

# Report on the Supplementary Legislative Consent Memorandum for the UK Fisheries Bill 2019-21

September 2020

## Overall recommendation

We recommend to the Senedd that it gives consent to the provisions in the UK Fisheries Bill 2019-21, subject to it being satisfied by the Minister's response to the recommendations in this report, and in our first report on the Legislative Consent Memorandum.

## 1. Introduction

1. This is the Climate Change, Environment and Rural Affairs Committee's ('the Committee') second report on the UK Government's Fisheries Bill 2019-21 ('the Bill'). Our first report on the Legislative Consent Memorandum for the Bill, was published in May 2020. In that report, we recommended that the Senedd gives consent to the provisions in the Bill, subject to it being satisfied by the Welsh Government's response to each of our recommendations.

2. This report sets out our conclusions on:

- amendments made to the Bill in the House of Lords (see Section 2) that have remained in the Bill following Committee Stage in the House of Commons, and
- matters raised in our first report which have yet to be adequately addressed.



**3.** This report should be read in conjunction with our first report on the Bill and the Welsh Government's response to our recommendations in that report.

**4.** Clause numbers in this report relate to the version of the Bill as amended at Report Stage in the House of Lords.

## 2. The Supplementary LCM

**5.** The Minister for Environment, Energy and Rural Affairs ('the Minister') laid the Supplementary Legislative Consent Memorandum for the Bill ('the Supplementary LCM') on 8 July 2020.

**6.** On 13 July 2020, the Business Committee referred the Supplementary LCM to this Committee, and to the Legislation, Justice and Constitution Committee, for consideration and set a reporting deadline of 24 September 2020.

### Our approach to scrutiny

**7.** We considered the Supplementary LCM at our meeting on 17 September 2020.

**8.** Given the limited time available within which we had to consider and report on the Supplementary LCM, we were not in a position to take oral evidence from the Minister. Instead, we wrote to the Minister and asked her to respond in writing to a number of questions. The exchange in correspondence can be found at the end of this report.

### Changes to the Bill that the Welsh Government considers require consent

**9.** The Supplementary LCM sets out the changes to the Bill made in the House of Lords for which the Welsh Government considers consent is required.

#### Clause 1 – Fisheries objectives

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**10.** Clause 1 defines a set of fisheries objectives which apply across the whole of the UK. An amendment has been made to the 'sustainability objective' which makes sustainability the prime objective and raises up the relative importance of environmental concerns within that objective.

## Clause 18 – National landing requirement

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**11.** This new clause requires the Secretary of State to consult on and establish a ‘national landing requirement’ to ensure a minimum percentage of fish caught by both domestic and foreign fishing vessels in UK waters are landed at a port in the UK, Isle of Man, Guernsey or Jersey.

## Clause 24 – Power of Secretary of State to determine fishing opportunities (previously Clause 23)

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**12.** Clause 24 enables the Secretary of State to determine the maximum quantity of sea fish that may be caught by British fishing boats and the maximum number of days that British fishing boats may spend at sea.

**13.** An amendment has been made to Clause 24 so that a determination will specify the year or other period to which the determination applies, rather than determinations being made in respect of a calendar year.

## Clause 26 – Distribution of fishing opportunities (previously Clause 25)

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**14.** Clause 26 has been amended so as to relocate the rules relating to the distribution of quota from the Common Fisheries Policy Regulation to the Bill.

## Clause 27 – Reservation of English fishing opportunities for new entrants and boats under 10 metres

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**15.** This new clause requires the Secretary of State, before making a determination in relation to UK fishing opportunities, to reserve a minimum allocation of English fishing opportunities for new entrants into the sector and for boats whose length is of 10 metres or less. Thereafter, the Secretary of State would have to consider the case for increasing this quota each year and lay statements before Parliament on the outcome of those considerations.

## Clause 48 – Regulatory enforcement and data collection scheme

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**16.** This new clause requires the Secretary of State to make regulations to mandate the use of remote electronic monitoring (REM) on all fishing vessels above 10 metres in length which fish in UK waters. The Secretary of State must publish a timetable for the introduction of the requirements of the regulations, and plans to extend the requirements to all motorised fishing vessels, including under 10 metre vessels.

