

THE BIODIVERSITY BEYOND NATIONAL JURISDICTION BILL 2025

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Biodiversity Beyond National Jurisdiction Bill, as brought from the House of Commons on 18 November 2025 (HL Bill 148).

- These Explanatory Notes have been prepared by the Foreign, Commonwealth and Development Office (“FCDO”), Department for Food, Environment and Rural Affairs (“Defra”) and the Department for Transport (“DfT”) to assist the reader in understanding the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes need to be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The legislation will, along with subsequent secondary legislation, 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 Biological Diversity of Areas Beyond National Jurisdiction (the BBNJ Agreement) [UN Text of BBNJ Agreement](#). Before it can ratify the Agreement, the UK must be in a position to implement its international obligations in full.
- 2 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. An explanation of the contents of the other parts is included in the Explanatory Memorandum provided in Command Paper no. 942¹.

Policy Background

- 3 The BBNJ Agreement was adopted by consensus at the United Nations (UN) on 19 June 2023 and the UK signed the Agreement when it opened for signature on 20 September 2023. 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.
- 4 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;
 - 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.
- 5 The following paragraphs provide further detail on the structure and the content of the Bill.

¹ [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 \[MS No.9/2023\] - GOV.UK](#)

Part 1 and Part 2 – Introduction and Marine Genetic Resources

Part 1: Introduction

- 6 The introduction of the Bill outlines the meaning of ‘the Agreement’ – being 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 which was adopted at the UN on 19 June 2023.

Part 2: Marine Genetic Resources

- 7 Part 2 of the Bill establishes the UK’s domestic regime for implementing Part II of the BBNJ Agreement, which concerns the marine genetic resources (MGR) of areas beyond national jurisdiction (ABNJ) 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.
- 8 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.
- 9 MGR are defined in the BBNJ Agreement as “any materials of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value”.
- 10 DSI is not defined in the BBNJ Agreement. At the time of the adoption of the BBNJ Agreement, the definition of DSI was still under discussion in the context of negotiations under the Convention on Biological Diversity (CBD) on the sharing of benefits from the use of DSI on genetic resources from within national jurisdictions – both terrestrial and marine. At the 16th Conference of the Parties to the CBD, in Cali, Colombia, on 1 November 2024, the Conference adopted a Decision operationalising a multilateral mechanism for the fair and equitable sharing of benefits from the use of DSI, including the establishment of a global fund known as the Cali Fund². That decision did not define DSI, and discussions to define DSI are ongoing at the CBD. Clause 20(1) of the Bill therefore provides the Secretary of State with a regulation-making power to define DSI (under a negative procedure). Regulations will be made under that power following Royal Assent and prior to ratification. Stakeholder engagement on the definition of DSI will be conducted in Autumn 2025. The definition set out in the Regulations will serve as a provisional, domestically agreed definition, which can be revised and aligned with any future internationally agreed definition by way of future regulations under the power in Clause 20(1).
- 11 Part 2 of the Bill sets out requirements on persons using UK craft to collect MGR in ABNJ. The relevant person in charge of the collection project will have a duty to inform the BBNJ national focal point within FCDO pre-and post-collection of MGR, setting out specific information that is required to be provided under the BBNJ Agreement. The BBNJ national focal point, acting on behalf of the Secretary of State, will be responsible for submitting these notifications to the Clearing-House Mechanism established under the BBNJ Agreement.
- 12 Where research on MGR results in the generation of DSI on those MGR, that DSI must be uploaded into a publicly accessible database. MGR collected from ABNJ must be held in a publicly accessible repository following utilisation.

² [cop-16-dec-02-en.docx](#)

- 13 Part 2 of the Bill also places a requirement on repositories and databases to ensure access to MGR of ABNJ and DSI on such MGR, subject to reasonable conditions. Repositories include collections such as those maintained by the Natural History Museum and the Discovery Collections maintained by the National Oceanography Centre. Reasonable conditions will be set out in guidance and could include biosecurity considerations, or a requirement that a certificate under the Convention on International Trade in Endangered Species is obtained before a specimen can be released. The Natural History Museum's policy on outgoing research loans illustrates the kind of restrictions that were contemplated during the negotiation of the Agreement.³
- 14 The Bill also places a requirement for repositories holding MGR of ABNJ to produce an aggregate report on access to those MGR every two years. It also requires databases that contain DSI on MGR to produce an aggregate report on access every two years which will contain information on the number of times DSI has been downloaded from the database or viewed programmatically for any purpose.

Part 3 - Area-Based Management Tools (ABMTs)

- 15 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 ABMTs can be established and managed for the purpose of protecting the marine environment in ABNJ. 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"*.
- 16 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 high seas energy generation infrastructure to conserve an MPA feature). The Bill 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 In addition, the Bill includes a power for the Secretary of State to issue a direction, without the need for secondary legislation, where emergency measures adopted under Article 24 of the Agreement require an immediate intervention to control or restrict activities of UK craft.

Part 4 – Marine licensing etc

- 18 Part 4 of the Bill provides for legislative changes necessary to implement provisions in Part IV of the BBNJ Agreement regarding environmental impact assessments (EIAs) as they apply to activities within the remit of the domestic marine licensing regime. Part IV builds upon existing UNCLOS provisions by outlining a detailed framework for assessing the potential impacts to the marine environment of planned human activities in ABNJ. EIA is defined in the Agreement as *"a process to identify and evaluate the potential impacts of an activity to inform decision-making"*.
- 19 The Bill amends the Marine and Coastal Access Act 2009 and the Marine Works (Environmental Impact Assessment) Regulations 2007 to align that marine licensing regime with the BBNJ EIA process in respect of activities in ABNJ. This includes technical changes to the existing powers under the Marine and Coastal Access Act 2009 to amend the list of

³ [Loans for research](#)

licensable marine activities. The Bill also amends the Marine (Scotland) Act 2010 and provides powers to amend the marine licensing regime in Scotland as required to align with the BBNJ EIA process in respect of activities in ABNJ.

- 20 The Bill also amends the Levelling-up and Regeneration Act 2023 to ensure that Environmental Outcome Reports (EORs) can apply to activities in ABNJ. This ensures that EIA requirements arising from the BBNJ Agreement can be implemented through any future EOR framework that may be adopted.

Part 5 – General

- 21 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.

Legal Background

- 22 The following notes give a brief overview of significant legislation referenced by the Bill:
- 23 Part 4 of the [Marine and Coastal Access Act 2009](#) establishes a system for licensing the carrying on of activities in the marine environment. Anyone carrying on, or causing or permitting any other person to carry on, an activity mentioned in section 66 will need to obtain a licence from the appropriate licensing authority, subject to any exemption provided for in the Act. The 2009 Act is amended by Part 4 of this Bill to ensure alignment with the BBNJ EIA requirements in respect of activities in ABNJ.
- 24 The [Marine Works \(EIA\) Regulations 2007](#) make provision requiring EIAs to be carried out prior to the granting of consent for certain regulated activities. These Regulations apply, among other activities, to activities requiring a marine licence, or variation of a marine licence, under Part 4 of the Marine and Coastal Access Act 2009. The 2007 Regulations are amended by Part 4 of this Bill to ensure alignment with the BBNJ EIA requirements in respect of activities in ABNJ.
- 25 Part 4 of the [Marine \(Scotland\) Act 2010](#) establishes a system for the licensing of certain marine activities by the Scottish Ministers. Anyone carrying on, or causing or permitting any other person to carry on, an activity mentioned in section 21 must obtain a licence from the Scottish Ministers, subject to any exemptions or special cases provided for by virtue of sections 32 to 37. The 2010 Act is amended by Part 4 of this Bill to ensure alignment with the BBNJ EIA requirements in respect of activities in ABNJ.
- 26 The [Levelling Up and Regeneration Act 2023](#) makes a number of changes to existing legislation including in the areas of local government, planning and compulsory purchase. Amongst a range of other provisions, Part 6 of the 2023 Act allows for the replacement of the EU environmental assessment system with a new framework for Environmental Outcome Reports.
- 27 [The Merchant Shipping Act 1995](#) provides the principal legal framework governing the registration, safety and regulation of ships in the UK. The Act defines key terms such as “British ship”, a term which is used in the BBNJ Bill as part of its definition of “UK craft”. This term has a wider scope in the BBNJ Bill, however, in order to encompass and impose obligations also on innovative marine craft, which may not come within the definition of “ship” but may be used to gather MGR. The Act also provides the framework for enforcement powers at sea, including those set out in Part 10 relating to the powers of enforcement officers

to board, inspect and detain ships, which may be applied by regulations made under clause 11 of the BBNJ Bill. The BBNJ Bill draws on the 1995 Merchant Shipping Act's definitions and enforcement structures to ensure consistency with existing maritime legislation.

Territorial extent and application

- 28 Clause 24 sets out the territorial extent of the Bill, which describes the jurisdictions in which the Bill will form part of the law. The extent of an Act can be different to its application. Application is about where the Act produces a practical effect rather than where it forms part of the law.
- 29 The Bill extends and applies to England, Wales, Scotland and Northern Ireland.
- 30 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. Conversations are ongoing with the Scottish Government and Northern Ireland Executive to secure legislative consent for the clauses outlined in the table in **Annex A**.
- 31 The table in **Annex A** provides an overview of the territorial extent and application of the Bill's clauses, specifying for which measures the legislative consent motion process is engaged and for which the UK Government are not seeking consent to legislate.
- 32 A permissive extent clause is included in the Bill which would enable part or all of the Bill to be extended to any of the British Overseas Territories in the future.
- 33 The UK Government has engaged the Crown Dependencies (the Isle of Man, Bailiwick of Jersey and the Bailiwick of Guernsey) regarding the inclusion of a permissive extent clause which would enable all or part of the Bill to be extended to those jurisdictions in the future. The Isle of Man has consented to the inclusion of this clause and this is reflected in Clause 24 of the Bill.

