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



Llywodraeth Cymru
Welsh Government

Our ref: LG/3711/20

Mick Antoniw MS
Chair of Legislation, Justice and Constitution Committee
Senedd Cymru

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17 November 2020

Dear Mick

Following the completion of Report Stage and Third Reading, both held on 13 October in the House of Commons, I wish to provide an update on the outcome and to confirm the amendments made to the UK Fisheries Bill.

On 6 October, the Senedd agreed provisions in the Fisheries Bill, in so far as they fall within the legislative competence of the Senedd, should be considered by the UK Parliament.

In advance of the debate I wrote to you setting out the amendments Welsh Government initiated which were to be dealt with at Report stage. I also covered some of these in my opening remarks during the debate. The following Government amendments were made at Commons Report stage and make provision in relation to Wales for a purpose within the legislative competence of the Senedd. The clause numbers and amendment numbers used below correlate to the numbering used in the "Consideration of Bill (Report stage)" document – the House of Commons daily report, dated 13 October. Link attached here: https://publications.parliament.uk/pa/bills/cbill/5801/0181/amend/fisheries_daily_rep_1012.pdf

New Clause 8 - this new clause confers powers on the sea fish licensing authorities to arrange for another such authority to exercise any of their fisheries functions or product movement functions. Consequential amendments were also made to clause 37 (amendment 6), clause 47 (amendment 8), clause 49 (amendments 9, 10 and 11), clause 51 (amendment 12), schedule 3 (amendment 25 and 26), schedule 8 (amendment 32).

Under section 83 of the Government of Wales Act 2006, the Welsh Ministers may enter into an arrangement with a relevant authority for the functions for one of them to be exercised by the other. A relevant authority includes a Minister of the Crown and any public authority in England or 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.

Section 83 does not, therefore, allow the Welsh Ministers to enter into an arrangement with the Scottish Ministers or the Northern Ireland department. It is hoped this sort of arrangement could be efficient and cost saving. The amendments made at Report Stage enable the Welsh Ministers to enter into administrative arrangements with the Scottish Ministers, Northern Ireland department and the Marine Management Organisation (MMO) for the exercise of fisheries functions and fishery product movement functions.

We can envisage situations in future where we could want other Devolved Administrations to carry out functions on our behalf, for example, for control and enforcement purposes, for science trips or where geography makes such an arrangement more sensible.

New clause 10 - This new clause amends legislation which deals with the interpretation of Welsh legislation, in consequence of the enlargement of legislative competence in clause 43. Consequential amendments are also made to clause 51 (amendment 13).

The Legislation (Wales) Act 2019 is (broadly speaking) intended to apply to all legislation made by the devolved institutions in Wales. Without amendment, the Act would not apply to Welsh Ministers' SIs made under the Bill. These amendments amend the Legislation (Wales) Act 2019 to provide that it will apply to Welsh Ministers' SIs made under the Fisheries Bill. The extension of the Senedd's legislative competence to cover fisheries matters in the whole of the Welsh zone will automatically extend the application of Parts 1 and 2 of the 2019 Act to cover Acts of the Senedd made under that wider competence (because they apply to all Welsh primary legislation).

Schedule 8 - The purpose of paragraph 9(5) of this Schedule is to prevent the regulation-making powers in paragraphs 6 and 8 from being used to modify the licensing functions conferred by the Bill. This amendment ensures paragraph 9(5) protects the functions of all the sea fish licensing authorities (amendment 33).

Schedule 10 – An amendment (amendment 46) has been made which makes contravention of an order under new section 134B of the Marine and Coastal Access Act 2009 (MCAA) (exploitation of sea fisheries resources: Welsh offshore region) an offence. As I noted in my letter of 1 October, the amendment was necessary to remedy an earlier unintentional drafting omission.

Schedule 10 – An amendment has been made to section 189 of the MCAA to remove an unnecessary restriction upon the Welsh Ministers use of that Order making power (amendment 49). As I noted in my letter of 1 October, under section 189 the Welsh Ministers may by order make provision in relation to Wales, to manage exploitation of sea fisheries. Subsection (2) currently limits the availability of that power, such that it may only be used by the Welsh Ministers if no other alternative legal power can be identified. This restriction is unnecessary and as such I sought its removal.

Schedule 11 - This amendment (amendment 54) clarifies that Schedule 11 includes consequential provisions.

Schedule 11 – An amendment has been made which repeals provisions of retained EU law concerned with the catching of cod in the North Sea. This will allow the United Kingdom to adopt its own measures in relation to cod in the North Sea (amendment 55).

Welsh Government supports all of these amendments because we take the view they improve the Bill. As such, our recommendation to the Senedd to consent to the Bill remains.

The amendments made relating to Agency Arrangements (new clause 8), section 189 (2) of the MCAA (Schedule 10) and to Schedule 11 (amendment 55) would ordinarily require a further Supplementary Legislative Consent Memorandum because they make relevant provision under Standing Order 29 for the first time. The other amendments made at Report stage relate to provisions previously set out in the existing memoranda and do not make relevant provision for the first time. I wrote to Committees and Members to explain we were seeking these amendments prior to the Legislative Consent Memorandum debate, and outlined them verbally to the Chambers in the debate, to ensure Members were all as well informed as possible.

The amendments made to the Bill by House of Commons (across all stages) were considered by the House of Lords on 12 November, and no further amendments were made. The Bill will now progress to Royal Assent.

For reference, UK Parliament has published a document containing all amendments made to the Bill during all stages in the House of Commons and I have provided a link to the document here: <https://publications.parliament.uk/pa/bills/lbill/58-01/143/5801143.pdf>

Given the stage of the Bill there is not sufficient time to prepare and lay a Memorandum and enable scrutiny, and I advised Committees and Members I would write to confirm the outcome of this stage. Therefore, I am copying this letter to all Members of the Senedd.

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

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Cc All Members of Senedd