

Department for Environment, Food and Rural Affairs

Welsh Government

Wales Office

Intergovernmental Protocol on  
Water Resources, Water Supply and Water Quality

Presented to Parliament and to the National Assembly for Wales pursuant to  
section 50 of the Wales Act 2017

Ordered by the House of Commons to be printed on 16 November 2017.



## **Introduction**

1. The geographic features of Great Britain dictate that there are considerable cross-border water flows and dependencies regarding water between England and Wales. In order to safeguard water resources, water supply and water quality and minimise the potential for risk in this area of the administrations' respective responsibilities, the Secretary of State and the Welsh Ministers agree the following protocol.
2. The purpose of the protocol is to ensure that there is no serious adverse impact on water resources, water supply or water quality in England arising from the action or inaction of Welsh Ministers or public bodies exercising functions in Wales, and that there is no serious adverse impact on water resources, water supply or water quality in Wales arising from the action or inaction of the Secretary of State or public bodies exercising functions in England. This protocol shall replace the powers of intervention provided for in sections 114 and 152 of the Government of Wales Act 2006 as they relate to water resources, water supply and water quality.
3. As provided for by section 50(5) of the Wales Act 2017, there is a statutory duty on the Secretary of State, and the Welsh Ministers, to act in accordance with this protocol. Section 51 of the Wales Act 2017 introduces a duty for both the Secretary of State and Welsh Ministers to have regard to the interests of consumers on the other side of the border in the exercise of their functions.

## **Communication, Consultation and Cooperation**

4. Both administrations recognise the importance of communication, consultation and cooperation regarding water resources, water supply and water quality, and undertake to work together as appropriate where there is a potential for the actions of one administration to impinge on the responsibilities of another.
5. The Secretary of State and Welsh Ministers agree that communication on matters affecting water resources, water supply and water quality should be carried out as a matter of course. At official level, this will ordinarily be done by the relevant teams in Defra and the Welsh Government teams responsible for water services, reporting to the Secretary of State and the Welsh Ministers respectively.
6. As such, the Secretary of State and the Welsh Ministers, undertake:
  - To alert each other as soon as practicable to relevant developments in policy or planned action regarding water resources, water supply, and water quality which have cross border impacts, or any other situation or issue which has the potential to impact upon the same;

- To consult each other, consider appropriate evidence, give appropriate consideration to the views and needs of the other administration in the formation of policy which has the potential for cross-border impacts and to demonstrate that such consideration has been made;
- To make reasonable efforts to act in a manner that will not impinge on the other administration's ability to deliver its responsibilities;
- To maintain constructive, working level relationships between relevant policy teams as necessary, who will meet as needed in the usual course of business; and
- To conduct business, wherever possible, through normal administrative channels, either at official or Ministerial level.

## **In case of dispute**

7. It is expected that the administrations will make reasonable efforts to resolve any dispute through discussion at official level, or, if necessary, between Ministers. The Secretary of State and the Welsh Ministers must attempt to resolve any dispute in a timely manner, in accordance with the urgency of the situation at hand. Such attempts shall be made in good faith.
8. If the dispute resolution procedure set out in paragraph 7 proves unsuccessful, the dispute shall be escalated to the Joint Ministerial Committee, to consider under its dispute avoidance and resolution procedures, in accordance with its terms of reference and as set out in the Memorandum of Understanding.<sup>1</sup>
9. Where a dispute arises and until that dispute is resolved, the function that is the source of that dispute must not be exercised, or its exercise must be suspended. In case of inaction, that function shall be exercised such that the 'serious adverse impact' is mitigated.
10. In this protocol, the term "dispute" refers only to disagreements concerning the matters set out in paragraph 2 that this protocol is designed to prevent.

## **Amendments to or revocation of this protocol**

11. Either administration may propose an amendment to, or the revocation of, this protocol. This protocol may only be amended or revoked by agreement of both the Secretary of State and the Welsh Ministers.

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<sup>1</sup> Memorandum of Understanding and Supplementary Agreements - Between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee, October 2013, paragraph 24  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/316157/MoU\\_between\\_the\\_UK\\_and\\_the\\_Developed\\_Administrations.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/316157/MoU_between_the_UK_and_the_Developed_Administrations.pdf)

12. If this protocol is amended, the revised version shall be laid in Parliament and before the National Assembly for Wales.

## Commencement

13. This protocol shall come into force on 1 April 2018.

## Signed



**Michael Gove**  
**Secretary of State, Department for**  
**Environment, Food and Rural Affairs**  
**UK Government**

**Lesley Griffiths**  
**Cabinet Secretary for Energy, Planning**  
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Signed on: 16 November 2017