## Amendments to reflect the Assembly's name change

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**17.** Amendments have been made to Schedule 1, Clauses 11 and 41, Schedule 8, and Clauses 45, 50 and 51 to change references to 'the National Assembly for Wales' to 'Senedd Cymru'.

## Schedule 5 - Sale of Welsh fishing opportunities

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Schedule 5 has been amended to provide flexibility for the length of time for which the Welsh Ministers may make provision for the sale of rights to use a Welsh catch quota or a Welsh effort quota. The reference to calendar year has been removed.

## Schedule 10 - Common Fisheries Policy Regulation: Minor and consequential amendments

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**18.** Schedule 10 incorporates the material which was previously in that Schedule and makes further amendments to retained EU Regulations in relation to Article 2 of the Common Fisheries Policy Regulations, quota flexibilities, and multi-annual plans. A more detailed explanation of these amendments can be found in paragraphs 17 to 19, and paragraph 21 of the Supplementary LCM.

## The Welsh Government's position

**19.** According to the Supplementary LCM, the Welsh Government supports the changes made to Clauses 24 and 26, Schedules 5 and 10, and the various amendments to reflect the Assembly's name change.

**20.** In relation to the changes made to Clauses 1, 18, 27 and 48, the Supplementary LCM explains that the Welsh Government would consider the policy and devolution implications of the provisions, including detailed analysis on the wider implications for industry and stakeholders. It adds:

"At the very least, should these amendments remain, we expect we would need drafting issues to be resolved, to add clarity in both policy intent and to more clearly reflect the devolution settlement."

**21.** In her subsequent letter, the Minister set out the Welsh Government's position on the changes made to Clauses 1, 18, 27 and 48.

**22.** The Minister explained that, while the Welsh Government "support the spirit of the amendment [to Clause 1]", the change made "results in legal uncertainty". She raised concern that Clauses 18 and 27 do not reflect, or cut across, the

devolution settlement, and that the provisions for Welsh Ministers are not required in the UK Bill.

**23.** In commenting on Clause 27, the Minister stated:

“We had immediate concerns on how this provision could be interpreted, due to it having the potential to impact on the UK quota “pot”, which although we note is not the intention, could impact on our devolved competence. As such, any ring-fencing should take place only after fishing opportunities have been allocated to each administration.”

**24.** The Minister explained that the UK Government was seeking to reverse the changes made to Clauses 1, 18, 27 and 28 by amendment during Committee Stage in the House of Commons. She did not appear to object to the UK Government’s proposed amendments.

## Changes to the Bill that require consent not included in the Supplementary LCM

**25.** The Committee has sought legal advice from Senedd Cymru’s Legal Services on several changes made to the Bill in the House of Lords. In the view of Senedd Cymru’s Legal Services, several clauses require consent but have not been included in the Supplementary LCM.

### Clause 2 - Joint fisheries statement

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**26.** Clause 2 requires the fisheries policy authorities (i.e. the Welsh Ministers) to prepare and publish a document (joint fisheries statement) that sets out, amongst other things, the policies for achieving, or contributing to the achievement of, the fisheries objectives.

**27.** A new sub-clause (2) has been inserted which requires the policies set out in the joint fisheries statement to include those relating to the distribution, in accordance with Clause 26, of catch quotas and effort quotas for use by fishing boats.

### Clause 28 - Duties to ensure fishing opportunities not exceeded

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**28.** Clause 28 requires the national fisheries authorities (which includes the Welsh Ministers) to exercise their functions relating to fisheries so as to secure that, in any period no sea fish are caught by British fishing boats in excess of a catch quota for that period and that no days are spent at sea by British fishing boats in excess of an effort quota for that period.

**29.** New sub-clause (2) states that in determining whether a catch quota is exceeded, only sea fish that are required to be counted against the catch quota under Article 15 of the Common Fisheries Policy Regulation (the landing obligation) or any other provision of retained direct EU legislation should be counted.

**30.** Additionally, sub-clause (11) clarifies that references in retained direct EU legislation to fishing opportunities (however expressed) are, in relation to British fishing boats, references to catch quotas and/or effort quotas (as the context requires).

## Latest developments

**31.** The Bill completed Committee Stage in the House of Commons on 17 September 2020 where it was amended to reverse the changes made to Clauses 1, 18, 27 and 48 in the House of Lords.