Commentary on provisions of the Bill

Part 1 – Introduction

Clause 1: The Agreement

- 34 Clause 1 subsection (1) sets out the full name of the BBNJ Agreement.
- 35 Clause 1 subsection (2) establishes that for the purposes of the Bill two terms have the meaning that they have in Article 1 of the Agreement:

“Areas beyond national jurisdiction” means the high seas and the Area.
The Area is defined in UNCLOS as “the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction”. The high seas are defined in UNCLOS as “all parts of the seas that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State”.
“Marine genetic resources” means any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.”

Part 2 – Marine Genetic Resources

Clause 2: Collection

- 36 Clause 2 of the BBNJ Bill gives effect to the provisions in Article 12(2) to (5) of the BBNJ Agreement regarding the collection of MGR from ABNJ.
- 37 Clause 2 subsection (1) applies the obligations in these provisions of the BBNJ Agreement to a project in which a UK craft is used to collect MGR in an area beyond national jurisdiction. “UK craft” is defined in clause 20 subsection (1) of the Bill.
- 38 Clause 2 subsection (1) introduces the term “collection project” to refer to the projects to which the notification obligations in subsection (2) apply.
- 39 Clause 2 subsection (2) sets out the requirement for the “relevant person” in relation to a collection project that intends to collect MGR in an area beyond national jurisdiction to ensure that no such collection takes place unless a notification has been submitted to the Secretary of State.
- 40 Clause 2 subsection (2)(a) specifies that the notification provided to the Secretary of State must set out the information required by paragraphs (a) to (j) of Article 12(2) of the BBNJ Agreement which are:

- (a) The nature and objectives under which the collection is carried out, including, as appropriate, any programme(s) of which it forms part;*
- (b) The subject matter of the research or, if known, the marine genetic resources to be targeted or collected, and the purposes for which such resources will be collected;*
- (c) The geographical areas in which the collection is to be undertaken;*
- (d) A summary of the method and means to be used for collection, including the name, tonnage, type and class of vessels, scientific equipment and/or study methods employed;*
- (e) Information concerning any other contributions to proposed major programmes;*

- (f) The expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;*
- (g) The name(s) of the sponsoring institution(s) and the person in charge of the project;*
- (h) Opportunities for scientists of all States, in particular scientists from developing States, to be involved in or associated with the project;*
- (i) The extent to which it is considered that States that may need and request technical assistance, in particular developing States, should be able to participate or to be represented in the project;*
- (j) A data management plan prepared according to open and responsible data governance, taking into account current international practice.*

- 41 Clause 2 subsection (2)(b) specifies that this information must be provided to the Secretary of State at least 7 months prior to the collection project taking place. The BBNJ Agreement requires that the pre-collection notification be sent to the Clearing-House Mechanism established under Article 51 of the Agreement 6 months before the collection starts. The 7-month timeline in the Bill is intended to ensure that the BBNJ national focal point has sufficient time to check the notification and clarify information provided or request any missing information before the notification is sent to the Clearing-House Mechanism. The BBNJ national focal point will be specified in guidance and is intended to be the FCDO Ocean Policy Unit.
- 42 Clause 2 subsection (3) provides that the Secretary of State may reduce the 7-month period for the provision of the pre-collection notification where they consider there is a compelling reason to do so. An example of a compelling reason would be where there is a natural or man-made disaster necessitating the urgent collection of MGR from ABNJ to ascertain the impact of the disaster on marine biodiversity. It is anticipated that the requirement for notice in writing from the Secretary of State will be fulfilled by means of email correspondence from the BBNJ national focal point.
- 43 Clause 2 subsection (4) provides that the relevant person must provide a notification to the Secretary of State setting out the information described in paragraphs (a) to (d) of Article 12(5) of the BBNJ Agreement which are:
 - (a) The repository or database where digital sequence information on marine genetic resources is or will be deposited;*
 - (b) Where all marine genetic resources collected in situ are or will be deposited or held;*
 - (c) A report detailing the geographical area from which marine genetic resources were collected, including information on the latitude, longitude and depth of collection, and, to the extent available, the findings from the activity undertaken;*
 - (d) Any necessary updates to the data management plan provided under paragraph (2) (j) above.*
- 44 Clause 2 subsection (4) provides that the notification must be provided to the Secretary of State as soon as it becomes available (Clause 2 subsection 4(a)) and in any event before the end of 11 months after the last day on which MGR were collected in an area beyond national jurisdiction (Clause 2 subsection 4(b)).

- 45 Clause 2 subsection (5) defines the term “collect” in relation to MGR. The definition refers to “collecting” or “sampling” and therefore follows the definition of “collection in situ” in Article 1 of the BBNJ Agreement:

““Collection in situ”, in relation to marine genetic resources, means the collection or sampling of marine genetic resources in areas beyond national jurisdiction.”

- 46 The term “sampling” was included in the definition under the BBNJ Agreement to anticipate a situation in which MGR are not removed from ABNJ but are the subject of research on board a craft or equipment to extract data, or where data related to MGR are extracted from the marine environment through the sampling of e-DNA.
- 47 The definition is intended to make clear that the obligation to provide pre- and post-collection notifications under the Bill will not apply where the purpose of the activity is not the collection of MGR, but MGR may be collected incidentally while collecting other physical samples such as sediment cores or water samples. For example, a research project to collect MGR from ABNJ in order to study specific traits of the organisms collected would require pre- and post-collection notifications, whereas a research project focused on the chemical composition of deep sea sediment which involves the collection of sediment cores which may contain microbes would not be required to notify as the collection of MGR in this situation would be incidental and not the focus of the research project. It is unlikely that MGR of ABNJ collected unintentionally during the collection of other physical samples such as sediment cores will be subject to utilisation as these samples are generally not stored over the long term.
- 48 Clause 2 subsection (5) also defines “the relevant person” in charge of a collection project as the person with principal responsibility for the scientific or technical aspects of the project so far as it concerns marine genetic resources. For the UK’s national research vessels, which are currently the main UK craft used for the collection of MGR from ABNJ, this would be the Chief Scientist in charge of a research cruise. The relevant person would be the principal researcher on any other craft whether commercial or academic. **Annex B** provides an outline of how the existing research cruise process works in the UK and how this would interact with the MGR provisions.

Clause 3: Utilisation

- 49 Clause 3 subsection (1) sets out the application of the provisions of clause 3 on utilisation. The obligations in relation to utilisation apply to a project, named a “utilisation project”, which involves the utilisation in the UK of (a) MGR of ABNJ or (b) DSI on such MGR.
- 50 Clause 3 subsection (2) defines the “relevant person” for the purposes of the provisions of Clause 3 as “the person who controls the utilisation project”. This terminology has been selected to address the fact that a utilisation project includes academic research on or commercial use of MGR or DSI in the UK. The “relevant person” may be the senior researcher responsible for an academic project or a compliance officer within a commercial entity. Further examples will be set out in guidance. Subsection (2) sets out the obligation on the relevant person to ensure that information is provided to the Secretary of State in accordance with the Schedule (see paragraphs 185-198 below).
- 51 Clause 3 subsection (3) provides that the relevant person must ensure that samples of any MGR whose utilisation falls within subsection (1)(a) are deposited in a suitable repository.
- 52 Clause 3 subsection (4) provides that the relevant person must ensure that any DSI on MGR whose utilisation falls within subsection (1)(b) is recorded in a suitable database.
- 53 Clause 3 subsection (5) provides that the timeframe for completing the requirements in subsections (3) and (4) is within 3 years of the start of the utilisation project.

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- 54 Clause 3 subsection (6) provides that the relevant person must ensure that the MGR samples or DSI on MGR about which utilisation information is provided should be identifiable by reference to any Article 12(3) identifier relating to the MGR concerned. The term “Article 12(3) identifier” is defined in clause 20.
- 55 Clause 3 subsection (7) sets out the requirements that determine whether a repository or database is suitable. The first requirement in clause 3 subsection (7)(a) is that the repository or database must be publicly accessible. This reflects the provisions of Article 14(2) of the BBNJ Agreement which sets out a list of non-monetary benefits arising from activities related to MGR of ABNJ and DSI on such MGR. These include:
- “(a) Access to samples and sample collections in accordance with current international practice;*
- (b) Access to digital sequence information in accordance with current international practice.”*
- 56 The second requirement in subsection (7)(b) is that the repository or database, regardless of where it is located in the world, must be operated in accordance with current international practice. “Current international practice” encompasses scientific practice in terms of storage and access to samples or information. The possibility that an MGR or DSI on MGR may be stored in a repository or deposited in a database outside the UK reflects the international nature of scientific research and research and development. Work undertaken by a person in the UK which would trigger the obligation to submit a utilisation notification to the Secretary of State may be part of a broader international scientific programme in which the decision has been taken to use repositories and databases outside the UK for storage. It may also be the case that samples are deposited with a repository outside the UK as a form of benefit sharing.
- 57 Depositing genetic data in open access databases prior to publication is well-established in the scientific community and required by peer-reviewed scientific journals. UK Research and Innovation’s (UKRI) open access policy⁴ mandates that recipients of funding from any of the UK research councils must provide open access to research articles and publications resulting from publicly-funded research, and UKRI’s policy states that “research data should be made openly available with as few restrictions as possible”.

Clause 4: Onward disclosure

- 58 Clause 4 applies to information provided to the Secretary of State under clauses 2 or 3 of the Bill. Clause 4 subsection (2) provides that the Secretary of State may give information to the Clearing-House Mechanism established under the BBNJ Agreement.
- 59 Clause 4 subsection (3) provides that the Secretary of State may not give information to the Clearing House Mechanism where (a) that information is protected by disclosure under the National Security Act 2023 or (b) in the opinion of the Secretary of State, Article 51(6) of the Agreement does not require such information to be shared. Article 51(6) of the Agreement provides that “(N)othing under this Agreement shall be interpreted as requiring the sharing of information that is protected from disclosure under the domestic law of a Party or other applicable law”. By placing the decision on the Secretary of State as to whether information is (a) protected information under the National Security Act 2023 or (b) protected by disclosure under Article 51(6), the UK can satisfy itself that its obligations to provide information under Part II of the Agreement are not undermined by an overly broad interpretation of what is protected from disclosure.

