

Biodiversity Beyond National Jurisdiction Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 3

LORD TEVERSON

- 1 After Clause 3, insert the following new Clause —
- “Prevention of avoidance by offshoring of activities**
- (1) This section applies where —
- (a) a United Kingdom person (“P”) arranges for relevant research and development or commercialisation involving marine genetic resources of areas beyond national jurisdiction, or digital sequence information on such resources, to be carried out wholly or partly outside the United Kingdom, and
 - (b) the effect, or likely effect, of the arrangement is that utilisation which would otherwise fall within section 3(1) does not do so.
- (2) Where this section applies, the utilisation is to be treated, for the purposes of this Part, as if it were a utilisation project to which section 3 applies and were carried out in the United Kingdom by P.
- (3) The Secretary of State may by regulations make further provision —
- (a) requiring United Kingdom persons to take reasonable steps to ensure that arrangements with non-United Kingdom persons for the collection or utilisation of marine genetic resources of areas beyond national jurisdiction, or digital sequence information on such resources, are not entered into for the purpose of avoiding, or frustrating the operation of, this Part;
 - (b) requiring United Kingdom persons to keep, and to provide to the Secretary of State on request, such records and information as may be prescribed about such arrangements;

- (c) for the application, with or without modifications, of enforcement provisions made under section 9 to failures to comply with regulations under this section.
- (4) In this section, “United Kingdom person” and “relevant research and development” have the meanings given by section 20.
- (5) Regulations under this section are subject to the negative resolution procedure.”

Member's explanatory statement

This new clause is intended to prevent UK companies and other UK persons from avoiding the information-sharing and benefit-sharing obligations in Part 2 of the Act by offshoring marine genetic resource research and development or commercialisation to non-Parties to the BBNJ Agreement.

After Clause 5

LORD CALLANAN

2★ After Clause 5, insert the following new Clause –

“Report: access to samples by foreign state actors

- (1) Within six months of the day on which this Act is passed the Secretary of State must publish a report any threat which would arise from foreign state actors accessing information under section 5.
- (2) The Secretary of State must lay a copy of the report under subsection (1) before Parliament.”

Member's explanatory statement

This probing amendment seeks to understand what consideration ministers have given to the risks posed by foreign state actors accessing samples of marine genetic resources under clause 5.

After Clause 7

BARONESS MILLER OF CHILTHORNE DOMER

3 After Clause 7, insert the following new Clause –

“International capacity building: marine science and technology

- (1) The Secretary of State must prepare and publish a strategy setting out the United Kingdom’s contribution to capacity building and the transfer of marine technology for the purposes of Part 5 of the Agreement.
- (2) The strategy must, in particular –
 - (a) identify the priority capacity-building and technology-transfer needs of developing States that are party to the Agreement, including least developed countries, land-locked developing countries and small island developing States, in relation to the effective implementation of the Agreement;

- (b) set out how the United Kingdom will, both bilaterally and through relevant multilateral, regional and sectoral bodies and mechanisms, support –
 - (i) the development of sustained marine scientific and technological capacity, including for the conduct of environmental impact assessments and the design, implementation and management of area-based management tools, and
 - (ii) the establishment and operation of regional and national centres of excellence, training programmes, fellowships and other forms of knowledge-sharing and ocean literacy;
 - (c) set out the arrangements for mobilising and aligning relevant sources of public finance, including official development assistance and climate and nature finance, in support of the objectives in paragraphs (a) to (c);
 - (d) explain how the strategy will promote inclusive participation, including of women, early-career researchers, indigenous peoples and local communities, and other under-represented groups, in activities carried out under or in connection with the Agreement.
- (3) In preparing and revising the strategy the Secretary of State must consult –
- (a) representatives of developing States that are party to the Agreement, including small island developing States,
 - (b) any committee or other subsidiary body established under the Agreement in respect of capacity building and the transfer of marine technology, so far as is practicable, and
 - (c) such persons as the Secretary of State considers representative of the scientific community, civil society, industry and indigenous peoples and local communities.
- (4) The Secretary of State must –
- (a) publish the first strategy under this section within the period of 12 months of the day on which this Act is passed, and
 - (b) lay the strategy, and any revised strategy, before Parliament.
- (5) The provisions listed under subsections (1) to (4) must be repeated at least every Parliament.”