**32.** Additional changes have been made to the Bill during the Commons Committee Stage, which will require the Senedd's consent. At the time of writing this report, a further Supplementary LCM has yet to be laid.

## Our view

We note that the majority of substantive changes made to the Bill in the House of Lords have since been reversed.

We do not object to the remaining changes identified in the Supplementary LCM for which the Welsh Government considers consent is required.

We note that several changes made to the Bill in the House of Lords that require consent have not been included in the Supplementary LCM. We would like the Minister to explain the reason for this. In addition, we seek assurance from the Minister that these changes will be included in the further Supplementary LCM expected to be laid shortly.

**Recommendation 1.** The Minister should explain why the Supplementary LCM does not include changes to Clauses 2 and 28 made in the House of Lords.

**Recommendation 2.** The Minister must ensure that the changes to Clauses 2 and 28 are set out in a further Supplementary LCM.

### 3. Our outstanding concerns

**33.** The Welsh Government, in the main, responded positively to our first report, accepting 21 out of 23 recommendations. Nonetheless, there are certain matters that remain a cause of concern for this Committee and which require further consideration and/or action.

#### A sunset clause

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**34.** In our first report, we recommended the Minister should seek an amendment to the 2019-21 Bill to include a sunset clause in relation to the provisions that relate only to Wales (Recommendation 2). The Welsh Government rejected this recommendation on the basis that there is no clear timetable for a Welsh Fisheries Bill. It emphasised the need “to ensure we have the necessary toolkit in place to manage the challenges of Brexit (and now COVID-19) on our fisheries industry”, and to retain the powers for as long as they are needed.

**35.** The Welsh Government added:

“...we do not want to impose a sunset clause which creates the risk of key powers for Wales being lost, by automatic function of law. We want to introduce Welsh legislation which has been developed with sufficient time to allow for proper scrutiny and consideration. I am not prepared to seek a sunset clause which will potentially disadvantage the Welsh fishing industry in comparison to the rest of the UK industry.”

#### Our view

We are disappointed that the Minister chose not to pursue an amendment to the Bill to include a sunset clause. Setting a statutory time limit on the Wales only provisions would have provided the Senedd with further assurance that they are transitional, and demonstrated the Welsh Government’s commitment to introducing a Welsh Fisheries Bill. Furthermore, we remain concerned that, without a sunset clause, there will be little or no impetus for any new Welsh Government to introduce a Welsh Fisheries Bill. A new Government could, instead, rely indefinitely on provisions in the UK Bill that the Senedd has consented to, at least in part, on the basis that they are transitional in nature.

**Recommendation 3.** It is important that, if the Senedd consents to these provisions, it is given an opportunity to reassess their merits again at an appropriate time. The Minister should commit to report to the Senedd biennially

on the implementation of the provisions in the Bill that relate only to Wales until such time as a Welsh Fisheries Bill is introduced.

## Memorandum of Understanding relating to the exercise of the Secretary of State's power to determine fishing opportunities

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**36.** In our first report, we concluded that the Minister should not bring forward the legislative consent motion for the Bill until Members of the Senedd have been able to consider the Memorandum of Understanding ('MoU') in relation to the exercise of the Secretary of State's power to determine UK fishing opportunities.

**37.** In her response to our report, the Minister said she intended "Members should have the opportunity to review the MoU in relation to [Clause 24], in advance of their consent decision". However, in her most recent letter, the Minister reported that the MoU "is still in development and will therefore not be ready ahead of the completion of the Bill's passage". She added:

"In lieu of the MoU...I have written to the UK Government to seek agreement on the key issues on which I need assurance in order to recommend the Senedd gives consent to the Bill. I will share the outcome of this request with the Committee at the earliest opportunity."

## Our view

Throughout our scrutiny of the Bill, and of the 2017-19 Fisheries Bill, the Minister maintained that the power for the Secretary of State provided in Clause 24 "remains a red line issue" for the Welsh Government. Members of the Senedd cannot, and should not, therefore, be expected to come to a decision on legislative consent until this matter has been fully resolved.

Despite her previous assurance, the Minister is not in a position to provide Members of the Senedd with an opportunity to consider the draft MoU in advance of the consent decision. This is disappointing. Furthermore, at the time of writing this report, the Committee has yet to receive from the Minister details of the response received from the UK Government to her request for agreement on issues relating to the exercise of the power.

