

Biodiversity Beyond National Jurisdiction Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

Amendment No.	After Clause 9
	BARONESS CHAPMAN OF DARLINGTON
1	<p>After Clause 9, insert the following new Clause—</p> <p>“Power to make regulations: Scotland and Northern Ireland</p> <p>(1) The appropriate national authority may by regulations make provision that is within section 9(2) (read with section 9(3) to (6)) for the purposes of implementing the United Kingdom’s obligations under Part 2 of the Agreement.</p> <p>(2) Regulations under this section may—</p> <ul style="list-style-type: none">(a) confer a function (including a discretion) on any person;(b) make different provision for different purposes or for different areas;(c) make consequential, supplementary, incidental, transitional, transitory or saving provision. <p>(3) Regulations under this section that provide for civil sanctions—</p> <ul style="list-style-type: none">(a) must provide a right of appeal against the imposition of any such sanction;(b) may make any provision corresponding to, or dealing with similar matters to, provision made by or capable of being made under the Regulatory Enforcement and Sanctions Act 2008. <p>(4) For the purposes of this section, “appropriate national authority”, in relation to the making of regulations, means—</p> <ul style="list-style-type: none">(a) the Scottish Ministers, so far as provision made by the regulations would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;(b) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, so far as provision made by the regulations—

- (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
- (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

(5) The consequential provision that may be made by regulations in reliance on subsection (2)(c) includes provision amending –

- (a) in relation to regulations made by the Scottish Ministers, an enactment within the meaning given by Schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (whenever passed or made), and
- (b) in relation to regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, any statutory provision within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.”

Member's explanatory statement

This new clause would give the Scottish Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland a power to make provision within devolved legislative competence corresponding to the provision that the Secretary of State can make under clause 9.

BARONESS CHAPMAN OF DARLINGTON

2 After Clause 9, insert the following new Clause –

“Procedure for regulations under section (Power to make regulations: Scotland and Northern Ireland)

- (1) Regulations under section (Power to make regulations: Scotland and Northern Ireland) that include provision –
 - (a) amending an Act of Parliament, an Act of the Scottish Parliament or Northern Ireland legislation,
 - (b) made in reliance on section 9(2)(b), or
 - (c) creating a civil sanction or varying the maximum amount of any monetary penalty,

are subject to the affirmative procedure.
- (2) Any other regulations under section (Power to make regulations: Scotland and Northern Ireland) are subject to the negative procedure.
- (3) Any provision that may be made by regulations under section (Power to make regulations: Scotland and Northern Ireland) subject to the negative procedure may be made in regulations subject to the affirmative procedure.
- (4) The power of the Department of Agriculture, Environment and Rural Affairs in Northern Ireland to make regulations under section (Power to make regulations: Scotland and Northern Ireland) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(5) For the purposes of this section—

- (a) in relation to regulations made by the Scottish Ministers, see sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 for the meanings of “subject to the negative procedure” and “subject to the affirmative procedure”, and
- (b) in relation to regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland—
 - (i) where the regulations are subject to the affirmative procedure, the regulations may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly, and
 - (ii) where the regulations are subject to the negative procedure, the regulations are subject to negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).”

Member's explanatory statement

This new clause would make provision for procedure relating to regulations under new clause (Power to make regulations: Scotland and Northern Ireland), which would be inserted after clause 9.

BARONESS CHAPMAN OF DARLINGTON

3 After Clause 9, insert the following new Clause—

“Consultation: Scotland and Northern Ireland

- (1) The Secretary of State must consult the Scottish Ministers before making regulations under section 9 that contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.
- (2) The Secretary of State must consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland before making regulations under section 9 that contain provision that—
 - (a) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (b) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.”

Member's explanatory statement

This amendment would require the Secretary of State to consult the Scottish Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland before making regulations under section 9 that contain provision with the legislative competence of the Scottish Parliament or the Northern Ireland Assembly.

