

Conservation and Sustainable Use of Marine Biological Diversity (Ratification of Treaty) Bill

[AS INTRODUCED]

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[AS INTRODUCED]

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Make provision in connection with the ratification by the United Kingdom of the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction.

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Ratification of the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction.

It shall be the duty of His Majesty’s Government to take all reasonable steps as soon as reasonably practicable to enable the United Kingdom to ratify the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (“the High Seas Treaty”).

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2 Power to make provision for the purpose of complying with the duty under section 1

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(1) His Majesty may, by Order in Council, make such provision as appears to Him to be necessary or expedient—

- (a) for the purpose of compliance with the duty under section 1; or
- (b) otherwise for the purpose of dealing with matters arising out of, or related to the High Seas Treaty.

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(2) An Order in Council under this section (“an Implementation Order”) may be made before the entry into force of the High Seas Treaty in relation to the United Kingdom.

3 Implementation Orders: supplementary

(1) An Implementation Order may make any provision that could be made by an Act of Parliament.

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- (2) Without prejudice to the generality of subsection (1), an Implementation Order may –
- (a) modify any enactment;
 - (b) confer on a Minister of the Crown or an appropriate devolved authority power to make regulations for the purposes contained in section 2(1); 5
 - (c) impose prohibitions and requirements, including requirements to provide information;
 - (d) confer a discretion;
 - (e) authorise the charging of fees;
 - (f) make provision for securing compliance with its provisions, including provision creating criminal offences and civil sanctions; 10
 - (g) make provision for reviews or appeals in relation to decisions taken pursuant to the Order or otherwise for the determination of matters under it;
 - (h) make different provision for different cases or circumstances or for different areas; 15
 - (i) make provision for exceptions; and
 - (j) make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (3) An Implementation Order may make provision applying in relation to – 20
- (a) the United Kingdom;
 - (b) the territorial sea adjacent to it;
 - (c) the United Kingdom’s exclusive economic zone; and
 - (d) the high seas.
- 4 Implementation Orders: restrictions** 25
- (1) An Implementation Order may not –
- (a) impose or increase taxation;
 - (b) make retrospective provision;
 - (c) create a relevant criminal offence;
 - (d) modify the Human Rights Act 1998 or any subordinate legislation made under it; or 30
 - (e) modify the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998.
- (2) An Implementation Order may not make provision within the devolved competence of an appropriate devolved authority without that authority’s consent. 35
- (3) An Implementation Order may not make provision applying in relation to the high seas save in respect of –
- (a) United Kingdom persons;
 - (b) United Kingdom ships; or 40
 - (c) United Kingdom aircraft.

5 Implementation Orders: Parliamentary scrutiny

- (1) An Implementation Order shall not be submitted to His Majesty in Council unless a draft of the Order has been laid before, and approved by a resolution of each House of Parliament.
- (2) Subsection (1) shall not apply if the Implementation Order contains a declaration that His Majesty is of the opinion that, by reason of urgency, it is necessary to make the Implementation Order without a draft being so laid and approved. 5
- (3) If an Implementation Order is made in accordance with subsection (2), it shall be laid before Parliament after it is made, and shall cease to have effect at the end of the period of 28 days beginning with the day on which the Implementation Order is made unless, during that period, the Implementation Order is approved by a resolution of each House of Parliament. 10
- (4) In calculating the period of 28 days, no account is to be taken of any time during which— 15
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (5) If an Implementation Order ceases to have effect as a result of subsection (3), that does not— 20
 - (a) affect the validity of anything previously done under the Implementation Order; or
 - (b) prevent the making of a new Implementation Order.

6 Financial provision

- (1) *There is to be paid out of money provided by Parliament—* 25
 - (a) *any expenditure incurred under or by virtue of this Act by a Minister of the Crown; and*
 - (b) *any sums payable by His Majesty's Government in the United Kingdom pursuant to the High Seas Treaty.*
- (2) *All sums received by way of fees under an Implementation Order shall be paid into the Consolidated Fund.* 30

7 Crown application

- (1) An Implementation Order may make provision binding the Crown.
- (2) No contravention by the Crown of a provision of an Implementation Order makes the Crown criminally liable.
- (3) Subsection (2) does not affect any criminal liability of persons in service of the Crown. 35

8 Interpretation

- (1) In this Act—

- “the appropriate devolved authority” means –
- (a) the Scottish Ministers in relation to Scotland,
 - (b) the Welsh Ministers in relation to Wales, and
 - (c) a Northern Ireland Department in relation to Northern Ireland;
- “enactment” means an enactment whenever passed or made and includes –
- (a) an enactment contained in any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under an Act of Parliament,
 - (b) an enactment contained in any Order in Council made in exercise of His Majesty’s Prerogative,
 - (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
 - (d) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru,
 - (e) an enactment contained in, or in an instrument made under, Northern Ireland legislation,
 - (f) an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of His Majesty which are exercisable by such a person on behalf of His Majesty, and
 - (g) any assimilated direct legislation;
- “the high seas” has the same meaning as in the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941);
- “the High Seas Treaty” means the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, opened for signature at New York on 20 September 2023 (CP 942);
- “Implementation Order” has the meaning given by section 2(2);
- “modify” includes amend and repeal;
- “relevant criminal offence” means an offence for which an individual who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) is capable of being sentenced to imprisonment for a term of more than 2 years (ignoring any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions);
- “ship” includes every description of vessel (including a hovercraft) used in navigation;
- “the territorial sea” shall be construed in accordance with the Territorial Sea Act 1987;
- “United Kingdom aircraft” means an aircraft which is registered, in accordance with an enactment about aircraft, in the United Kingdom;
- “United Kingdom national” means –

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act; “United Kingdom person” means – 5
 - (d) a United Kingdom national, or
 - (e) a body incorporated or constituted under the law of any part of the United Kingdom;
- “United Kingdom ship” means a ship which – 10
- (a) is registered under Part 2 of the Merchant Shipping Act 1995,
 - (b) is a Government ship within the meaning of that Act,
 - (c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a United Kingdom connection, or 15
 - (d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968; and
- “the United Kingdom’s exclusive economic zone” is to be read in accordance with section 41 of the Marine and Coastal Access Act 2009.
- (2) For the purposes of paragraph (c) of the definition of “United Kingdom ship” in subsection (1), a person has a “United Kingdom connection” if the person is – 20
 - (a) a British citizen, a British overseas territories citizen or a British Overseas citizen,
 - (b) an individual who is habitually resident in the United Kingdom, or 25
 - (c) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.
 - (3) For the purposes of this Act –
 - (a) a provision is within the devolved competence of the Scottish Ministers if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament; 30
 - (b) provision is within the devolved competence of the Welsh Ministers if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru; and 35
 - (c) provision is within the devolved competence of a Northern Ireland department if the provision, if it were contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Assembly and would not require the consent of the Secretary of State. 40

9 Short title, commencement and extent

- (1) This Act may be cited as the High Seas Treaty (Implementation) Act 2024.
- (2) This Act comes into force on the day on which it is passed.

- (3) This Act extends to England and Wales, Scotland and Northern Ireland.
- (4) His Majesty may, by Order in Council, extend this Act and any Implementation Order made under it, with such modifications as may appear to him to be necessary or expedient, to the Channel Islands, the Isle of Mann, or any British Overseas Territory.

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*Presented by Kevin Foster
supported by Dr Thérèse Coffey.*

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