**Recommendation 4.** In advance of the consent decision, the Minister must satisfy the Senedd that the matter of the exercise of the Secretary of State's power to determine fishing opportunities has been fully resolved. In particular, the Minister must make available to Members of the Senedd details of the



agreement reached with UK Government on issues relating to the exercise of the power.

# Annex: Correspondence between the Chair and the Minister for Environment, Energy and Rural Affairs

Senedd Cymru

**Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig**

Welsh Parliament

**Climate Change, Environment and Rural Affairs Committee**

**Lesley Griffiths MS**

Minister for Environment, Energy and Rural Affairs

23 July 2020

Dear Lesley,

## **Supplementary Legislative Consent Memorandum for the Fisheries Bill**

You will be aware that the Supplementary Legislative Consent Memorandum ('LCM') for the Fisheries Bill ('the Bill') has been referred to the Climate Change, Environment and Rural Affairs Committee ('the Committee') for consideration, with a reporting deadline of 24 September 2020.

The deadline provides a scrutiny period of three sitting weeks, which will allow limited time for the Committee to consider the Supplementary LCM and agree its report. We acknowledge that, when proposing reporting deadlines, the Welsh Government must do so in the context of the Bill's UK Parliamentary timetable. However, given that the Bill has yet to receive its second reading in the House of Commons, we are disappointed that the Welsh Government felt unable to propose a more appropriate scrutiny period.

Furthermore, the Welsh Government, by its own admission, has yet to consider the policy and devolution implications of certain amendments that have been made to the Bill. It is not unreasonable to expect the Welsh Government to explain to the Senedd the implications of provisions where consent is being sought.

We would therefore like you to provide an update to the Committee in writing, **no later than 3 September**, on the policy and devolution implications of the amendments to Clauses 1, 18, 27 and 48.



**Senedd Cymru**

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We would also like you to respond to the following:

Several of the amendments to retained direct EU legislation provided for in Schedule 10 replace references to “fisheries administration(s)” within that direct EU legislation with “the Secretary of State”.

- 1. Can you explain the rationale for this, in particular, why the relevant functions are being conferred on the Secretary of State rather than the fisheries administrations within provisions relating to the observation or implementation of international obligations, which is devolved?**

Presently, fishing opportunities must be fixed in any event to ensure that there is less than 5% probability of spawning stock biomass falling below the relevant limit. On this basis, no fishing opportunity could be granted if stock were below the relevant limit.

Paragraphs 6(4) and 7(4) of Schedule 10 amend, respectively, Article 4(6) of Regulation (EU) 2018/973 (establishing a multiannual plan for demersal stocks in the North Sea) and Article 4(6) of Regulation (EU) 2019/472 (establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters). The effect of these amendments will be to restrict the application of Article 4(6) of each of the EU Regulations to circumstances where the spawning stock biomass is above the relevant limit.

- 2. Can you clarify whether this would enable fishing opportunities to be granted where the stock is below the relevant limit?**

I look forward to receiving your response.

Yours sincerely,



**Mike Hedges MS**  
**Chair of Climate Change, Environment and Rural Affairs Committee**

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Lesley Griffiths AS/MS  
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/LG/2661/20

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3 September 2020

Dear Mike,

Thank you for your letter of 23 July relating to the Supplementary Legislative Consent Memorandum for the UK Fisheries Bill.

**Update to the Committee on the policy and devolution implications of the amendments to Clauses 1, 18, 27 and 48 by House of Lords**

You have asked me to write to provide an update on the policy and devolution implications of these amendments. As you will see, the UK Government has tabled amendments for Commons Committee stage to reverse the amendments made during the Lords Report stage to clauses 1, 18, 27 and 48. Under Secretary of State Victoria Prentis MP sought my views on this approach and advised their position is they support the spirit of the amendments but the amendments themselves are legally and constitutionally unsound. My position is as follows:

**Clause 1 – sustainability objective**

This amendment results in legal uncertainty. In my response to Minister Prentis I recognised the concerns raised and noted there would need to be further refinement of this provision so that environmental sustainability is appropriately prioritised. The Welsh Government is committed to delivering sustainable fisheries. It is at the core of our fisheries management approach, which aligns with our duties under our flagship Welsh legislation, the Well-being of Future Generations (Wales) Act 2015 and our Environment (Wales) Act 2016, to carry out sustainable development in delivering our well-being goals, and delivering sustainable management of our natural resources. Our policies within the Joint Fisheries Statement will reflect these duties and our strong commitment to delivering sustainable development in Wales.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

As such, I have emphasised our support for the spirit of the amendment to Minister Prentis and asked her to make this clear during Committee stage in the House of Commons.