⁴ <https://www.ukri.org/publications/ukri-open-access-policy/uk-research-and-innovation-open-access-policy/>

Clause 5: Repositories

- 60 Clauses 5 and 6 of the Bill give effect to obligations related to repositories and databases in Part II of the BBNJ Agreement. These obligations are designed to ensure the sharing of benefits through access to MGR of ABNJ and DSI on such MGR. The collection of MGR in ABNJ is mostly undertaken from research vessels and is a very costly undertaking. Enhancing access to MGR of ABNJ and DSI generated on those MGR is an important element of benefit sharing.
- 61 Clause 5 subsection (1) confirms that the provisions of clause 5 apply to repositories in the UK in which samples of MGR of ABNJ are stored. The main repositories of MGR of ABNJ in the UK are the Natural History Museum (NHM) and the National Oceanography Centre's (NOC) Discovery Collection. Museums are common repositories of MGR including the National Museum Scotland, National Museum Cardiff, University of Cambridge Museums, and the Oxford University Museum of Natural History. The Scottish Association of Marine Science is a major repository of MGR in Scotland. Universities with a focus on marine biology are also repositories of MGR from ABNJ, such as Aberdeen, Bangor, Edinburgh, Essex, Liverpool (although most is sent to the NOC Discovery Collection), Newcastle, Oban (although most goes to National Museum Scotland), Plymouth, and Strathclyde.
- 62 Clause 5 subsection (2) places obligations on the person who controls the repository with respect to the management of the samples of MGR of ABNJ implementing the provisions of Articles 12(6) and (7) and Article 14 (2) (a) of the BBNJ Agreement.
- 63 Clause 5 subsection (2)(a) requires the person who controls the repository to ensure that so far as reasonably practicable (i) the samples can be identified as originating from ABNJ and (ii) in particular they can be identified by reference to an Article 12(3) identifier if one has been generated that applies to that sample. The term "*Article 12(3) identifier*" is defined in clause 20. It is considered best practice by the international scientific community for researchers to deposit MGR collected during marine scientific research in repositories such as the collections of museums or other scientific, research, and educational institutions with adequate infrastructure and funding to manage and curate them long-term. New samples being deposited in the largest repositories in the UK of MGR from ABNJ, the Discovery Collection at NOC and the NHM, are geolocated and labelled as part of current best practice. This requirement ensures that repositories can comply with the obligation to report on access to MGR in accordance with Article 12(7) as set out in Clause 5 subsection (2)(c).
- 64 Clause 5 subsection (2)(b) requires the person with control over the repository to ensure access to the samples for the purposes of utilisation. "*Access*" in the context of repositories of MGR from ABNJ means making a sample physically available to another natural or juridical person for the purposes of utilisation as defined in Clause 20 subsection (1). Reasonable conditions can be placed on access as set out in Clause 7(1). Repositories such as the NOC Discovery Collection and the NHM already make samples accessible to researchers through in-person visits to the repositories or loan agreements, subject to reasonable conditions.
- 65 Clause 5 subsection (2)(c) implements the obligation set out in Article 12(7) with respect to repositories. Article 12(7) states:

"Parties shall ensure that repositories, to the extent practicable, and databases under their jurisdiction prepare, on a biennial basis, an aggregate report on access to marine genetic resources and digital sequence information linked to their "BBNJ" standardized identifier, and make the report available to the access and benefit-sharing committee established under article 15."

- 66 The policy intention behind this reporting requirement in the BBNJ Agreement is to provide the access and benefit-sharing committee with information on which to base their recommendations to the Conference of the Parties on the operation of the benefit sharing obligations in the Agreement.
- 67 Clause 5 subsection (2)(c) requires that every two years the person who controls the repository provides the Secretary of State with a report setting out, so far as reasonably practicable, the number of times access to samples has been provided for the purpose of utilisation. Clause 7 subsections (2) and (3) expand on the timing of these reports. The obligation on repositories is limited to requests for access for utilisation within the definition provided in clause 20 subsection (1). This is because repositories record the reasons for loans from their collections, which can include utilisation but also could be for purposes such as display in an exhibition, which would not fall within this reporting requirement.
- 68 Clause 5 subsection (3) implements the obligation in Article 12(7) that the report must identify the samples by reference to their BBNJ batch identifier.

Clause 6: Databases

- 69 Clause 6 implements the obligation set out in Article 12(7) with respect to databases.
- 70 Clause 6 subsection (1) applies the provisions of this clause in relation to a UK database in which DSI on MGR is stored, which is defined in subsection (2).
- 71 Clause 6 subsection (2) defines a UK database as a database controlled by a person in the UK (subsection (2)(a)) and accessible by members of the public (subsection (2)(b)). The test for whether a database is controlled by a person in the UK is set out in subsection (5). The requirement that the database be accessible by members of the public follows from the requirement in Clause 3(7) that DSI generated on MGR of ABNJ in the course of utilisation as defined by Clause 20 subsection (1) must be deposited in a publicly accessible database.
- 72 Clause 6 subsection (3) sets out the obligations on the person who controls a UK database. As with samples in Clause 5 above, clause 6 subsection (3)(a) requires that as far as reasonably practicable they must ensure that the DSI (i) can be identified as relating to MGR originating from ABNJ and (ii) in particular they can be identified by reference to an Article 12(3) identifier if one has been generated that applies to the MGR on which the DSI has been generated. With respect to the geographical requirement, the largest publicly-accessible database, the International Nucleotide Sequence Database Collaboration (INSDC) which consists of three organisations, based in the UK (the European Nucleotide Archive operated by the European Molecular Biology Laboratory European Bioinformatics Institute based in Cambridge) the US and Japan, has recently introduced the requirement for geospatial data on the origin of the organism on which the sequence has been generated to be submitted when the sequence is uploaded.
- 73 Clause 6 subsection 3(b) requires that access is provided to the DSI, subject to the provisions of Clause 7 subsection (1) on reasonable conditions. “Access” in the context of databases containing DSI means DSI can be downloaded from the database or can be viewed programmatically.
- 74 Clause 6 subsection (3)(c) implements the reporting requirements of Article 12(7) with respect to databases. The requirement for databases to report on access refers to the number of times such DSI has been viewed or downloaded. There is no reference to the purpose for which the DSI was viewed or downloaded because databases do not require their users to inform them of the reasons why they are accessing the data.

- 75 Clause 6 subsection (4) requires that the report provided under clause 6 subsection (3)(c) should identify the DSI with reference to any BBNJ batch identifier relating to the MGR on which the DSI was generated.
- 76 Clause 6 subsection (5) deems that the person responsible for a database is in the UK and therefore required to comply with the provisions in clause 6 if they are an individual who is habitually resident in the UK (subsection 5(a)), or an entity incorporated or formed under the law of any part of the UK (subsection 5(b)). This is to ensure that there is a genuine link between the database and the UK, rather than for example, it being controlled remotely from overseas.

Clause 7: Supplementary Provision

- 77 Clause 7 of the BBNJ Bill sets out details on provisions that are common to clauses 5 and 6.
- 78 Clause 7 subsection (1) gives effect to Article 14(4) of the BBNJ Agreement, regarding reasonable conditions that may be placed on access to MGR of ABNJ and DSI generated on such MGR. Such reasonable conditions will be set out in guidance. Article 14(4) provides:
- “Access to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction in the repositories and databases under a Party’s jurisdiction may be subject to reasonable conditions, as follows:*
- (a) The need to preserve the physical integrity of marine genetic resources;*
 - (b) The reasonable costs associated with maintaining the relevant gene bank, biorepository or database in which the sample, data or information is held;*
 - (c) The reasonable costs associated with providing access to the marine genetic resource, data or information;*
 - (d) Other reasonable conditions in line with the objectives of this Agreement; and opportunities for such access on fair and most favourable terms, including on concessional and preferential terms, may be provided to researchers and research institutions from developing States.”*
- 79 The conditions set out in the BBNJ Agreement reflect conditions that institutions such as NOC and the NHM already implement. With respect to Article 14(4)(d), examples of other reasonable conditions within the meaning of Article 14(4) that UK institutions already implement include:
- restrictions placed on access by other international agreements such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
 - if the entire sample is to be used or destroyed as part of the scientific study process proposed in the loan agreement;
 - if the sample is required to be sent to another country where the sample weight, fragility and rarity or uniqueness in a collection might preclude this or where the postal, customs, or policy procedures in the country to which the sample would be sent are not sufficient to ensure access;
 - if access is requested by individuals who are known to have badly damaged specimens, taken them without authorisation, or failed to comply with the institutional loan requirements.

- 80 Clause 7 subsection (2) clarifies the “relevant 2-year period” for the purpose of the reports required under Clauses 5 and 6. The first 2-year period will begin either from the date on which the BBNJ Agreement enters into force (subsection (2)(a)(i)) or when the BBNJ Agreement enters into force for the UK (subsection (a)(ii)) whichever is later. Clause 7 subsection 2(b) states that a report will then be required for each subsequent period of 2 years.
- 81 Clause 7 subsection (3)(a) confirms that the reports under clauses 5(2)(c) and 6(3)(c) will be due within 2 months from the end of the relevant 2-year period.
- 82 Clause 7 subsection (3)(b) enables the Secretary of State to provide directions varying the time specified under subsection 3(a) if it is required to comply with any timetable set by the access and benefit-sharing committee established under Article 15 of the BBNJ Agreement. This reflects the policy intention behind the requirement to provide the reports in the BBNJ Agreement, which is to support the access and benefit-sharing committee to discharge its role under Article 15 and provide advice to the Conference of the Parties.
- 83 Clause 7 subsection (4) provides that the directions referred to in subsection (3)(b) may be general or specific. This reflects the possibility that the access and benefit-sharing committee may set different timetables for reports from repositories or databases.

