



Rt Hon Greg Clark MP,
Secretary of State for Levelling Up, Housing and Communities

cc.
Secretary of State for Scotland
Secretary of State for Wales
Secretary of State for Northern Ireland

John Swinney, MSP, Deputy First Minister
Edwin Poots, MLA, Minister for Agriculture, Environment and Rural Affairs
Vaughan Gething, MS, Economy Minister

Dear Secretary of State,

Levelling Up and Regeneration Bill, Part 5: Devolution aspects

We write, on behalf of environmental NGOs across the UK, in relation to Part 5 of the Levelling Up and Regeneration Bill. This proposes new powers for Ministers to specify ‘environmental outcomes’ and, in particular, to make amendments to existing processes for planning and consenting, including issues such as Environmental Assessment and the application of the Habitats Regulations.

These proposals are of serious concern to our members because they have the potential to weaken the protection of the environment. This contrasts with the UK’s Government’s overall commitment to “become the first generation to leave that environment in a better state than we found it and pass on to the next generation a natural environment protected and enhanced for the future”. All our organisations support the call for substantive amendments to this Bill, in relation to provisions relating to the environment in England. These have been set out elsewhere and summarised in a [briefing](#) for second reading. However, in addition to these concerns, we also have significant concerns regarding the extent of Part 5, and the way in which it addresses devolution issues.

Our organisations and members have no specific constitutional position; however, we note that under the current arrangements, within the UK, the environment is considered a devolved matter and the Scottish Government, Welsh Government and Northern Ireland Executive have developed and legislated for distinctive environmental policies in their jurisdictions. In some cases, we applaud these policies, in others we have argued for different approaches – however, in all cases, they should be scrutinised, agreed and approved by their respective Parliament or Assembly with engagement of civil society at various stages.

Yet, as it stands, Part 5 of the above Bill extends to the whole of the UK (clause 194(5)) and any proposed EOR regulations containing provisions within the devolved competences must be subject only to consultation with the relevant devolved administration. We would note that the policy underpinning Part 5 has been consulted on only in respect of England. Furthermore, this approach is at odds with the “Sewel Convention”, as expressed, for example, in s.28(8) of the Scotland Act 1998,

as amended, that “the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament.”

Given the distinctive policies and legislation for the environment, in the devolved jurisdictions, we consider that either matters of devolved competence should be excluded from this power or the approach of consent – rather than simply consult – must apply to EOR regulations. This would be consistent with, for instance, the approach taken, by agreement between the four governments, in the Environment Act 2021 (see s.142). There is the additional complexity of the absence of functioning political institutions in Northern Ireland, necessitating further consideration of the sensitivity of consent mechanisms.

Given the scale and urgency of the nature and climate emergencies, and the commitment by all governments in the UK to address these issues, it is vitally important that action to deliver on these commitments is undertaken.

Accordingly, we hope that you would look favourably on amending clause 121 of the current Bill, to remove the power to amend matters within devolved competence, or at the very least so that any EOR regulations affecting matters within devolved competence are subject to the consent of the relevant devolved legislature.

We are copying this letter to the Secretary of State for the Environment, the Secretaries of State for Scotland, Wales and Northern Ireland and to Ministers in the devolved administrations. We will also publish it on our websites.

Yours sincerely

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Deborah Long, Chief Officer, Scottish Environment LINK
Karen Whitfield, Joint Director, Wales Environment Link
Richard Benwell, CEO, Wildlife and Countryside Link

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