### **Clause 18 – national landing requirement**

As drafted this amendment does not reflect the devolution settlement and licence conditions requiring all UK vessels to establish an economic link with the UK are already in place. It is our intention to further develop Welsh policy in relation to economic link requirements as part of the holistic development of our future fisheries policy, subject to scrutiny by the Senedd. Therefore this provision for Welsh Ministers is not required in the UK Bill

### **Clause 48 – remote electronic monitoring**

This amendment cuts across our devolution settlement and as a matter of devolved policy it is for the Welsh Ministers to determine the appropriate approach in relation to Wales. It is our intention to further develop Welsh policy in relation to electronic monitoring in a way that reflects the needs and context of the Welsh fleet, therefore this provision for Welsh Ministers is not required in the UK Bill.

### **Clause 27 - new quota from the English allocation for new entrants and under 10m boats**

We had immediate concerns on how this provision could be interpreted, due to it having the potential to impact on the UK quota “pot”, which although we note is not the intention, could impact on our devolved competence. As such, any ring-fencing should take place only after fishing opportunities have been allocated to each administration.

I hope this explanation and the tabled amendments for Commons Committee stage, provide the clarity you are seeking.

### **Schedule 10 amendments**

You have asked two questions on the amendments within Schedule 10 to retained direct EU legislation and changes of references to Secretary of State from fisheries administrations, you ask:

#### **Can you explain the rationale for this, in particular, why the relevant functions are being conferred on the Secretary of State rather than the fisheries administrations within provisions relating to the observation or implementation of international obligations, which is devolved?**

My officials worked closely with UK Government officials, following legal analysis of each reference in retained EU law, to establish where the roles lie, in line with the devolution settlement. Officials were very clear about the nuances of the devolution settlement in relation to international obligations and our role in implementing them. It is my view, these have been applied correctly in respect of the devolution settlement. I have provided a table at Annex 1 to explain the rationale for the amendments made via Schedule 10 of the Bill.

You refer in your letter to fishing opportunities and spawning stock biomass limits, and have asked:

#### **Can you clarify whether this would enable fishing opportunities to be granted where the stock is below the relevant limit?**

These amendments build in some flexibility to the existing Multi-annual Plans, including by making the application of the key provisions within them subject to variation where a “relevant change of circumstances” is identified (this is consistent with the approach in the Bill for the Joint Fisheries Statement and Fisheries Management Plans). For example, where a stock was below the relevant limit but was part of a mixed species fishery it would be inappropriate to deny fishing opportunity where this would effectively close the whole fishery or if allowed to continue would involve fishing mortality on the relevant stock in any

event. In such circumstances the setting of a minimal bycatch opportunity would be appropriate to avoid 'choking' the associated stock fisheries.

I hope this information provides the additional clarity you need for your response on the SLCM report, which I note is due on 24 September.

### **Bill timings and next stages**

I wanted to end by providing an update on the Bill timings. Second Reading was held in the House of Commons on 1 September and Committee Stage is due to be held between 8 – 17 September. A number of government amendments have been tabled for Committee stage and I would draw your attention to those. My officials have been working with UK Government to agree the amendments relating to Wales, and I would like to provide early confirmation of my support for them.

The Legislative Consent Motion (LCM) debate has been scheduled for 29 September, prior to Commons Report stage, in line with our usual approach of aiming to ensure the UK Parliament has time to take account of the Senedd's consent decision before a Bill is passed. A Supplementary Legislative Consent Memorandum will be laid as soon as possible.

In addition, I want to take this opportunity to follow up to some of the recommendations in your Legislative Consent Memorandum report.

### **Legislative Consent Memorandum (LCM) report**

#### Recommendation 6

In my response to your LCM report, I offered to write to you to outline the solutions considered and the role of Article 33, further to your recommendation on this matter.