Clause 8: Exceptions

- 84 Clause 8 sets out exceptions from the requirements of Part 2 of the BBNJ Bill with respect to fishing and fishing related activities, military activities and military vessels and aircraft, anything done in Antarctica and the MGR and DSI on the MGR of Antarctica.
- 85 Clause 8 subsection (1)(a) and (b) implement the provisions of Article 10(2) of the BBNJ Agreement:

“The provisions of this Part shall not apply to:

(a) Fishing regulated under relevant international law and fishing-related activities; or

(b) Fish or other living marine resources known to have been taken in fishing and fishing-related activities from areas beyond national jurisdiction, except where such fish or other living marine resources are regulated as utilisation under this Part.”

- 86 The intention behind Article 10(2) is to exempt commercial fishing as well as activities related to fishing, such as fish stock assessments, from the provisions of Part II of the Agreement. The approach taken in the Agreement is somewhat complicated as it excludes in Article 10(2)(b) “fish or other living marine resources known to have been taken in fishing-related activities” from the provisions of Part II except where they are “regulated as utilisation under this Part”. The intention is to exclude activities that would count as “utilisation” within the meaning of the BBNJ Agreement where the research is related to fishing. The intention is, however, to capture instances where fish or other marine resources that were originally taken during fishing or fishing-related activities are later subject to utilisation that is not related to fishing-related activities. The approach in the BBNJ Bill is to set up the regime under Part 2 and then specifically exclude fishing and fishing-related activities including utilisation for fishing-related activities.
- 87 Clause 8 subsection (1)(a)(i) and (ii) exclude fishing using a UK craft by reference to the provisions of the Fisheries Act 2020.
- 88 Clause 8 subsection (1)(b) excludes fishing-related activities. It does so by reference to activities undertaken in accordance with the joint fisheries statement or any document or plan issued by the fisheries policy authorities or the Marine Management Organisation for the purposes of the Fisheries Act 2020, which are undertaken to give effect to the scientific objective as set out in section 1(5) of the Fisheries Act 2020. The provision is clear that research

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that will otherwise count as utilisation within the meaning of the Bill is excluded from the provisions of the Bill if it uses fish taken in fishing or fishing-related activities and if the research is undertaken to give effect to the scientific objective set out in the Fisheries Act. This would exclude fish or other marine living resources taken during research cruises on the MV Endeavour, a research vessel owned and operated by the Centre for Environmental, Aquaculture and Fisheries Science (CEFAS), or the MV Scotia which is owned and operated by Marine Scotland, where the cruise and the research is undertaken to give effect to the scientific objective. Clause 8 subsection (2) defines “the fisheries policy authorities” and “joint fisheries statement” by reference to the Fisheries Act 2020.

- 89 Clause 8 subsection 1(c) exempts warships, aircraft or naval auxiliary ships from the provisions of Part 2 of the Bill. This is consistent with Article 4 of the Agreement which states:

“This Agreement does not apply to any warship, military aircraft or naval auxiliary. Except for Part II, this Agreement does not apply to other vessels or aircraft owned or operated by a Party and used, for the time being, only on government non-commercial service. However, each Party shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Agreement.”

- 90 Clause 8 subsection 1(d) gives effect to the exemption in the Agreement for military activities. Article 10(2) of the Agreement states:

“The obligations in this Part shall not apply to a Party’s military activities, including military activities by government vessels and aircraft engaged in non-commercial service. The obligations in this Part with respect to the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall apply to a Party’s non-military activities.”

- 91 The exceptions are intended to ensure that research activities conducted from State owned or operated research vessels – for example the Royal Research Ships – are captured by the provisions of Part II of the Agreement, whilst excluding military ships, aircraft and activities from the obligations in that Part.

- 92 Clause 8 subsection (1)(e) excludes from the provisions of Part 2 of the BBNJ Bill any activity conducted in Antarctica, and clause 8 subsection (1)(f) excludes the MGR of Antarctica, including DSI generated on such MGR. Article 5(2) of the BBNJ Agreement provides:

“This Agreement shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies.”

- 93 In its Declaration on signature of the BBNJ Agreement the UK noted that “the Antarctic Treaty system comprehensively addresses the legal, political and environmental consideration unique to that region and provides a comprehensive framework for the international management of the Antarctic”. The exceptions in Clause 8 subsection 1(e) and (f) reflect the UK’s position that the Antarctic Treaty system is competent with respect to the MGR and DSI generated on such MGR of Antarctica. Clause 8 subsection (2) confirms the meaning of “Antarctica” by reference to the Antarctic Act 1994.

Clause 9: Power to make regulations

- 94 Clause 9 provides for the Secretary of State to make regulations in future which may be necessary for implementing the UK's obligations under Part 2 of the BBNJ Agreement relating to MGR (subsection (1)).
- 95 Clause 9 subsection (2) sets out the subject matter of regulations that may be made under the power set out in subsection (1). Those are:
- a) to ensure that the UK complies with Part II of the BBNJ Agreement in a way that is consistent with Article 5(2) of the Agreement (which is about interaction between the BBNJ Agreement and other instruments) by avoiding conflict between the UK's obligations under the BBNJ Agreement and those under any other international agreement or arrangement to which the UK is a party;
 - b) to give effect to any decision of the Conference of the Parties to the BBNJ Agreement in relation to the sharing of monetary benefits from the utilisation of MGR of ABNJ or the DSI generated on such MGR. This could include imposing requirements to disclose information relevant to the calculation of any payment required or to make payments;
 - c) to make any changes to the regime set out in Part 2 of the Bill that are required to give effect to decisions of the Conference of the Parties related to the operation of the BBNJ Clearing-House Mechanism established under Article 51 of the BBNJ Agreement;
 - d) to limit the application of Part 2 of the Bill in accordance with Article 51(6) of the Agreement which would include amending the listed categories of protected information in Clause 4;
 - e) to ensure that no person is subject to overlapping obligations by virtue of Part 2 of the BBNJ Bill and corresponding provision of the law of another State Party to the BBNJ Agreement;
 - f) to make provision about the enforcement of requirements in respect of Part 2 of the BBNJ Bill.
- 96 Clause 9 subsection (3) sets out that a "*corresponding provision*" for the purposes of Clause 9 subsection (2)(e) is a provision that has substantially the same effect as a provision in Part 2 of the BBNJ Bill.
- 97 Clause 9 subsection (4) confirms that regulations made under Clause 9 may apply in ABNJ or otherwise outside the UK.
- 98 Clause 9 subsection (5) provides further details on how the power to make regulations relating to enforcement set out in Clause 9 subsection (2)(f) will be exercised. The provisions may include:
- a. for civil sanctions to be imposed;
 - b. for an undertaking to be enforceable;
 - c. monitoring compliance with requirements;
 - d. requirements for the making and keeping of records and documents;
 - e. requirements to provide information.
- 99 Clause 9 subsection (6) provides that regulations made under Part 2 may amend or otherwise modify Part 2 of the Bill apart from Clauses 9 and 20.

- 100 Clause 9 subsection (7) provides that any consequential provisions that may be made by regulations under Clause 9 in reliance on the power in clause 22(2)(b) of the Bill to make consequential provisions can include a provision to amend or repeal a provision of an Act of Parliament.
- 101 Clause 9 subsection (8) applies the draft affirmative procedure to any regulations made under Clause 9 that (a) amend or repeal an Act of Parliament; (b) introduce a monetary benefit sharing regime in accordance with Clause 9 subsection 2(b); or (c) create a civil sanction or vary the maximum amount of any monetary penalty.
- 102 Clause 9 subsection (9) applies the negative procedure to all other regulations made under Clause 9.

Clause 10: Guidance

- 103 Clause 10 subsection (1) sets out the requirement for the Secretary of State to publish guidance about the requirements imposed by or under Part 2 of the Bill. The guidance will be prepared and published by the BBNJ national focal point. In preparing the guidance, particular attention will be paid to illustrative examples that support individuals and organisations in understanding how and when the obligations may apply to them.
- 104 Clause 10 subsection (2)(a) requires the Secretary of State to keep the guidance under review. Clause 10 subsection (2)(b) confirms that the Secretary of State may revise the guidance, and Clause 10 subsection (2)(c) obliges the Secretary of State to publish any revised guidance.
- 105 Clause 10 subsection (3) requires the Secretary of State to have regard to the importance of giving effect to the Agreement in preparing and revising any guidance. This provision will be particularly important once the BBNJ Agreement enters into force and the access and benefit-sharing committee established under Article 15 starts its work. One of the issues on which the access and benefit-sharing committee may provide recommendations to the Conference of the Parties under Article 15(3)(a) is:

“Guidelines or a code of conduct for activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction in accordance with this Part;”

- 106 Should the access and benefit-sharing committee not make recommendations in accordance with Article 15(3)(a), there are still a number of issues, including in particular how the Clearing-House Mechanism will operate in practice, that have yet to be settled at the international level. Decisions taken by the Conference of the Parties in putting the Agreement into operation may lead to a need to revise the guidance published in accordance with Clause 10.
- 107 Clause 10 subsection (4) requires the Secretary of State to lay the guidance and any revised guidance before Parliament.

Part 3 – Area-Based Management Tools (ABMT)

Clause 11: Power to make regulations

- 108 Clause 11 provides for the Secretary of State to make regulations to implement ABMT and related measures.
- 109 Clause 11 subsection (1) provides that the section applies where the Conference of the Parties take a decision under one of the listed Articles of the BBNJ Agreement. This includes Article 22(1)(a) of the BBNJ Agreement, referred to in subsection (1)(a), where the Conference of the

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Parties can take decisions on the establishment of ABMT, including marine protected areas, and related measures. An example of this could be a new marine protected area designated to protect a certain feature like a spawning ground for a migratory species at a particular time of year. Subsection (1)(b) refers to Article 22(1)(b), which covers decisions by the Conference of the Parties on measures compatible with other legal instruments and frameworks. This could include measures that would work alongside and contribute to the outcomes of a measure of another body, such as building on an existing fisheries-related measure (for example a closed area) by protecting other species at the same time, therefore achieving greater ecological outcomes. Subsection (1)(c) refers to Article 24(1) of the BBNJ Agreement, which covers measures that are adopted by the Conference of the Parties 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 of ABNJ, to ensure that the serious or irreversible harm is not exacerbated. An example of an emergency measure could be to divert shipping traffic in the event of a disaster.