Member's explanatory statement

This amendment requires the Secretary of State to create and publish a Strategy outlining the UK's compliance with Part 5 of the BBNJ Agreement, relating to Capacity-Building and the Transfer of Marine Technology.

Clause 11

LORD FULLER

4★ Clause 11, page 8, line 2, at end insert –

- “(2A) In making regulations under this section for the purposes of meeting the obligations of the United Kingdom under Article 22(1)(a), 22(1)(b) and 25(1) of the Agreement,

the Secretary of State must have regard to the economic and infrastructural consequences of such provisions, including but not limited to the impact on –

- (a) submarine communications cables, and
- (b) shipping lanes.”

Member's explanatory statement

This probing amendment seeks to clarify that the Secretary of State should have regard to the economic and infrastructure implications of making regulations to meet obligations under Article 25(1) of the Agreement.

LORD FULLER

5★ Clause 11, page 8, line 26, at end insert –

- “(h) about requirements for UK craft which do not have protection and indemnity (“P&I”) insurance, having consulted P&I Clubs.”

Member's explanatory statement

This probing amendment seeks to permit the Secretary of State to regulate enforcement on craft that are not members of Class Societies.

After Clause 11

BARONESS MILLER OF CHILTHORNE DOMER
BARONESS JONES OF MOULSECOOMB

6 After Clause 11, insert the following new Clause –

“Plastic pollution and marine biological diversity of areas beyond national jurisdiction

- (1) The Secretary of State must, in exercising functions under this Act, have regard to the risks to the marine biological diversity of areas beyond national jurisdiction arising from plastic pollution, in accordance to the preamble to the Agreement.
- (2) The Secretary of State must prepare and publish a statement (“the plastic pollution statement”) setting out –
 - (a) the Government’s assessment of the actual and potential impacts of plastic pollution on the marine biological diversity of areas beyond national jurisdiction,
 - (b) the measures the Government proposes to take, through the exercise of functions under this Act and other enactments, and through co-operation in relevant international organisations and bodies, to prevent, reduce and monitor such pollution, and
 - (c) how those measures are intended to contribute to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction and to the objectives of the Agreement.
- (3) In particular, the statement must address –
 - (a) how the United Kingdom will, as appropriate –

- (i) co-operate with the International Maritime Organization and other competent international organisations to promote the adoption and effective implementation of mandatory measures to prevent and respond to plastic pollution from ships;
 - (ii) support the development of regionally and globally coordinated monitoring, reporting and data-sharing on plastic pollution, including its presence in areas beyond national jurisdiction;
 - (iii) encourage best practice standards across the plastic supply chain, including in relation to the containment, packaging, labelling and handling of plastic intended for transport by sea;
 - (b) any proposals to support capacity-building, technology transfer and scientific research related to the detection, tracking and mitigation of plastic pollution in areas beyond national jurisdiction, in co-operation with developing States.
- (4) In preparing and revising the plastic pollution statement the Secretary of State must consult –
- (a) the Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;
 - (b) such persons as the Secretary of State considers representative of the scientific community, civil society, affected coastal communities and industry sectors involved in the manufacture, handling, shipping and use of plastic;
 - (c) such international organisations and bodies as the Secretary of State considers appropriate.
- (5) The Secretary of State must –
- (a) publish the first plastic pollution statement within the period of 12 months of the day on which this Act is passed, and
 - (b) lay the statement, and any revised statement, before Parliament.
- (6) The Secretary of State must, at least once in every Parliament, review the plastic pollution statement and, if appropriate, revise it.”

Member's explanatory statement

This new clause requires the Secretary of State to assess and respond to the risks posed to marine biological diversity in areas beyond national jurisdiction by plastic pollution arising from activities under UK jurisdiction or control.