We have given further consideration as to whether the wording of Article 33 of the CFP regulations, as amended by the EU Exit SIs and Fisheries Bill, could alleviate concerns around including a duty on MSY.

Article 33 provides 1) "Where stocks of common interest are also exploited by third countries, [...] the Secretary of State must make every effort to reach common arrangements for fishing of such stocks with a view to making the sustainable management possible" & 2) "endeavour to establish bilateral or multilateral agreements with third countries for the joint management of stocks"

This of course provides comfort the UK Government's negotiating position will be driven by these principles, it is bound to act responsibly whilst undertaking Coastal State negotiations on fish stocks, however, the wording does not guarantee any outcomes and indeed probably could not undertake to do so (when taking into account the multiple parties at those negotiations).

In acknowledgment of the concerns raised on MSY and to provide increased certainty on the collective UK approach to sustainably managing our domestic fisheries, whilst acknowledging the uncertainties of international fisheries negotiations, the UK Government has introduced the fisheries management plan (FMP) approach which includes elevated levels of engagement with stakeholders. This is in addition to the MSY commitment made within the fisheries objectives themselves. I expect the JFS and FMPs to set out our commitment to MSY and to set targets where appropriate.

The Welsh Government continues to work closely with the fishing industry and scientific researchers, as well as all other interested parties, including Defra and the other fisheries

administrations, to ensure our fisheries management is based on the best available evidence and supports the sustainable use of Welsh seas. This evidence-based approach is captured within the scientific evidence objective of the UK Fisheries Bill, which we fully support.

Memorandum of Understanding and clause 24 (determination of fishing opportunities)

I also said I would provide regular updates to the Committee regarding progress being made to finalise the Fisheries Framework Memorandum of Understanding (MoU) and in particular progress relating to clause 24 (formally clause 23). My officials are engaging in a regular working group which is progressing the drafting of the MoU (including the Dispute Resolution Mechanism and consideration of the Concordat).

In lieu of the MoU, which is still in development and will therefore not be ready ahead of the completion of the Bill's passage, I have written to the UK Government to seek agreement on the key issues on which I need assurance in order to recommend the Senedd gives consent to the Bill. I will share the outcome of this request with the Committee at the earliest opportunity.

I have written in similar terms to Mick Antoniw MS, Chair of Legislation, Constitution and Justice Committee.

Regards

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in black ink and is positioned centrally below the "Regards" text.

**Lesley Griffiths AS/MS**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

## Annex 1 Rationale for the amendments made via Schedule 10 of the Bill

EU retained law (in Schedule 10)	Rationale for change from “fisheries administration” to “Secretary of State”
<b>Common Fisheries Policy Regulation (Regulation (EU) No 1380/2013)</b>	
<p>Article 28, 29 and 33</p>	<p>Article 28 sets out that the objective of the external fishing policy of the United Kingdom is to ensure sustainable exploitation, management and conservation of marine biological resources and the marine environment by conducting the external relations of the United Kingdom in accordance with its international obligations and policy objectives.</p> <p>Article 29 provides that the Secretary of State should actively support and contribute to the activities of international organisations dealing with fisheries including regional fisheries management organisations.</p> <p>Article 33 provides that the Secretary of State must engage with third countries with a view to ensuring that stocks of common interest to the UK and third countries are managed sustainably.</p> <p>Under paragraph 10 (1) &amp; (2) of Part 1 of Schedule 7A of the Government of Wales Act 2006 international relations are a reserved matter, International relations includes relations with territories outside of the UK, with the EU and its institutions and with other international organisations.</p> <p>Whilst paragraph 10(3) confirms that observing and implementing international obligations are outside of the reservation and are therefore devolved, we do not consider the subject matter of the above Articles could be described as observation of or implementation of international obligations.</p> <p>The Common Fisheries Regulation will, by operation of the European Union Withdrawal Act 2018, form part of the UK statute book as retained EU law. It was previously amended by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739). Regulation 3 of those 2019 Regulations established the UK fisheries administrations and their remit for the purpose of any relevant retained direct EU legislation relating to the common fisheries policy. Regulation 3 also made amendments to articles 28, 29 and 33 to transfer functions under those articles from EU institutions to a fisheries administration.</p> <p>In relation to Wales, the Welsh Ministers are the fisheries administration in so far as the obligation or power under consideration would be within the legislative competence of the Senedd, if included in an Act of the Senedd, or if it could have been imposed or conferred by a function of the Welsh Ministers exercisable immediately before exit day. If a power or obligation does not fall into either of those categories the Secretary of State is the fisheries administration for that matter in relation to Wales.</p> <p>The impact of the amendments already made to these Articles by the 2019 Regulations was such that the functions under those articles were in effect already transferred to the Secretary of State in relation to Wales, in line with the devolution settlement. Officials therefore take the view that the amendments made by Schedule 10 do not change this position, but rather clarify it.</p>
<b>Regulation (EU) 2018/973 – North Sea Multi-Annual Plan</b>	