- 110 Clause 11 subsection (2) provides for the Secretary of State to make regulations for the purpose of meeting the UK obligation under Article 25(1) of the BBNJ Agreement as it applies in relation to such a decision of the Conference of Parties. 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 Agreement.
- 111 Clause 11 subsection (3) describes provision that may (among other provision) be made using this power. This includes provision which may apply in ABNJ or otherwise outside of the UK (subsection (3)(a)). It may also include provision relating to enforcement (subsection (3)(b)), for which further details are provided in subsection (4). Subsection (3)(c) provides that fees may be charged in relation to carrying out functions under the regulations (including enforcement functions). This could include, for example, fees associated with an application to carry out a licensable activity under the Marine and Coastal Access Act 2009. Subsection 3(d) allows provision to be made by reference to other documents as updated from time to time. This allows for regulations to stay up-to-date as those documents which are referenced are updated over time.
- 112 Clause 11 subsection (4)(a)-(g) expands on subsection (3)(b) and provides an outline of what enforcement provisions may be made under these regulations. Subsection (4)(g) provides that provision may be made that is similar to, or applies, any provisions under Part 10 of the Merchant Shipping Act 1995 (enforcement officers and powers) or Part 8 of the Marine and Coastal Access Act 2009 (enforcement). The provisions in these Acts relate to the appointment of enforcement officers and their corresponding powers to carry out enforcement actions under that legislation. This, therefore, provides for regulations made under Clause 11 to include similar common enforcement powers which may include, for example, the power to board and inspect vessels and marine installations or power to direct a vessel or marine installation to port.
- 113 Clause 11 subsection (5) explains the limitations to any criminal offences created by regulations made using this power. An offence may not be punishable on summary conviction by imprisonment (subsection (5)(a)). An offence may not be punishable on indictment with imprisonment exceeding 2 years (subsection (5)(c)). In relation to Scotland or Northern Ireland, for an offence triable only summarily, fines cannot exceed level 5 on the standard scale as set out in the [Criminal Procedure \(Scotland\) Act 1995](#) and [The Fines and Penalties \(Northern Ireland\) Order 1984](#) (subsection (5)(b)(i)). For an offence triable summarily or on indictment fines on summary conviction cannot exceed the statutory maximum (subsection (5)(b)(ii)).

114 Clause 11 subsection (6) provides that any consequential provisions that may be made by regulations under Clause 11 in reliance on the power in clause 22(2)(b) of the Bill to make consequential provisions includes provision to amend or repeal a provision of an Act of Parliament whenever passed (as well as provision made under such an Act). This may include consequential amendment to allow for cases where the restriction or control of an activity, provided for by regulation, conflicts with other provisions relating to that activity.

Clause 12: Procedure for regulations under section 11

115 Clause 12 describes the Parliamentary procedures under which regulations made using this power will be made.

116 Subject to subsection (3), Clause 12 subsection (1) applies the draft affirmative procedure to any regulations made under Clause 11 that: (a) amend an Act of Parliament; (b) create a civil sanction or vary the maximum amount of any monetary penalty; or (c) create a criminal offence. Subsection (3) (together with subsection (2)) instead applies the made affirmative procedure to regulations containing provision in subsection (1) that relates to a decision of the Conference of Parties under Article 24(1) of the BBNJ Agreement where the regulations need to be made urgently.

117 Clause 12 subsection (4) applies the negative procedure to all other regulations made under Clause 11.

Clause 13: Directions

118 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.

119 Clause 13(2) enables the Secretary of State to impose requirements by direction, without the need for secondary legislation, where immediate action is required to give effect to such emergency measures. Clause 13(3) provides that directions must be issued in writing and Clause 13(4) requires directions to be laid before Parliament.

120 Clause 13(5) provides that the Secretary of State may vary or revoke a direction.

121 Clause 13(6) confirms that directions cease to have effect upon termination of the measure to which they relate.

122 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.

123 Directions under clause 13 are distinct from the regulations made under clause 11 and are not subject to the procedures set out in clause 12. Clause 13 provides a separate emergency mechanism designed to enable immediate compliance with urgent international obligations, whereas clauses 11 and 12 govern the making of regulations to implement broader or longer-term measures.

124 This power is modelled on existing direction-making powers available to the Secretary of State's Representative (SOSREP) under Schedule 3A of the Merchant Shipping Act 1995, which are used to respond to maritime emergencies. Clause 13 adopts a similar approach for

implementing international emergency measures, ensuring consistency with established UK practice in maritime emergency response.

Part 4 – Environmental Impact Assessments

Clause 14: Marine Licensing

125 Clause 14(1) provides that Part 4 of the Marine and Coastal Access Act 2009 is amended as set out in clause 14.

126 Clause 14(2) makes technical amendments to the Marine and Coastal Access Act 2009 to ensure that relevant planned UK activities in ABNJ can be brought within scope of the 2009 Act (and the Marine Works (Environmental Impact Assessment) Regulations 2007) as required to ensure compliance with Parts III and IV of the BBNJ Agreement. Part III concerns Area-Based Management Tools, and Part IV requires Parties to ensure that the potential impacts on the marine environment of planned activities under their jurisdiction or control that take place in ABNJ are assessed as set out in Part IV of the BBNJ Agreement. The purpose of these technical amendments is to ensure that the existing power in section 66 to add activities to the marine licensing regime can be used effectively in relation to ABNJ where required to comply with these Part III and IV requirements; for example, by allowing for consequential amendments to the 2009 Act if section 66 is used to enable more marine activities to be regulated in ABNJ. The amendments made to the 2009 Act by the Bill are as follows:

- a. The amendment inserting section 66(3A) in clause 14(2) sets out that an order under section 66(3) that adds to the list of licensable marine activities may designate the activity as activity added in contemplation of the UK's obligations under (a) Part III of the BBNJ Agreement or (b) in respect of an activity that takes place in ABNJ, Part IV of the BBNJ Agreement.
- b. The amendment inserting section 66(3B) specifies that the consequential and other related provision that may be made under section 316(1)(b) in an order under the existing power in section 66(3) adding a new licensable marine activity includes provision amending primary or secondary legislation whenever passed or made if the new activity has been designated under section 66(3A).
- c. The amendment inserting section 66(3C) contains associated definitions of “area beyond national jurisdiction” and “the Biodiversity Beyond National Jurisdiction Agreement”.

127 Clause 14 subsection (3) makes a technical amendment to Section 74 of the Marine and Coastal Access Act 2009 to specify that, where an order under section 74 applies to an activity that has been designated under section 66(3A), the consequential and other related provision that can be made under section 316(1)(b) includes provision amending primary or secondary legislation whenever passed or made. Section 74 is the existing power to specify by order exemptions to the requirement for a marine licence.

128 Clause 14 subsection (4) adds a provision that the usual exemption for submarine cables does not prevent the application of Part 4 of the Marine and Coastal Access Act 2009 to activity designated under section 66(3A) of the Marine and Coastal Access Act 2009. This would allow activities done in the course of laying or maintaining an offshore stretch of exempt submarine cable to be regulated as licensable marine activities if designated under section 66(3A).

129 Clause 14 subsection (4) also amends the heading of section 81 of the Marine and Coastal Access Act 2009 to remove “on the continental shelf” so that it more accurately reflects the

content of the section, including as that section is amended by the current provisions in clause 14 subsection (4)(a) and (b) of the Bill.

Clause 15: Screening and procedure

- 130 Clause 15 subsection (1) provides that the Marine Works (EIA) Regulations 2007 are amended as set out in clause 15. The amendments are to align those regulations (insofar as they apply to activities in ABNJ requiring a marine licence (or licence variation) with the EIA processes for activities in ABNJ set out in Part IV of the BBNJ Agreement.
- 131 Clause 15 subsection (2)(a) inserts definitions of “*area beyond national jurisdiction*”, “*BBNJ activity*” and “*the Biodiversity Beyond National Jurisdiction Agreement*” into Regulation 2(1) of the Marine Works (EIA) Regulations 2007. The definition of “*BBNJ activity*” means a regulated activity:
- a. that engages the UK’s obligations under Part IV of the Biodiversity Beyond National Jurisdiction Agreement (environmental impact assessments) in respect of an area beyond national jurisdiction, and
 - b. which requires a marine licence or the variation of a licence under Part 4 of the Marine and Coastal Access Act 2009.
- 132 Clause 15 subsection (2)(b) updates the definition of “*regulated activity*” in regulation 2(1) to include reference to new paragraph (1ZA). Clause 15 subsection 2(c) then inserts paragraph (1ZA) after regulation 2(1) of the Marine Works (EIA) Regulations 2007. Paragraph (1ZA) sets out that where someone applies for a marine licence or a variation to a marine licence for an activity in an area beyond national jurisdiction and the requirement for a licence or variation of a licence depends on the application of the Regulations, the Regulations apply until and unless applying the Regulations would lead to a different outcome. Regulations could be used in future under the Marine and Coastal Access Act 2009 to establish that an activity is exempt from requiring a marine licence if it does not require an EIA under the Marine Works (EIA) Regulations 2007. In this circumstance, clause 15 subsections (2)(b) and (c) would mean that a screening under the Marine Works (EIA) Regulations 2007 could still take place to determine if an EIA is required and consequently if a marine licence is required.
- 133 Clause 15 subsection (3) has the effect that an EIA is required under the Marine Works (EIA) Regulations 2007 in relation to a regulated activity if the appropriate authority so determines under the new regulation 8A.
- 134 Clause 15 subsection (4) inserts regulation 8A into the Marine Works (EIA) Regulations 2007. Regulation 8A sets out how the appropriate authority, the decision-maker, determines if an EIA is required in relation to a BBNJ activity. An EIA is required in relation to a BBNJ activity if the authority concludes that there are reasonable grounds for believing that the activity may cause substantial pollution of, or significant and harmful changes to, the marine environment. Regard must be had to the criteria set out in Schedule 1 of the Marine Works (EIA) Regulations 2007 and any other matter necessary to give effect to Article 30(1)(b) of the BBNJ Agreement. The terms described in regulation 8A(1)(a) and (b) are as described in the BBNJ Agreement and in particular set out in Article 30(1)(b). The provisions in regulation 8A are also subject to regulations 9 and 9A of the Marine Works (EIA) Regulations 2007 which set out where an EIA is not needed for projects related to national defence and projects carried out in response of a civil emergency.
- 135 Clause 15 subsection (5) amends regulation 10 of the Marine Works (EIA) Regulations 2007 which sets out when an appropriate authority, the decision-maker, can defer to another EIA rather than carrying out a new separate assessment. The amendment enables the decision