After Clause 13

LORD CALLANAN

7★

After Clause 13, insert the following new Clause –

“Report: Marine Protected Areas in the Indian Ocean

- (1) Within six months of the day on which this Act is passed, the Secretary of State must publish a report on the potential impact of the introduction of Marine

Protected Areas in parts of the Indian Ocean that are beyond national jurisdiction on marine biodiversity in the area around the Chagos Archipelago.

- (2) The Secretary of State must lay a copy of the report under subsection (1) before Parliament.”

Member's explanatory statement

This probing amendment seeks to understand what consideration ministers have given to the impact of any future marine protected areas in the Indian Ocean on marine biodiversity in the area around the Chagos Archipelago.

Clause 14

LORD TEVERSON

- 8 Clause 14, page 10, line 37, at end insert –

“(2A) In section 69 (determination of applications), after subsection (1)(c) insert –

“(d) the need to protect the deep-sea and seabed environment in areas beyond national jurisdiction,”.”

Member's explanatory statement

This amendment amends the Marine and Coastal Access Act 2009, to ensure that licensing authorities have regard to protecting the deep-sea and seabeds within the context of offering marine licenses.

LORD TEVERSON

- 9 Clause 14, page 10, line 37, at end insert –

“(2A) In section 69 (determination of applications), after subsection (1)(c) insert –

“(d) the need to ensure proper protection of sustainable fishing populations in areas beyond national jurisdiction,”.”

Member's explanatory statement

This amendment amends the Marine and Coastal Access Act 2009, to ensure that licensing authorities have regard to sustainable fishing within the context of offering marine licenses.

BARONESS MILLER OF CHILTHORNE DOMER

- 10 Clause 14, page 11, line 13, at end insert –

“(5) In section 69 (determination of applications), after subsection (1)(c) insert –

“(d) the need to prevent plastic pollution of oceans and seas in areas beyond national jurisdiction,”.”

Member's explanatory statement

This amendment amends the Marine and Coastal Access Act 2009, to ensure that licensing authorities have regard to preventing plastic pollution within the context of offering marine licenses.

After Clause 15

LORD TEVERSON

11 After Clause 15, insert the following new Clause—

“Review on the impact and use of flags of convenience

- (1) The Secretary of State must, within six months of the day on which this Act is passed, conduct a review of—
 - (a) the use of flags of convenience and its impact on biodiversity in areas beyond national jurisdiction;
 - (b) the enforcement measures being taken against ships operating under flags of convenience in areas beyond national jurisdiction to limit harms to biodiversity caused by such ships.
- (2) The Secretary of State must lay a report before Parliament setting out the findings of the review, including any recommendations for improving enforcement regarding the use of flags of convenience with respect to biodiversity.
- (3) The review and report required under this section must be repeated every Parliament.”

Member's explanatory statement

This new clause commits the Secretary of State to conducting a review, at least every Parliament, on the impact on biodiversity of the use of flags of convenience, and the UK's enforcement regarding this practice.

After Clause 17

BARONESS CHAPMAN OF DARLINGTON

12 After Clause 17, insert the following new Clause—

“Screening and procedure

- (1) The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I 2017/115) are amended as follows.
- (2) In regulation 2 (interpretation)—
 - (a) in paragraph (1), after the definition of “application website” insert—

““area beyond national jurisdiction” has the meaning given by Article 1(2) of the Biodiversity Beyond National Jurisdiction Agreement;
“BBNJ works” means the carrying out of a regulated activity that engages the United Kingdom’s obligations under Part 4 of the

Biodiversity Beyond National Jurisdiction Agreement (environmental impact assessments) in respect of an activity in an area beyond national jurisdiction;

“the Biodiversity Beyond National Jurisdiction Agreement” means 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, opened for signature at New York on 20 September 2023;”;

