

## **SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 4)**

### **Fisheries Bill**

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. Following completion of the House of Lords scrutiny stages, the Fisheries Bill (“the Bill”) was introduced into the House of Commons on 2 July 2020, Second Reading was held on 1 September and Commons Committee stage was completed on 15 September. The latest version of the Bill can be found here:

[Bill documents - Fisheries Bill 2019-21 - UK Parliament \(post Commons Committee stage\)](#)

### **Policy Objective**

3. The UK Government’s stated position is the Bill will provide the legal framework for the UK to operate as an independent coastal state under the United Nations Convention on the Law of the Sea 1982 (UNCLOS) after the UK has left the European Union and the Common Fisheries Policy.

### **Summary of the Bill**

4. The Bill is sponsored by the Department for Environment, Food and Rural Affairs.
5. The Bill makes provision for:
  - policy objectives in relation to fisheries, fishing and aquaculture, fisheries statements and fisheries management plans;
  - access to British fisheries;
  - the licensing of fishing boats;
  - the determination and distribution of fishing opportunities;
  - schemes to be established for charging for unauthorised catches of sea fish;
  - grants in connection with fishing, aquaculture or marine conservation
  - the recovery of costs in respect of the exercise of public functions relating to fish or fishing;
  - to confer powers to make further provision in connection with fisheries, aquaculture or aquatic animals;
  - to make provision about byelaws and orders relating to the exploitation of sea fisheries; and for connected purposes.

## **Update on position since the publication of the third Legislative Consent Memorandum**

6. The Welsh Government has laid the following Legislative Consent Memoranda:
  - Legislative Consent Memorandum on 12 February 2020, based on the Bill as introduced into Parliament on 29 January 2020.
  - A Supplementary Legislative Consent Memorandum (Memorandum No. 2) was laid on 8 July, following amendments made to the Bill during House of Lords scrutiny.
  - A Supplementary Legislative Consent Memorandum (Memorandum No. 3) was laid on 16 September, following amendments tabled to the Bill for House of Commons Committee scrutiny.
7. This Supplementary Legislative Consent Memorandum (Memorandum No.4) completes the package of all amendments made to the Bill to date. No further amendments will be made before the Legislative Consent Motion debate on 6 October.
8. The Welsh Government remains supportive of the Bill, as it continues to progress through Parliament. Clause 43 secures a significant extension of legislative competence for the Senedd in relation to fishing, fisheries and fish health matters beyond Wales, into the Welsh zone and aligns the Senedd's competence with the Welsh Ministers' executive powers.
9. The Welsh Government will take powers for the Welsh Ministers in this Bill as an interim measure until a Welsh Fisheries Bill is brought forward to the Senedd.

### **Amendments to note since the publication of the Supplementary Legislative Consent Memorandum (Memorandum No 3), for which consent is required.**

10. Commons Committee stage has now concluded and the following amendments which relate to the legislative competence of the Senedd were agreed, and have been incorporated into the Bill: 1, 2, 5 – 9, 22 – 23, 27, 29 - 35, 48 – 50, 52, 53, 55 and new clause 1, 57, 59 – 60, and new schedule 1. Supplementary Legislative Consent Memorandum (No. 3) sets out our position on these amendments and I can confirm again, we support their inclusion in the Bill.
11. Government amendments 144, 145, 146 were also made at Commons Committee stage but were not covered in the Supplementary Legislative Consent Memorandum (Memorandum No.3) due to the date on which they were tabled.
12. Clause numbers below relate to the latest version of the Bill:

13. Clause 39 (Amendment 144) ensures the scope of the Secretary of State's regulation making power in clauses 38 and 40 excludes provision which is within the legislative competence of the Senedd with the consent of a Minister of the Crown.
14. Clause 49 (Amendment 145) inserts into the Bill a definition of "Minister of the Crown".
15. Schedule 8 (Amendment 146) enables the Welsh Ministers, with the consent of the Secretary of State, to include in regulations under paragraph 6 or 8 (of Schedule 8) provision that is within the legislative competence of the Senedd if consent has been given by a Minister of the Crown.
16. Three amendments made to the Bill during Lords Report stage were unintentionally omitted from Supplementary Legislative Consent Memorandum (Memorandum No.2), so are included here. The clause numbers relate to the current numbering in the Bill:
17. Clause 2 – an amendment was made to include subsection (2) to require the joint fisheries statement to set out the policies of the fisheries policy authorities relating to the distribution of catch and effort quotas for use by fishing boats.
18. Clause 23 - a further amendment was made at Lords Report stage which inserted sub section 11 to clause 23. The amendment clarifies the meaning of fishing opportunities under the clause in relation to retained direct EU legislation.
19. Clause 26 – an amendment was made to include subsection (2) which applies rules in retained direct EU legislation about when catches are or are not to be counted against quotas for the purposes of the duty in subsection (1) of this Clause, to ensure consistent application of those rules.
20. Paragraph 19 of Supplementary Legislative Consent Memorandum (Memorandum No.2) relates to Schedule 10 (Common Fisheries Policy Regulation: Minor and consequential amendments) which includes amendments made to retained EU law in relation to quota flexibilities, to which the amendment to clause 26 relates.
21. Clause 52 – at Lords Third Reading, the short title provisions were amended to include a privilege amendment. This has now been removed following Commons Committee consideration.

### **Welsh Government position on the amendments made to the Bill**

22. Amendments made at Commons Committee stage, detailed above and within Supplementary Legislative Consent Memorandum (Memorandum No.3), are supported by Welsh Government.

23. Amendments to clauses 39 and 49 and schedule 8, made at Commons Committee stage, were sought by Welsh Government to ensure the scope of the Welsh Ministers' powers under Schedule 8 aligned with the competence of the Senedd.
24. The amendment to clause 2, made at Lords Report stage, to include the requirement to set out policies relating to quota distribution, is supported. We would expect the Joint Fisheries Statement to set out policies in this respect.
25. The amendment to clause 23, made at Lords Report stage, clarifies the meaning of fishing opportunities under the clause.
26. The amendment to clause 26, made at Lords Report stage, is necessary for a workable statute book at the end of the Implementation Period.
27. The privilege amendments to clause 52 reflect standard procedures for Bills containing charging provisions which begin in the House of Lords. These provisions are inserted by the House of Lords and removed by Commons by convention.

### **Financial implications**

28. There are no direct financial implications for Wales as a result of taking these provisions in this Bill.

### **Conclusion**

29. We remain committed to the UK wide approach to create the Fisheries Framework which can only be done in a UK bill. For the non-framework powers in the Bill, it is important the Welsh Ministers are able to act quickly and decisively in Wales, until we can bring forward a comprehensive Welsh Fisheries Bill.
30. We support all the amendments made to the Bill, as detailed above.
31. The Legislative Consent Motion has been laid, in advance of the plenary debate, recommending the Senedd Cymru consent to the making of this Bill.

**Lesley Griffiths AS/MS**  
**Minister for Environment, Energy and Rural Affairs**  
**October 2020**