisions listed come into effect. This includes Clauses 2 to 8, 10 and 18 which were identified as requiring the legislative consent of the Scottish Parliament due to impact on devolved competences. Accordingly, this clause requires legislative consent.

76. Clause 22 provides for general powers to make consequential amendments to Acts of the UK Parliament only. Where the Bill provides delegated powers for the Scottish Ministers to make regulations, bespoke powers to make consequential amendments are included in relation to those specific powers (see new clause after Clause 9 (Power to make regulations: Scotland and Northern Ireland), new clause after Clause 12 (Power to make regulations: Scotland and Northern Ireland (No. 2)), Clause 17 (Licensable marine activities)). As set out in the UK Government’s Memorandum from the Foreign, Commonwealth and Development Office to the Delegated Powers and Regulatory Reform Committee (September 2025), paragraph 123, the UK Government included the consequential powers in Clause 22 on a precautionary basis in case it had not identified all consequential changes required as a result of introducing new frameworks and obligations under the Bill. The Scottish Government is content with this approach, and also considers that the bespoke powers to make consequential amendments provided for the Scottish Ministers elsewhere in the Bill are sufficient. Accordingly, legislative consent is recommended for Clause 22.

77. Clause 26 provides for early commencement of certain Bill provisions (upon Royal Assent of the Bill), while others will come into force by a date appointed by the Secretary of State by regulations. The Scottish Government is content that none of the provisions in the Bill for which early commencement is envisaged will have any adverse effects on existing rights.

78. The Scottish Government understands that the intention of the UK Government is that the appointed date for provisions coming into force under Clause 26(2) will coincide with the BBNJ Agreement becoming binding on the UK (i.e., 30 days after the UK deposits its instrument of ratification). Any statutory instruments made under Bill provisions that come into effect upon Royal Assent will also take effect on or before the date the BBNJ Agreement becomes binding on the UK.

79. The Scottish Government considered options for commencement of Clause 18, which amends the 2017 Regulations and is covered in the first supplementary LCM. Without any amendments to Clause 26, Clause 18 would have commenced on the day the Bill is passed under Clause 26(1). Given its potential impact on individual rights, the Scottish Government considered that commencement of Clause 18 should be later and that the most practical solution in this instance is to assign this power to the Secretary of State by adding a reference to Clause 18 under Clause 26(2), as per the amendment tabled on 5 January 2026. The Scottish Government considers that this ensures a consistent approach and takes account of the timeline for passing commencement regulations and the forthcoming dissolution of the Scottish Parliament.

80. For these reasons, the Scottish Government is content to recommend consent to Clause 26.

## Consultation

81. There has been no formal consultation on the Bill. The UK Government jointly with the Scottish Government ran a consultation from 21 November to 19 December 2025 relating to the implementation of Part IV of the BBNJ Agreement concerning changes to the marine licensing regime. Insights from that consultation will be used to inform future secondary legislation to make changes to marine licensing to align it with the BBNJ Agreement.

## Post EU scrutiny

82. The EU has been an active and prominent participant in the development of the BBNJ Agreement, as the BBNJ Agreement furthers EU aims in relation to the protection of biodiversity. The EU signed the BBNJ Agreement on 20 September 2023 and approved it on 28 May 2025, thereby becoming a party to the BBNJ Agreement.

83. In April 2025, the EU Commission brought forward a proposed directive to incorporate the BBNJ Agreement into EU law aimed at helping Member States with

implementation of all parts of the BBNJ Agreement into national systems.<sup>1</sup> The first reading of the proposal in the European Parliament was completed in November 2025.

## Conclusion

84. The Scottish Government continues to be supportive of the BBNJ Agreement and is committed to timely implementation and ratification. The Scottish Government's view is that a UK Bill introducing the necessary changes within Scotland alongside the rest of the UK and providing the necessary powers and safeguards for Scottish Ministers is the most effective means to implement this agreement.

85. Therefore, the Scottish Government recommends that the Scottish Parliament consent to all relevant clauses of the Bill. These clauses are: Clause 2 (Collection), Clause 3 (Utilisation), Clause 4 (Onward disclosure), Clause 5 (Repositories), Clause 6 (Databases), Clause 7 (Supplementary provision), Clause 8 (Exceptions), Clause 9 (Power to make regulations), New Clause after Clause 9 (Power to make regulations: Scotland and Northern Ireland), New Clause after Clause 9 (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland)), New Clause after Clause 9 (Consultation: Scotland and Northern Ireland), Clause 10 (Guidance), Clause 11 (Power to make regulations), Clause 12 (Procedure for regulations under section 11), New Clause after Clause 12 (Power to make regulations: Scotland and Northern Ireland (No. 2)), New Clause after Clause 12 (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland (No. 2))), New Clause after Clause 12 (Consultation: Scotland and Northern Ireland (No. 2)), Clause 13 (Directions), Clause 14 (Licensable marine activities), Clause 15 (Screening and procedure), Clause 16 (Power to make regulations: Secretary of State), Clause 17 (Licensable marine activities), Clause 18 (Screening and procedure), Clause 19 (Power to make regulations: Scottish Ministers), Clause 20 (Amendments to Levelling-up and Regeneration Act 2023), Clause 22 (Power to make consequential provision), Clause 26 (Commencement), and Schedule (Utilisation Information).

## Draft motion on legislative consent

86. The successful conclusion of negotiations with the UK Government and the subsequent tabling of amendments mean that the Scottish Government can now recommend that Parliament consent to all of the relevant provisions in the Bill. The amendments are still to be considered at Lords Report stage, so it is possible that the clause numbering will change. This will be reflected in the Motion on Legislative

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<sup>1</sup> [EUR-Lex - 52025PC0173 - EN - EUR-Lex](#)

Consent when lodged in due course. As is stands the draft motion, which will be lodged by the Cabinet Secretary for Climate Action and Energy, is as follows.

“That the Parliament agrees that the relevant provisions of the Biodiversity Beyond National Jurisdiction Bill, introduced in the House of Commons on 10 September 2025 and subsequently amended, relating to Clauses 2 to 20, 22, 26, and the Schedule, and new Clause after Clause 9 (Power to make regulations: Scotland and Northern Ireland), new Clause after Clause 9 (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland)), new Clause after Clause 9 (Consultation: Scotland and Northern Ireland, and new Clause after Clause 12 (Power to make regulations: Scotland and Northern Ireland (No. 2)), new Clause after Clause 12 (Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland (No. 2))), new Clause after Clause 12 (Consultation: Scotland and Northern Ireland (No. 2)), so far as these matters fall within legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Scottish Government  
January 2026

This Supplementary Legislative Consent Memorandum relates to the Biodiversity Beyond National Jurisdiction Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 12 January 2026

# Biodiversity Beyond National Jurisdiction Bill – Supplementary Legislative Consent Memorandum

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