maker to decide that an EIA under regulation 8A is not required where they are satisfied that another person or authority has carried out, is carrying out or will carry out an equivalent assessment in relation to the activity that is subject to regulation 8A. This regulation can be used only where the assessment that has been, is being or will be carried out is sufficient to meet the requirements of the BBNJ Agreement. Regulation 10 is also amended to include the term “or person” when describing who may undertake an equivalent assessment. This is intended to ensure that, where relevant, the decision-maker has the ability to defer to authorities or persons in other countries or organisations that may have undertaken an assessment equivalent to the requirements of the BBNJ Agreement. The decision-maker is not obliged to make use of regulation 10 (1A) if they are not satisfied that the assessment meets the requirements of the BBNJ Agreement.

136 Clause 15 subsection (6) amends regulation 11 of the Marine Works (EIA) Regulations 2007 in relation to screening opinions. The amendment ensures a screening opinion is required if the decision-maker considers that the planned activity meets the threshold for a screening in the BBNJ Agreement. The BBNJ Agreement requires a screening to be conducted if the activity being considered has more than a minor or transitory effect on the marine environment, or the effects of the activity are unknown or poorly understood. This threshold for requiring a screening is set out in new paragraph (3A) inserted by Clause 15 subsection (6). Currently a screening opinion is only required under the Regulations if the regulator considers that the regulated activity is or may be one in relation to which an EIA is required under regulation 7 or 8.

137 Clause 15 subsection (6)(b) further amends regulation 11 of the Marine Works (EIA) Regulations 2007 by inserting paragraph (3B) which sets out that where the decision-maker does not believe the conditions in paragraph (3A) are met, meaning an EIA screening is not required, then the decision-maker must notify the applicant of this conclusion.

138 Clause 15 subsection (6) also inserts paragraph (3C) into the Marine Works (EIA) Regulations 2007 to explain that the terms used in regulation 11(3A)(a) and (b) have the same meaning that they have in the BBNJ Agreement (in particular Article 30(1) in the BBNJ Agreement).

139 Clause 15 subsection (7) amends regulation 21A of the Marine Works (EIA) Regulations 2007 to add additional factors for the decision-maker to consider when assessing environmental impact if an application relates to a BBNJ activity. This addition captures the requirements set out in Article 31(1)(b) and (c) of the BBNJ Agreement where these are not already covered in the Marine Works (EIA) Regulations 2007. For example, this will include, where appropriate, any considerations to traditional communities or local populations that may be affected by a planned activity.

140 Clause 15 subsection (8) amends Schedule 2 (screening opinions) of the Marine Works (EIA) Regulations 2007 to set out additional requirements on the decision-maker when giving a screening opinion which relates to a BBNJ activity.

141 Clause 15 subsection (9) amends Schedule 3 (information to include in the environmental statement) of the Marine Works (EIA) Regulations 2007 to enable additional information to be required in the licensing application as needed to meet the requirements set out in Article 31(1)(c) of the BBNJ Agreement. This could include, for example, the need to consider the best scientific information and relevant knowledge of traditional communities and local populations.

Clause 16: Power to make regulations: Secretary of State

142 Clause 16 subsection (1) enables the Secretary of State to make regulations as necessary to implement standards and guidelines adopted by the Conference of the Parties under Article

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38 of the BBNJ Agreement. These regulations can be made in relation to a licensable marine activity. Article 38 outlines that the Scientific and Technical Body, established by Article 49 of the BBNJ Agreement, can develop standards and guidelines on the conduct of EIAs under the agreement for consideration and adoption by the Conference of Parties, including on an indicative non-exhaustive list of activities that require an EIA and those that do not. It can also suggest any specific criteria for activities that it considers do or do not need EIAs.

143 Clause 16 subsection (2) defines “*licensable marine activity*” as an activity listed in s66(1) of the Marine and Coastal Access Act (as that section has effect from time to time), and defines “*Article 38 standards or guidelines*” as those adopted from time to time under Article 38 of the BBNJ Agreement.

144 Regulations under Clause 16 may include, for example, amendments or modifications to Part 4 of the Marine and Coastal Access Act 2009 (clause 16 subsection (3)).

145 Clause 16 subsection (4) provides that any consequential provision that may be made by regulations under Clause 16 in reliance on the power in clause 22(2)(b) of the Bill to make consequential provisions can include provision to amend or repeal a provision of an Act of Parliament whenever passed (as well as provision made under such an Act).

146 Clause 16 subsections (5) and (6) outline the Parliamentary procedures that take effect when regulations are made using this power. Subsection 5 establishes that regulations under this section that amend an Act of Parliament are subject to the draft affirmative procedure, and Subsection 6 establishes that all other regulations under this section are subject to the negative procedure.

Clause 17: Licensable marine activities

147 Clause 17 subsection (1) provides that Part 4 of the Marine (Scotland) Act 2010 is amended as set out in clause 17.

148 Clause 17 subsection (2) makes corresponding technical amendments to the Marine (Scotland) Act 2010 as clause 14(2) makes to the Marine and Coastal Access Act 2009:

- a) The amendment inserting subsection (3A) in clause 17(2) sets out that an order under section 21(3) that adds to the list of licensable marine activities may designate the activity as activity added in contemplation of the UK’s obligations under: (a) Part III of the BBNJ Agreement; or (b) in respect of an activity that takes place in ABNJ, Part IV of the BBNJ Agreement.
- b) The amendment inserting section 21(3B) specifies that the consequential and other related provision that may be made under section 165(1)(b) in an order under the existing power in section 21(3) adding a new licensable marine activity includes provision amending an enactment whenever passed or made if the new activity has been designated under section 21(3A).
- c) The amendment inserting section 21(3C) contains associated definitions of “*area beyond national jurisdiction*” and “*the Biodiversity Beyond National Jurisdiction Agreement*”.

149 Clause 17 subsection (3) makes a technical amendment to Section 32 of the Marine (Scotland) Act to specify that, where an order under Section 32 applies to an activity that has been designated under section 21(3A), the consequential and other related provision that can be made under section 165(1)(b) includes provision amending an enactment whenever passed. Section 32 is the existing power to specify by order exemptions to the requirement for a marine licence.

150 Clause 17 subsection (4) adds a provision that the usual exemption for submarine cables does not prevent the application of Part 4 of the Marine (Scotland) Act 2010 to activity designated under Section 21(3A) of the Marine (Scotland) Act 2010.

Clause 18: Power to make regulations: Scottish Ministers

151 Clause 18 subsection (1) enables Scottish Ministers to make regulations that they consider appropriate for the purpose of implementing the UK's obligations under Part IV of the Agreement in respect of an activity in an area beyond national jurisdiction in relation to any Scottish licensable marine activity. This regulation-making power includes the ability to make provision for the purpose of implementing Article 38 of the BBNJ Agreement. Article 38 outlines that the Scientific and Technical Body established by Article 49 of the BBNJ Agreement can develop standards and guidelines on the conduct of EIAs under the Agreement, which can be adopted by the Conference of the Parties. The power under clause 18 can only be used to make provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.

152 Clause 18 subsection (2) defines "*Scottish licensable marine activity*" as an activity within section 21 of the Marine (Scotland) Act 2010 (as that section has effect from time to time) and defines "*Article 38 standards or guidelines*" as those adopted under Article 38 of the BBNJ Agreement from time to time.

153 Clause 18 subsection (3) establishes that regulations made under this section for the purposes of implementing Article 38 standards or guidelines may amend or otherwise modify Part 4 of the Marine (Scotland) Act 2010 (marine licensing).

154 Clause 18 subsection (4) outlines that the regulations could be used to confer a function on any person; make different provision for different purposes or for different areas; and make consequential, supplementary, incidental, transitional, transitory or saving provision.

155 Clause 18 subsection (5) establishes that the consequential provision that may be made by regulations under this section includes provision amending an enactment with the meaning given by Schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010 (whenever passed or made).

156 Clause 18 subsection (6) provides that regulations under this section that contain provision amending an Act of Parliament or an Act of Scottish Parliament are subject to the affirmative procedure.

157 Clause 18 subsection (7) provides that any other regulations under this section are subject to the negative procedure.

Clause 19: Environmental Outcome Reports

158 Clause 19 amends the Levelling-up and Regeneration Act 2023 (LURA) to ensure that Environmental Outcome Reports (EORs) can apply to planned marine activities in ABNJ. This ensures that the BBNJ Agreement can be implemented through any future EOR framework.

159 Clause 19 subsection (a) expands the definition of "*project*" in section 154 of LURA to include a project in ABNJ, in addition to the UK and relevant offshore areas.

160 Clause 19 subsection (b) clarifies that the amendment in subsection 19(a) applies only where the activity is or involves a licensable marine activity under the Marine and Coastal Access Act 2009 or Marine (Scotland) Act 2010. It also adds the definition of "*area beyond national jurisdiction*", consistent in the BBNJ Agreement.