- (b) in paragraph (1), in the definition of “EIA project” –
 - (i) in the words before paragraph (a) omit “either”;
 - (ii) omit the “or” at the end of paragraph (a), and
 - (iii) at the end of paragraph (b) insert “; or
- (c) BBNJ works where there are reasonable grounds for believing that the works may cause –
 - (i) substantial pollution, or
 - (ii) significant and harmful changes to, the marine environment;”;
- (c) in paragraph (1), in the definition of “environmental information” –
 - (i) omit the “and” at the end of paragraph (c);
 - (ii) at the end of paragraph (d) insert “; and
- (e) in relation to BBNJ works that are an EIA project, any other matter necessary to give effect to Article 31(1)(b) and (c) of the Biodiversity Beyond National Jurisdiction Agreement;”;
- (d) in paragraph (1), in the definition of “regulated activity”, at the end insert “(see also paragraph (1B))”;
- (e) after paragraph (1) insert –

“(1A) Terms used in paragraph (c)(i) and (ii) of the definition of “EIA project” have the same meaning that they have in the Biodiversity Beyond National Jurisdiction Agreement (see in particular Article 30(1)(b)).

(1B) Where the requirement for a marine licence, or variation of a marine licence, under Part 4 of the 2010 Act for works in an area beyond national jurisdiction depends on the application of these Regulations (including the doing or not doing of anything under these Regulations), these Regulations have effect as if such a licence or variation were required unless and until the application of these Regulations produces a different result.”

- (3) In regulation 8 (exemptions) –
 - (a) in paragraph (4), in the words before sub-paragraph (a), after “apply” insert “in respect of schedule 1 works or schedule 2 works”;
 - (b) after paragraph (4) insert –

“(4A) The Scottish Ministers may direct that these Regulations do not require an environmental impact assessment to be carried out in relation

to BBNJ works if they are satisfied that an equivalent assessment has been carried out, is being carried out or will be carried out in relation to the works.

(4B) The Scottish Ministers may not grant a regulatory approval for BBNJ works in respect of which a direction under paragraph (4A) has been given unless they have determined that to do so would be compatible with the United Kingdom's obligations under Part 4 of the Biodiversity Beyond National Jurisdiction Agreement.

(4C) For the purposes of paragraph (4A), an assessment is an equivalent assessment if it is sufficient to meet the requirements of Part 4 of the Biodiversity Beyond National Jurisdiction Agreement."

- (4) In regulation 9 (general provisions relating to screening) –
- (a) in paragraph (1), in the words before sub-paragraph (a), after "works" insert "or BBNJ works";
 - (b) omit the "and" at the end of sub-paragraph (a)(ii);
 - (c) at the end of sub-paragraph (b) insert "and
 - (c) in the case of BBNJ works, have regard to any other matter necessary to give effect to Article 30(1)(b) of the Biodiversity Beyond National Jurisdiction Agreement."
 - (d) after paragraph (2) insert –

"(2A) Where the Scottish Ministers adopt a screening opinion in relation to BBNJ works to the effect that the works are not an EIA project, the screening opinion must also contain provision stating whether the Scottish Ministers consider that –

 - (a) the works may have more than a minor or transitory effect on the marine environment, or
 - (b) the effects of the works are unknown or poorly understood.

(2B) Terms used in paragraph (2A)(a) and (b) have the same meaning that they have in the Biodiversity Beyond National Jurisdiction Agreement (see in particular Article 30(1))."
- (5) In regulation 12 (application without prior screening) –
- (a) in paragraph (1)(a), for "or an application to carry out schedule 2 works" substitute "schedule 2 works or BBNJ works";
 - (b) for paragraph (2) substitute –

"(2) Where it appears to the Scottish Ministers that the application relates to proposed schedule 1 works or schedule 2 works, the Scottish Ministers must adopt a screening opinion in relation to the proposed works."
 - (c) after paragraph (2) insert –

"(2A) Where it appears to the Scottish Ministers that the application relates to proposed BBNJ works, the Scottish Ministers must adopt a screening opinion in any case where the Scottish Ministers consider that –

- (a) the proposed works may have more than a minor or transitory effect on the marine environment, or
- (b) the effects of the proposed works are unknown or poorly understood.

(2B) Where the Scottish Ministers decide that paragraph (2A) does not apply in respect of proposed BBNJ works, they must give the applicant a notice stating that the proposed works do not require an environmental impact assessment.

