



The Scottish Parliament  
Pàrlamaid na h-Alba

## Net Zero, Energy and Transport Committee

Gillian Martin MSP  
Cabinet Secretary for Climate Action and Energy  
Scottish Government

18 November 2025

Dear Gillian

### Biodiversity Beyond National Jurisdiction Bill LCM

Thank you for your [letter of 7 November](#) providing further information on the above LCM. The Committee considered the LCM as part of its work programme discussion today and agreed to write to you with some initial questions, which I set out below.

The LCM sets out that clause 9 of the Bill (which grants powers to the Secretary of State to make regulations for the purposes of implementing the United Kingdom's obligations on marine genetic resources) requires legislative consent alongside other clauses in Part 2. However, there is no provision made for the Secretary of State to obtain the consent of Scottish Ministers if making regulations under clause 9 in a devolved area. Your letter of 7 November states that in relation to Part 2 of the Bill you are "seeking assurances from the UK Government... to ensure due regard is given to Scottish interests". This does not specify whether this includes seeking a consent mechanism in respect of this delegated power.

- **Do you consider a consent mechanism to be necessary in relation to this power?**
- **Is this something that is currently being discussed with the UK Government?**

Similarly, **clauses 11 and 13** (which grant powers to the Secretary of State to make regulations (clause 11) or issue directions (clause 13) to implement certain decisions by the BBNJ Conference of the Parties in relation to area-based management tools) do not provide a mechanism requiring the Secretary of State to seek consent of the Scottish Ministers when exercising powers in relation to devolved activities. Your letter of 7 November sets out that regarding Part 3 (which includes clauses 11 and 13), the Scottish Government "will work with the UK Government to ensure Scottish Ministers are appropriately involved in the process of reaching and implementing decisions of the CoP, which impact on devolved matters" and that this "could necessitate additional measures, such as specific intergovernmental agreement, or amendment to the face of the Bill". Again, this does not specify whether the Scottish Government is seeking specific consent mechanisms in respect of powers in this Part of the Bill.

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Contact: Net Zero, Energy and Transport Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email [netzerocommittee@parliament.scot](mailto:netzerocommittee@parliament.scot). We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

- **Could you confirm whether you consider a consent mechanism to be necessary in relation to these powers?**
- **Is this something that is currently being discussed with the UK Government?**

The Committee is aware of similar powers in section 36 and 38 the Fisheries Act 2020 which also relate to the implementation of an international obligation. However, in the 2020 Act, the Secretary of State can only exercise these powers within devolved competence with the consent of the Scottish Ministers.

- **Is consideration being given to ensuring consistency across the statute book in respect of similar delegated powers exercised by the Secretary of State in devolved areas?**

We also note that in relation to each of the clauses discussed above, the powers are conferred solely on the Secretary of State – there is no corresponding power for the Scottish Ministers in devolved areas.

- **Is it considered appropriate in this context that powers can be exercised by the Secretary of State only, or has any consideration been given to whether the Scottish Ministers should be given concurrent powers?**

With apologies for the short turnaround, given the challenging timescales for this Bill that you set out in your last letter, I would appreciate a response by 25 November so that we can move swiftly with our scrutiny.

Yours sincerely,



**Edward Mountain MSP**

**Convener**