BARONESS MILLER OF CHILTHORNE DOMER
BARONESS JONES OF MOULSECOOMB

4

After Clause 9, insert the following new Clause—

“Control of plastic pellet pollution in areas beyond national jurisdiction

- (1) The Secretary of State must, by regulations and through the exercise of functions under this Act and other enactments, and through co-operation in relevant international organisations and bodies, make provision for the prevention, control and remediation of pollution in areas beyond national jurisdiction arising from the manufacture, handling, transport, storage, loading or unloading of plastic pellets, flakes or powders.
- (2) Measures taken under this section must aim to secure a level of environmental protection that is no less effective than the measures set out in the International Maritime Organization Marine Environment Protection Committee Circular MEPC.1/Circ.909, as approved in 2024.
- (3) Regulations under this section must, in particular, include provision—
 - (a) requiring operators to implement mandatory procedures to prevent the loss of plastic pellets throughout the supply chain in areas beyond national jurisdiction;
 - (b) requiring containment, spill-prevention, recovery and clean-up measures in areas beyond national jurisdiction consistent with internationally recognised best practice;
 - (c) requiring training, documentation and internal controls relating to pellet loss prevention in areas beyond national jurisdiction;
 - (d) requiring the prompt reporting of any loss of plastic pellets in areas beyond national jurisdiction to the appropriate authority;
 - (e) providing for the remediation of environmental harm and the recovery of associated costs from the responsible operator;
 - (f) providing for monitoring, inspection of, and enforcement against, the loss of plastic pellets in areas beyond national jurisdiction, including civil sanctions;
 - (g) requiring the Secretary of State to have regard to evidence of the effectiveness of measures adopted by parties to the International Maritime Organization, including measures adopted pursuant to the implementation of MEPC.1/Circ.909 by international signatories, including the European Union.
- (4) Regulations under this section must be made within 12 months of the day on which this Act is passed.
- (5) Regulations under this section are subject to the affirmative resolution procedure.”

Member's explanatory statement

This new clause would require the Secretary of State to make regulations on the control of plastic pellet pollution.

After Clause 12

BARONESS CHAPMAN OF DARLINGTON

5 After Clause 12, insert the following new Clause—

“Power to make regulations: Scotland and Northern Ireland (No. 2)

- (1) Where section 11 applies, the appropriate national authority may by regulations make such provision as the authority considers appropriate for the purpose mentioned in section 11(2).
- (2) Subsections (3) to (5) of section 11 apply to regulations under this section as they apply to regulations under that section.
- (3) Regulations under this section may—
 - (a) confer a function (including a discretion) on any person;
 - (b) make different provision for different purposes or for different areas;
 - (c) make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (4) Regulations under this section that provide for civil sanctions—
 - (a) must provide a right of appeal against the imposition of any such sanction;
 - (b) may make any provision corresponding to, or dealing with similar matters to, provision made by or capable of being made under the Regulatory Enforcement and Sanctions Act 2008.
- (5) For the purposes of this section, “appropriate national authority”, in relation to the making of regulations, means—
 - (a) the Scottish Ministers, so far as provision made by the regulations would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, so far as provision made by the regulations—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (6) The consequential provision that may be made by regulations in reliance on subsection (3)(c) includes provision amending—
 - (a) in relation to regulations made by the Scottish Ministers, an enactment within the meaning given by Schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (whenever passed or made), and
 - (b) in relation to regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, any statutory provision within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.”

Member's explanatory statement

This new clause would give the Scottish Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland a power to make provision within devolved legislative competence corresponding to the provision that the Secretary of State can make under clause 11.

BARONESS CHAPMAN OF DARLINGTON

6 After Clause 12, insert the following new Clause—

“Procedure for regulations under section (*Power to make regulations: Scotland and Northern Ireland (No. 2)*)

- (1) Subject to subsection (3), regulations under section (*Power to make regulations: Scotland and Northern Ireland (No. 2)*) that include provision—
 - (a) amending an Act of Parliament, an Act of the Scottish Parliament or Northern Ireland legislation,
 - (b) creating a civil sanction or varying the maximum amount of any monetary penalty, or
 - (c) creating a criminal offence,

are subject to the affirmative procedure.
- (2) Subsection (3) applies where the provision within subsection (1) of this section relates to a decision under Article 24(1) of the Agreement.
- (3) Where the person making the regulations considers that the regulations need to be made urgently in order to give effect to the measure to which they relate, the regulations are subject to the made affirmative procedure.
- (4) Any other regulations under section (*Power to make regulations: Scotland and Northern Ireland (No. 2)*) are subject to the negative procedure.
- (5) Any provision that may be made by regulations under section (*Power to make regulations: Scotland and Northern Ireland (No. 2)*) subject to the negative procedure may be made in regulations subject to the affirmative procedure or the made affirmative procedure.
- (6) The power of the Department of Agriculture, Environment and Rural Affairs in Northern Ireland to make regulations under section (*Power to make regulations: Scotland and Northern Ireland (No. 2)*) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (7) For the purposes of this section—
 - (a) in relation to regulations made by the Scottish Ministers, see sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 for the meanings of “subject to the negative procedure” and “subject to the affirmative procedure”,
 - (b) in relation to regulations made by the Scottish Ministers that are subject to the “made affirmative procedure”, the regulations—
 - (i) must be laid before the Scottish Parliament as soon as reasonably practicable after being made, and

- (ii) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament,
- (c) in relation to regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland that are subject to the “affirmative procedure”, the regulations may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly,
- (d) in relation to regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland that are subject to the “made affirmative procedure”, the regulations –
 - (i) must be laid before the Northern Ireland Assembly as soon as reasonably practicable after being made, and
 - (ii) cease to have effect at the end of the period of 28 days beginning with the day on which the regulations are made unless, during that period, the regulations are approved by a resolution of the Northern Ireland Assembly, and
- (e) in relation to regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland that are subject to “the negative procedure”, the regulations are subject to negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).