Part 5 - General

Clause 20: Interpretation

- 161 Clause 20 provides definitions for terms used in the BBNJ Bill which are not defined elsewhere within the provisions of the Bill.
- 162 Clause 20 subsection (1) defines “*Article 12(3) identifier*”. Article 12(3) of the BBNJ Agreement provides that on receipt of the pre-collection notification “*the Clearing-House Mechanism shall automatically generate a “BBNJ” standardized batch identifier*”. The precise nature of the “*BBNJ* standardized batch identifier” is a matter that will need to be addressed in the design of the Clearing-House Mechanism which is currently being considered by the Preparatory Commission established by UN General Assembly Resolution 78/272⁵ to prepare for entry into force of the BBNJ Agreement.
- 163 Clause 20 subsection (1) provides that the Secretary of State may make regulations to define digital sequence information in relation to MGR.
- 164 Clause 20 subsection (1) defines “*utilisation*” in relation to MGR of ABNJ or DSI on such MGR as “(a) the use of those resources or that information in carrying out relevant research and development, or (b) the commercialisation of relevant research and development carried out using those resources or that information”. The definition in the Bill of “*relevant research and development*” is intended to make it clear that the obligations in Part 2 of the Bill apply to academic research where there is no intention to consider product development. This reflects the purpose of Part II of the BBNJ Agreement and also reflects the fact that there is little evidence currently of research on MGR of ABNJ or DSI generated on such MGR being undertaken with a view to development of a product.
- 165 Clause 20 subsection (1) also defines “*commercialisation*” in relation to research and development and does so in a way intended to align the definition of “*commercialisation*” with that provided in the UK’s guidance⁶ on UK Access and Benefit Sharing Regulations used for the UK’s implementation of the Nagoya Protocol. The intention is to align the regime in the BBNJ Bill so far as possible, recognising the differences in the international regimes, with the UK’s implementation of the Nagoya Protocol under the Convention on Biological Diversity. Clause 20 subsection (1) also defines “*relevant product*” in relation to research and development. The product must have been developed through or as a result of utilisation in the UK. This mirrors the approach taken in the implementation of the Nagoya Protocol.
- 166 Clause 20 subsection (1) defines “*craft*” as any “*vessel, machine, structure or other item*”. This broad definition ensures that all vessels and machines currently used to undertake marine scientific research – including for example an autonomous underwater vehicle such as “Boaty McBoatface” – are captured as well as providing flexibility to capture future uses of new and novel equipment.
- 167 Clause 20 subsection (1) defines “*UK craft*” by reference to the provisions of the Merchant Shipping Act 1995 or any other craft that has a qualifying connection.
- 168 Clause 20 subsection (2) sets out the qualifying UK connection for the purposes of the definition of a UK craft. Clause 20 subsection (2)(a) provides that a ship registered under the law of a Crown Dependency or Overseas Territory does not have a qualifying UK connection. Clause 20 subsection (2)(b) provides that a craft does not have a qualifying UK connection if it

⁵ <https://docs.un.org/en/A/RES/78/272>

⁶ [Regulations: Nagoya Protocol on access and benefit sharing \(ABS\) - GOV.UK](#)

is a ship that has the nationality of another State (with reference to Article 91 of UNCLOS) or if the craft has been deployed from a ship that has the nationality of another State. Clause 20 subsection (2)(c) provides that a craft has a qualifying UK connection if it is (i) owned or operated by a UK person or (ii) being deployed from the UK or is being deployed from a ship within paragraph (a) or (b) of the definition of UK craft in clause 20 subsection (1).

169 Clause 20 subsection (3) gives a power to the Secretary of State to make regulations to amend or otherwise modify the meaning of “*qualifying UK connection*”.

170 Clause 20 subsection (4) sets out that relevant maritime zones of any of the British Overseas Territories are to be treated as if they were an exclusive economic zone within the meaning of UNCLOS Article 55. This means that they would not fall within the definition of ABNJ for the purposes of interpreting such references in this Bill.

171 Clause 20 subsection (5) defines the “*relevant maritime zones*” of British overseas territories that are excluded from the definition of ABNJ under clause 20 subsection (4) as including exclusive fishing zones, ecological protection zones, and any other zone in relation to which the relevant territory asserts or exercises any rights or jurisdiction of the sort referred to in Article 56(1) of UNCLOS.

172 Clause 20 subsection (6) provides that regulations made under subsection (1) for the purposes of defining DSI are subject to the negative procedure.

173 Clause 20 subsection (7) provides that Regulations made under subsection (3) that amend section 20 are subject to the affirmative procedure. Clause 20 subsection (8) provides that any other Regulations made under subsection (3) are subject to the negative procedure.

Clause 21: Power to make consequential provision

174 Clause 21 provides a power which allows the Secretary of State, by regulations, 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 primary legislation 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.

Clause 22: Regulations under this Act

175 Clause 22 provides additional provisions regarding the making of regulations under the Act.

176 Clause 22 subsection (11) provides that the provisions of Clause 22 do not apply to the making of regulations under Clauses 18 or 25.

Clause 23: Crown Application

177 Clause 23 subsection (1) provides that the Bill binds the Crown but draws attention to clause 8 and Article 4 of the Agreement. Clause 8 provides that nothing in Part 2 of the Bill applies to military activities or to a warship, military aircraft or naval auxiliary. Article 4 of the Agreement provides that nothing in the Agreement applies to any warship, military aircraft or naval auxiliary, and except for Part II (marine genetic resources) the Agreement does not apply to any other vessel or aircraft owned or operated by a Party and used, for the time being, on government non-commercial service. Article 4 states that Parties will ensure that such vessels or aircraft owned or used by it will act in a manner consistent with the Agreement so far as is reasonable and practicable.

178 Clause 23 subsection (2) provides that the Crown is not criminally liable as a result of anything in the Act. Clause 23 subsection (3) sets out that notwithstanding subsection (2) the

Act applies to persons in the service of the Crown as it applies to other persons, and therefore a Crown servant could be criminally liable.

Clause 24: Extent

179 Clause 24 subsections (1) and (2) set out the territorial extent of the Bill which extends to England and Wales, Scotland and Northern Ireland except for sections 17 and 18, which extend to Scotland only.

180 Clause 24 subsection (3) is a permissive extent clause which provides for any of the provisions of the Bill to be extended, with or without modifications, to the Isle of Man or to any British overseas territory.

Clause 25: Commencement

181 Clause 25 outlines the details for the commencement of the provisions in the Bill. Clause 25 subsection (1) provides that, except as provided for in subsection (2), the Bill will come into force on the day on which it is passed.

182 Clause 25 subsection (2) provides that clauses 2-8 (which set out the duties to provide information in relation to the collection and utilisation of MGR of ABNJ and DSI generated on such MGR), clause 10 (which requires the Secretary of State to publish Guidance related to Part 2 of the Bill), and clause 15, related to screening and procedure under Part 4 of the Bill, will come into force on the days appointed by the Secretary of State by regulations. Clause 25 subsection (3) provides a power for the Secretary of State to commence provisions on different days for different purposes.

183 Clause 25 subsection (4) provides a power for the Secretary of State to make transitional or saving provision in relation to commencement. Clause 24 subsection (5) provides that different provisions under subsection (4) may be made for different purposes.

184 Clause 25 subsection (6) provides that regulations under this section are to be made by statutory instrument.

Clause 26: Short title

185 Clause 26 confirms the short title of this legislation, when enacted, as the “*Biodiversity Beyond National Jurisdiction Act 2025*”.

Schedule: Utilisation Information

186 The Schedule on utilisation information provides further detail about the requirements for information which must be provided by the person who controls a utilisation project, as set out in Clause 3 subsection (2).

187 Article 12(8) of the BBNJ Agreement sets out that information about the following should be provided to the Clearing-House Mechanism in addition to the “BBNJ” standardised batch identifier if available:

- a) “Where the results of the utilization, such as publications, patents granted, if available and to the extent possible, and products developed, can be found;
- b) Where available, details of the post-collection notification to the Clearing-House Mechanism related to the marine genetic resources that were the subject of utilization;
- c) Where the original sample that is the subject of utilization is held;
- d) The modalities envisaged for access to marine genetic resources and digital sequence information on marine genetic resources being utilized, and a data management plan for the same;

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- e) *Once marketed, information, if available, on sales of relevant products and any further development.*"

188 As with pre- and post-collection notifications, the utilisation notifications will be submitted to the BBNJ national focal point. With respect to information related to patents required under paragraph (a) of Article 12(8), the intention is that the form which will be produced for use by those required to provide utilisation notifications under the Bill will include a link to the UK patent database. The term "*relevant product*" is defined in Clause 20 subsection (1) of the Bill.

189 Article 12(8)(b) provides that the details of the post-collection notification are to be provided "*where available*" in recognition of the fact that such a notification may not be available for a variety of reasons. For example, the MGR of ABNJ may have been collected under the jurisdiction of a non-party to the BBNJ Agreement and therefore no pre- or post-collection notifications will have been provided to the BBNJ Clearing-House Mechanism, or the original collecting entity or individual may not have complied with the obligation to provide a pre- and post-collection notification to the BBNJ Clearing-House Mechanism.

190 The obligation to provide a notification of utilisation of MGR of ABNJ under the Bill will relate to MGR collected after entry into force of the Agreement for the UK. It is likely that MGR of ABNJ will be collected by entities under the jurisdiction of non-parties to the BBNJ Agreement after entry into force of the Agreement for the UK, and such MGR may subsequently be utilised in the UK. It is likely to be possible to identify from location and date data associated with such MGR that they are from ABNJ and as such they trigger obligations for relevant persons in the UK to provide utilisation notifications. Given the international nature of scientific research, it is important to ensure that those utilising MGR or DSI on those MGR are not penalised in these circumstances.

191 Paragraph 1 of the Schedule sets out the usual time limit of within 1 month of the result of the utilisation being achieved in which a utilisation notification must be sent to the Secretary of State (in practice to the BBNJ national focal point).