(2C) Terms used in paragraph (2A)(a) and (b) have the same meaning that they have in the Biodiversity Beyond National Jurisdiction Agreement (see in particular Article 30(1)).”

- (d) in paragraph (3), after “works” insert “or BBNJ works”.
- (6) In regulation 13 (EIA application made without an EIA report), in paragraph (3)(b), after “12(2)” insert or “12(2A)”.
- (7) In Schedule 4 (information for inclusion in environmental impact assessment reports) –
 - (a) after paragraph 9 insert –

“(9A) In relation to BBNJ works, any other information that is necessary to enable the Scottish Ministers to give effect to Article 31(1)(c) of the Biodiversity Beyond National Jurisdiction Agreement.”;
 - (b) in paragraph 10, for “9” substitute “9A”.

Member's explanatory statement

This new clause would make changes to Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 that are necessary for the purpose of implementing the United Kingdom's obligations under Part 4 the Biodiversity Beyond National Jurisdiction Agreement.

Clause 18

BARONESS CHAPMAN OF DARLINGTON

- 13** Clause 18, page 16, line 10, leave out from “implementing” to “and” in line 12 and insert “any Article 38 standards or guidelines,”

Member's explanatory statement

This amendment is consequential on my amendment inserting a new clause after clause 17, which would mean that the power conferred on Scottish Ministers by clause 18 can be limited to implementing Article 38 standards or guidelines (as with the power conferred on the Secretary of State by clause 16(1)).

BARONESS CHAPMAN OF DARLINGTON

- 14** Clause 18, page 16, line 22, leave out from beginning to “may” in line 24 and insert “Regulations under this section”

Member's explanatory statement

This amendment is consequential on my amendment to clause 18, page 16, line 10.

After Clause 19

LORD TEVERSON

15 After Clause 19, insert the following new Clause –

“Strategy: marine biological diversity in areas beyond national jurisdiction and fishing activities

- (1) The Secretary of State must prepare and publish a strategy setting out how the United Kingdom will, in exercising functions under this Act and under the Agreement, support the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction in so far as it is affected by fishing and fishing-related activities.
- (2) The strategy must, in particular –
 - (a) set out how the United Kingdom will work, bilaterally and through regional fisheries management organisations and arrangements and other relevant international bodies, to –
 - (i) promote the designation, effective management and enforcement of area-based management tools, including marine protected areas, in a manner consistent with the Agreement,
 - (ii) prevent, deter and eliminate illegal, unreported and unregulated fishing in areas beyond national jurisdiction, including through the effective implementation of agreed measures such as vessel monitoring, transshipment controls, port State measures, observer schemes and IUU vessel lists, and
 - (iii) improve the collection, sharing and use of best available scientific information on the impacts of fishing and fishing-related activities on marine biological diversity of areas beyond national jurisdiction,
 - (b) explain how, when formulating and implementing United Kingdom positions in such organisations and bodies, due regard will be had to the principles and approaches set out in Article 7 of the Agreement, including the precautionary principle and an ecosystem approach, and
 - (c) describe the arrangements for co-ordinating the exercise of functions under this Act with the exercise of functions under the Fisheries Act 2020 and other enactments relating to fishing and fisheries management.
- (3) In preparing and revising the strategy the Secretary of State must consult –
 - (a) the Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland,
 - (b) representatives of regional fisheries management organisations and arrangements to which the United Kingdom is a contracting party or co-operating non-contracting party, and

- (c) such persons as the Secretary of State considers representative of the fishing industry, the scientific community and civil society.
- (4) The Secretary of State must –
 - (a) publish the first strategy under this section within the period of 12 months of the day on which this Act is passed, and
 - (b) lay the strategy, and any revised strategy, before Parliament.
- (5) The Secretary of State must, at least once in every Parliament, repeat the actions laid out in subsections (1) to (3)."

Member's explanatory statement

This new clause requires the Secretary of State to prepare and periodically review a strategy, setting out how the UK will use its influence in regional fisheries management organisations and other relevant bodies to deliver the objectives of the BBNJ Agreement in relation to fishing, including tackling illegal, unreported and unregulated (IUU) fishing in areas beyond national jurisdiction.