(8) In calculating the period of 28 days mentioned in subsection (7)(b)(ii), no account is to be taken of any time during which the Scottish Parliament is –

- (a) dissolved, or
- (b) in recess for more than 4 days.

(9) In calculating the period of 28 days mentioned in subsection (7)(d)(ii), no account is to be taken of any time during which the Northern Ireland Assembly is –

- (a) dissolved,
- (b) in recess for more than 4 days, or
- (c) adjourned for more than 6 days.

(10) Where regulations cease to have effect as a result of subsection (7)(b)(ii) or (d)(ii), that does not –

- (a) affect anything previously done under or by virtue of the regulations, or
- (b) prevent the making of new regulations.”

Member's explanatory statement

This new clause would make provision for procedure relating to regulations under new clause (Power to make regulations: Scotland and Northern Ireland (No. 2)), which would be inserted after clause 12.

BARONESS CHAPMAN OF DARLINGTON

7 After Clause 12, insert the following new Clause—

“Consultation: Scotland and Northern Ireland (No. 2)

- (1) The Secretary of State must consult the Scottish Ministers before making regulations under section 11 that contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.
- (2) The Secretary of State must consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland before making regulations under section 11 that contain provision that—
 - (a) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (b) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (3) Subsections (1) and (2) do not apply where the Secretary of State considers that the regulations need to be made urgently in order to give effect to a measure adopted under Article 24(1) of the Agreement (decisions to adopt measures to be applied on an emergency basis).”

Member's explanatory statement

This amendment would require the Secretary of State to consult the Scottish Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland before making regulations under section 11 that contain provision with the legislative competence of the Scottish Parliament or the Northern Ireland Assembly, except in the case of regulations that need to be made urgently.

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 ensure the human rights of those at sea in areas beyond national jurisdiction,””

After Clause 18

BARONESS JONES OF MOULSECOOMB

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

“Environmental impact assessment exemptions

- (1) Where an appropriate authority determines that an environmental impact assessment is not required under regulation 8A of the Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 15 2007/1518) or Regulation 8 of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I 2017/115), it must only be on the basis that another legal instrument, framework, or body provides an environmental assessment process equivalent in scope, procedural requirements, substantive effect, and public participation to that required under Part IV of the BBNJ Agreement and Article 206 of the United Nations Convention on the Law of the Sea (UNCLOS).
- (2) The appropriate authority must record the reasons for this determination and publish a statement explaining how the equivalence criteria have been met.
- (3) For the purposes of this section, a legal instrument, framework, or body is not to be regarded as equivalent unless it provides—
 - (a) systematic assessment of cumulative impacts across activities and sectors,
 - (b) ecosystem-level assessment, including impacts on non-target species and food webs,
 - (c) assessment of impacts on migratory species across jurisdictional boundaries,
 - (d) public participation and transparency comparable to environmental impact assessment standards, and
 - (e) application of the precautionary principle.
- (4) No exemption powers in the Regulations specified in subsection (1) may prevent the Secretary of State or appropriate authority from determining, in an individual case, whether reliance on another legal instrument, framework or body is sufficient to satisfy the requirements of Article 206 of UNCLOS and Part IV of the BBNJ Agreement.”

Clause 23

BARONESS CHAPMAN OF DARLINGTON

10 Clause 23, page 23, line 32, at end insert—

“(za) section (*Power to make regulations: Scotland and Northern Ireland*),”

Member's explanatory statement

*This amendment is consequential on my amendment inserting new clause (*Power to make regulations: Scotland and Northern Ireland*) after clause 9.*

BARONESS CHAPMAN OF DARLINGTON

11 Clause 23, page 23, line 32, at end insert –

“(za) section (*Power to make regulations: Scotland and Northern Ireland (No. 2)*),”

Member's explanatory statement

*This amendment is consequential on my amendment inserting new clause (*Power to make regulations: Scotland and Northern Ireland (No. 2)*) after clause 12.*

Clause 26

BARONESS CHAPMAN OF DARLINGTON

12 Clause 26, page 24, line 11, leave out “and 15” and insert “, 15 and 18”

Member's explanatory statement

This amendment would provide for clause 18 to come into force on such day as the Secretary of State may by regulations appoints.

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