192 In order to meet the requirements of Article 12(8)(e) of the Agreement, paragraph 2 of the Schedule sets out that where utilisation involves commercialisation, the required utilisation notification must be given within 1 month of the product being made available and also then once a year while the product remains available. The term "*commercialisation*" is defined in Clause 20 subsection (1) of the BBNJ Bill.

193 Paragraph 3 provides that information does not have to be given where it is not reasonably practicable to comply with the obligation to provide a utilisation notification, such as if the relevant person does not have or could not with reasonable effort obtain the information. This provision operationalises the obligations in Article 12(8) of the BBNJ Agreement.

194 Most research into, development and commercialisation of DSI is non-linear. It may be that several research threads are pursued in parallel and that the intended objective of the research is completely changed between the start and end of the process.

195 At the start of this process, DSI on MGR is queried against DSI databases containing millions of sequences returning tens to hundreds of sequences from different organisms. These sequences are combined with the original DSI on MGR used in the query leading to a hybrid sequence that may be subject to further modification. After a research process taking months to years, a final sequence is arrived at which will be used in a final product that may be patented and commercialised. Further modifications will take the modified sequence far away from the original sequence so that it bears little resemblance to the original and it may even be impossible to trace it back to the original DSI on an MGR used at the start. In the case of large-

scale screening of a sequence against a database of millions of sequences, some of which may be of MGR of ABNJ, the BBNJ Bill should not require a notification of utilisation as it would not be practicable for the researcher to identify and geolocate each sequence that their research has queried. The intention of the language “*reasonably practicable*” is to avoid those utilising DSI needing to expend a significant amount of effort, time and/or expense to ascertain whether they have utilised DSI on MGR from ABNJ and are therefore required to submit a utilisation notification. Examples to assist those utilising DSI in assessing whether they are required to submit a utilisation notification will be set out in guidance.

196 The time limits set out in paragraphs 1 and 2 of the Schedule recognise that research and research and development projects take place over a number of years, but some results from such projects may be made publicly available before the formal end of the project.

197 For example, the NERC-funded Seabed Mining and Resilience to Experimental Impact (SMARTEX)⁷ project is a five-year multidisciplinary project. Some elements of the research undertaken under SMARTEX involve the collection of and research on MGR of ABNJ. Although the project is still ongoing, members of the SMARTEX project have already published academic papers that may meet the requirements to provide a utilisation notification under paragraph 1 of the Schedule. Examples of how the timelines set out in paragraphs 1 and 2 are intended to work in practice will be set out in guidance, but the FCDO would not expect an individual utilisation notification to be sent to the UK BBNJ national focal point each time DSI is generated on an individual MGR within a research project, given that a research project may be dealing with a large number of MGR. The aim is to ensure that no unreasonable administrative burdens are placed on those conducting research whilst ensuring transparency in the results of that research.

198 Paragraph 4 of the Schedule provides that the Secretary of State may by written notice extend the timelines set out in paragraphs 1 and 2, allowing a longer timeline for the submission of a utilisation notification. It is anticipated that the requirement for agreement in writing will be satisfied by an email from the BBNJ national focal point.

199 Paragraph 5 provides that for the purposes of the Schedule, “*the utilisation*” is defined as the utilisation which forms part of the utilisation project concerned and falls within the scope of clause 3 subsection (1).

Commencement

200 Clause 25 provides for the commencement of the provisions of the Bill.

Financial implications of the Bill

201 The Government will produce impact assessments for the measures in the Bill which will estimate the costs and benefits to stakeholders. Full details of the financial implications of the Bill will be set out in the impact assessments.

⁷ <https://smartexccz.org/>

Parliamentary approval for financial costs or for charges imposed

- 202 The House of Commons passed a ways and means resolution for this Bill on 16 October because it contains provisions under which, first, charges could be imposed in respect of the utilisation of marine genetic resources of ABNJ and DSI on such resources and, secondly, fees could be charged that would cover the cost of carrying out enforcement functions.
- 203 No money resolution was required for this Bill because it is expected that there will be no significant new charges on the public revenue as a result of its provisions.

Compatibility with the European Convention on Human Rights

- 204 The Government does not consider that the Bill raises any significant issues in relation to the European Convention on Human Rights, and as such is compatible with the European Convention on Human Rights. Accordingly, a statement under section 19(1)(a) of the Human Rights Act 1998 has been made to this effect by Baroness Chapman of Darlington, Minister of State at the Foreign, Commonwealth and Development Office.

Compatibility with the Environment Act 2021

- 205 Baroness Chapman of Darlington, Minister of State at the Foreign, Commonwealth and Development Office is of the view that the Bill as published contains provisions which, if enacted, would be considered environmental law for the purposes of section 20 of the Environment Act 2021. The Secretary of State has taken a view that the provisions of this Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.

Duty under Section 13C of the European Union (Withdrawal) Act 2018

- 206 Baroness Chapman of Darlington, Minister of State at the Foreign, Commonwealth and Development Office is of the view that the Bill as published does not contain provisions which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

Related documents

- 207 None.

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 3	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 4	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 5	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 6	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 7	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 8	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 9	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 10	Yes	Yes	No	Yes	No	Yes	No
Clause 11	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 12	Yes	Yes	No	Yes	No	Yes	No
Clause 13	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 14	Yes	Yes	No	Yes	Yes	Yes	No
Clause 15	Yes	Yes	No	Yes	Yes	Yes	No
Clause 16	Yes	Yes	No	Yes	Yes	Yes	No
Clause 17	No	No	No	Yes	Yes	No	No
Clause 18	No	No	No	Yes	Yes	No	No
Clause 19	Yes	Yes	No	Yes	Yes	Yes	No
Clause 20	Yes	Yes	No	Yes	No	Yes	No
Clause 21	Yes	Yes	No	Yes	No	Yes	No
Clause 22	Yes	Yes	No	Yes	No	Yes	No
Clause 23	Yes	Yes	No	Yes	No	Yes	No
Clause 24	Yes	Yes	No	Yes	No	Yes	No
Clause 25	Yes	Yes	No	Yes	No	Yes	No
Clause 26	Yes	Yes	No	Yes	No	Yes	No

These Explanatory Notes relate to the Biodiversity Beyond National Jurisdiction Bill as brought from the House of Commons on 18 November 2025 (HL Bill 148)

Annex B – Outline of existing ocean research processes

208 The most common process by which collection of MGR from ABNJ is undertaken from UK craft is from a planned research cruise using a national research vessel, such as the Natural Environment Research Council (NERC)-owned Royal Research Ship (RRS) James Cook and RRS Discovery. These vessels are managed on behalf of NERC by the National Oceanography Centre (NOC). The process to apply to use marine facilities, including the RRS, can be found on the NERC website⁸. Research cruises are awarded by NERC on a competitive basis using an application procedure involving many of the details that will be included in the eventual cruise plan if the application is successful. To enable efficient use of valuable cruise time, many research cruises have multiple project teams on board, often from different countries, carrying out several different research projects each with their own leader, aims and objectives. The cruise will operate under the overall supervision of a Chief Scientist. This approach requires careful planning of the research cruise path, use of equipment and on-board facilities.

209 An application for cruise time is required to contain:

- Common elements such as background, aims and objectives;
- A work programme including intended sampling locations and equipment to be used;
- The technical capability of the vessel that will carry out the work;
- Plans for sample and data collection and utilisation;
- Data management plans;
- Letters of support from collaborators at national, international, and private sector level;
- A plan for the training of early stage and early career researchers and public engagement activities;
- A plan for the incorporation of researchers from developing countries is encouraged as a form of capacity-building;
- A budget covering travel of researchers to join the cruise as well as consumables needed and sample shipment.

210 An application is evaluated by reviewers and discussed by a panel that decides which bid will be allocated research cruise time, and provides feedback to successful and unsuccessful bids. If the bid is unsuccessful the proposer may wish to redraft based on reviewer comments and resubmit. This entire process can be lengthy and it can take many months, even years, between the initial submission for cruise time, the eventual award, and the actual research cruise.

211 Once a research cruise is awarded, the next stage of planning begins including checking the technical feasibility of the proposed work on the vessel to be used and the sampling and on-

⁸ <https://nerc.marinefacilitiesplanning.com/>

board facilities available. It may be necessary to check whether the cruise path enters marine protected areas or other sensitive areas, and an environmental impact assessment may be required, or permits needed to enter certain areas. Materials needed for research (e.g. equipment, consumables) will need to be loaded onto the vessel/shipped to the location where the cruise team will join the vessel.

- 212 During the research cruise the intended cruise path may change due to weather conditions and sampling activity may be altered depending on these conditions, or the functionality of sampling gear and discoveries made while on the cruise that alter the research aims and objectives. Samples will be preserved on board using different procedures (cooling, freezing, preservation in alcohol or other liquids etc.) or they may be analysed immediately, and data generated.
- 213 Once the cruise returns to port, samples will be shipped to the institutions of respective project teams, often in different countries, meaning the same MGR may end up in multiple collections.
- 214 In summary, the information required to be provided in the pre-collection notification under Article 12(2)(a)-(d), (f), (g), and (j) of the BBNJ Agreement is currently included in cruise plans or is available from the vessel operator, and scientists are familiar with these processes. Information under Article 12(2)(e) (*“Information concerning any other contributions to proposed major programmes”*) is available dependent on the funder and research programme, and information under Article 12(2)(h) and (i) (*“Opportunities for scientists of all States, in particular scientists from developing States, to be involved in or associated with the project”* and *“The extent to which it is considered that States that may need and request technical assistance, in particular developing States, should be able to participate or to be represented in the project”*), is available on some cruises, but is not currently consistently required.
- 215 The information to be provided in the post-collection notification under Article 12(5)(a)-(c) is all currently included in the cruise plan or cruise report. Article 12(5)(d) (*“Any necessary updates to the data management plan provided under paragraph (2) (j) above”*) will be a new requirement for scientists but stakeholders advised that this will not be an onerous obligation.

BIODIVERSITY BEYOND NATIONAL JURISDICTION BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Biodiversity Beyond National Jurisdiction Bill as brought from the House of Commons on 18 November 2025 (HL Bill 148).

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