

Lesley Griffiths MS
Minister for Environment, Energy and Rural Affairs

5 October 2020

Dear Lesley

Response to Committee report on Supplementary Legislative Consent Memorandum (Memorandum No 2) on the Fisheries Bill, and matters relating to the Supplementary Legislative Consent Memorandum (Memorandum No 4) on the Fisheries Bill

Thank you for your letter of 1 October 2020 which provides your **response** to the recommendations in our **report on the Supplementary Legislative Consent Memorandum (Memorandum No 2) on the Fisheries Bill** (report on the Supplementary LCM No 2), along with some information about what is included in **Supplementary Legislative Consent Memorandum (Memorandum No 4)** (laid on 1 October 2020) and the further amendments being sought at Commons Report Stage.

Further, the correspondence you included between yourself and the Parliamentary Under Secretary of State, Victoria Prentis MP, on the agreement you have sought in relation to the Bill's provisions regarding determining fishing opportunities was helpful.

You will obviously understand that the timing of Memorandum No 4, being laid on 1 October, means that scrutiny is virtually impossible ahead of tomorrow's debate on the legislative consent motion for the Bill. We have also noted that the information you have provided to us in your letter of 1 October regarding the further amendments being sought at Commons Report Stage has not been reflected in Memorandum No 4.

There are a number of points, both regarding Memorandum No 4 and the further amendments you describe in your letter, which we believe require urgent clarification. In addition, there are a number of issues which we would like to pursue further with you relating to your response to our report on Supplementary LCM No 2.



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1. Regarding UK Government amendments numbers 144, 145 and 146, which were made at Commons Committee Stage but not referenced in Supplementary Legislative Consent Memorandum (Memorandum No 3), we have noted that these amendments were sought by the Welsh Government “to ensure the scope of the Welsh Ministers’ powers under Schedule 8 aligned with the competence of the Senedd”. However, the need for these amendments is not clear to us, and we would be grateful for an explanation.
2. Regarding the further amendments that are being sought at Commons Report Stage:
 - a. What amendments are being sought to apply the *Legislation (Wales) Act 2019* to subordinate legislation made under the Bill (once enacted), and why are these amendments necessary?
 - b. What amendments are being sought to provide the powers you believe are necessary for the fisheries administrations to enter into agency type amendments that “would enable collaboration and the efficient exercise of functions to achieve robust and effective fisheries management outcomes” and again why are they necessary?
 - c. What improvements are you seeking to Schedules 3 and 8 as regards “the scope and operation of the Welsh Ministers powers and their relationship with the corresponding Secretary of State Bill powers”?
 - d. What amendment have you sought to the consultation requirements in Schedule 10 that apply to the Welsh Ministers order making power under section 134A and 134B?
 - e. Why are these amendments being sought so late in the process?
3. Regarding your response to our recommendations in our report on the Supplementary LCM No2:
 - a. We acknowledge that your letter to the Parliamentary Secretary of State regarding the determination of fishing opportunities sets out in clear terms what you expect of any future intergovernmental agreement. However, it is unclear to us how the response you received confirms and accepts your stated requirements and expectations. Are you satisfied with the response from the Parliamentary Secretary of State, and if so, why, given the lack of clarity?
 - b. Why do you consider that reporting biennially to the Senedd on the implementation of the provisions in the Bill which relate only to Wales, until such time as a Welsh Fisheries Bill is introduced, is equitable to the inclusion of a sunset provision in the legislation?
 - c. We do not consider that you have provided clarification regarding the circumstances under which the Welsh Ministers would consider it expedient to exercise the powers in Schedule 3 as a sea fish licensing authority. Further, your response has prompted further questions. You have said “We have no plans at the moment to use these powers, but **I would note these licensing powers may be part of the statute book for many years, possibly decades** [our emphasis], like previous sea fishing licensing primary legislation. As such, it is necessary to have this power, and to have it to the full extent that other UK sea fish licencing authorities will have it, to attach licence conditions as appear



necessary or expedient, to respond to any changing needs to keep fisheries licensing up to date and fit for purpose.” Why do you consider it necessary and appropriate to take powers that may be part of the statute book for decades in a UK Bill which is only meant to be an interim arrangement for managing fisheries in Wales?

With regards to recommendations 6 and 7 in our report on the Supplementary LCM No 2, we note your response but our concerns remain that the Senedd may be losing powers.

One final point to highlight is an unfortunate misunderstanding that closes your letter to the Committee. We have not indicated that we would recommend consent subject to clarity and reassurances being received.

To aid Members’ decision-making during tomorrow’s Plenary debate, I would urge you to provide the clarity we have requested during your contribution in the debate.

I would also like to ask that you respond, in full, to this letter as soon as possible.

I am copying this letter to Mike Hedges MS, Chair of the Climate Change, Environment and Rural Affairs Committee.

Yours sincerely

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw MS
Chair of the Legislation, Justice and Constitution Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg
We welcome correspondence in Welsh or English