LORD CALLANAN

16★ After Clause 19, insert the following new Clause –

“Powers of the Secretary of State: review

- (1) Within three years beginning on the day on which this Act is passed, the Secretary of State must lay before Parliament a report on the exercise of powers conferred on them by virtue of this Act.
- (2) A report under this section must include –
 - (a) a description of the powers used,
 - (b) the purposes for which they have been used,
 - (c) an assessment of how effectively they have been used, and
 - (d) an assessment of how their use accords with the objectives of the Agreement.”

Member's explanatory statement

This new clause requires the Secretary of State to report to Parliament on the exercise of powers conferred on them by this Bill.

LORD CALLANAN

17★ After Clause 19, insert the following new Clause –

“Reporting requirements relating to this Act

- (1) Before the end of the period of two years beginning on the day on which this Act is passed, and at least once every two years thereafter, the Secretary of State must lay before Parliament a report on the implementation and enforcement of the Act.
- (2) The report must include –
 - (a) data on access to samples;

- (b) information relating to the number and nature of DSI views and downloads;
- (c) information about the amount and nature of enforcement actions taken;
- (d) an assessment of the impact of this Act on business, scientific research, and the fishing industry;
- (e) a summary of any regulatory changes made under this Act;
- (f) an assessment of the impact of any such regulatory changes.”

Member's explanatory statement

This new clause would require the Secretary of State to lay a report before Parliament every two years on the effect and enforcement of the Act.

LORD CALLANAN

18★ After Clause 19, insert the following new Clause—

“Report: impact of marine protected areas on the sustainability of the UK fishing fleet

- (1) Within six months of the passage of this Act the Secretary of State must publish a report on the potential impact of the introduction of Marine Protected Areas in areas that are beyond national jurisdiction on the sustainability of the UK fishing fleet.
- (2) The Secretary of State must lay a copy of the report under subsection (1) before Parliament.”

Member's explanatory statement

This probing amendment seeks to understand what consideration ministers have given to the impact of any future marine protected areas in the ocean beyond national jurisdiction on the sustainability of the UK fishing fleet.

BARONESS BOYCOTT

19★ After Clause 19, insert the following new Clause—

“Amendment to the Environment Act 2021

In section 19 (policy statement on environmental principles: effect) of the Environment Act 2021, after subsection (6) insert—

- “(7) Subsection (1) applies to policy regarding United Kingdom activities in areas beyond national jurisdiction related to 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, opened for signature at New York on 20 September 2023.
- (8) In this section, “areas beyond national jurisdiction” has the meaning given by section 1 (the Agreement) of the Biodiversity Beyond National Jurisdiction Act 2025.””

Member's explanatory statement

This amendment would extend the application of the Environmental Principles Policy Statement to apply to any activities taken as a result of this Bill, from the current situation where they apply domestically.

Clause 20

LORD TEVERSON

20 Clause 20, page 18, line 7, insert –

““flag of convenience”, in relation to section (*Review on the impact and use of flags of convenience*), means the practice where a ship’s owner or owners register their ship or craft in a country different from their own, allowing the ship to fly the civil ensign of that country.”

Member's explanatory statement

This consequential amendment defines the term “flag of convenience”.

Clause 25

BARONESS COFFEY

21 Clause 25, page 21, line 15, leave out “Except as provided in subsection (2),”

Member's explanatory statement

This amendment, and others to clause 25 in the name of Baroness Coffey, is designed to remove the need for further regulations ahead of ratification.

BARONESS COFFEY

22 Clause 25, page 21, line 17, leave out subsection (2)

Member's explanatory statement

This amendment, and others to clause 25 in the name of Baroness Coffey, is designed to remove the need for further regulations ahead of ratification.

BARONESS COFFEY

23 Clause 25, page 21, line 19, leave out subsection (3)

Member's explanatory statement

This amendment, and others to clause 25 in the name of Baroness Coffey, is designed to remove the need for further regulations ahead of ratification.

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IN GRAND COMMITTEE

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