<p>Article 4, 6 &amp; 13</p>	<p>Article 4 relates to targets in respect of fishing mortality and as amended requires the Secretary of State to request data from ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 6 relates to requesting conservation reference points from the ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 13 provides that the Secretary of State should engage with third countries with a view to ensuring that those stocks of common interest to the UK and a third country are arranged in a sustainable manner consistent with the Basic Regulation.</p> <p>Under paragraph 10 (1) &amp; (2) of Part 1 of Schedule 7A of the Government of Wales Act 2006 international relations are a reserved matter, International relations includes relations with territories outside of the UK, with the EU and its institutions and with other international organisations.</p> <p>Whilst paragraph 10(3) confirms that observing and implementing international obligations are outside of the reservation and are therefore devolved, we do not consider the subject matter of the above Articles could be described as observation of or implementation of international obligations.</p> <p>Articles 4, 6, and 13 of this Regulation were previously amended by regulation 25 of the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/753) to transfer functions under those articles from EU institutions to a fisheries administration.</p> <p>In relation to Wales, the Welsh Ministers are the fisheries administration in so far as the obligation or power under consideration would be within the legislative competence of the Senedd, if included in an Act of the Senedd, or if it could have been imposed or conferred by a function of the Welsh Ministers exercisable immediately before exit day. If a power or obligation does not fall into either of those categories the Secretary of State is the fisheries administration for that matter in relation to Wales.</p> <p>The impact of the amendments already made to these Articles by the 2019 Regulations was such that the functions under those articles were in effect already transferred to the Secretary of State in relation to Wales, in line with the devolution settlement. Officials therefore take the view that the amendments made by Schedule 10 do not change this position, but rather clarify it.</p>
<p><b>Regulation (EU) 2019/472 Western Waters Multi Annual Plan</b></p>	
<p>Article 4, 7 &amp; 15</p>	<p>Article 4 relates to target in respect of fishing mortality and as amended requires the Secretary of State to request data from ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 7 relates to requesting conservation reference points from the ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 15 relates to the exploitation of stocks of common interest by third countries. It provides that the Secretary of State should engage with those third countries with a view to ensuring that those stocks are arranged in a sustainable manner consistent with the Basic Regulation.</p>

Under paragraph 10 (1) & (2) of Part 1 of Schedule 7A of the Government of Wales Act 2006 international relations are a reserved matter, International relations includes relations with territories outside of the UK, with the EU and its institutions and with other international organisations.

Whilst paragraph 10(3) confirms that observing and implementing international obligations are outside of the reservation and are therefore devolved, we do not consider the subject matter of the above Articles could be described as observation of or implementation of international obligations.

Regulation (EU) 2019/472 will by operation of the European Union Withdrawal Act 2018, form part of the UK statute book as retained EU law. It was previously amended by the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1312). Regulation 6 amended to articles 4, 7 and 15 to transfer functions under those articles from EU institutions to a fisheries administration.

In relation to Wales, the Welsh Ministers are the fisheries administration in so far as the obligation or power under consideration would be within the legislative competence of the Senedd, if included in an Act of the Senedd, or if it could have been imposed or conferred by a function of the Welsh Ministers exercisable immediately before exit day. If a power or obligation does not fall into either of those categories the Secretary of State is the fisheries administration for that matter in relation to Wales.

The impact of the amendments already made to these Articles by the 2019 Regulations was such that the functions under those articles were in effect already transferred to the Secretary of State in relation to Wales, in line with the devolution settlement. Officials therefore take the view the amendments made by Schedule 10 do not change this position, but rather clarify it.