Climate Change Act
2008

Concordat

HM Government
The Scottish Government
The Welsh Assembly Government
The Northern Ireland Executive
## Index

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Introduction

1. This Concordat ("the Concordat") sets out the agreed framework for administrative co-operation for the implementation of the regulatory framework established by the Climate Change Act 2008 ("the Act"), between the Secretary of State, the Department of the Environment in Northern Ireland, the Welsh Ministers, and the Scottish Ministers ("the four parties").

2. The Concordat is not a legally binding agreement or a contract, and it cannot override the statutory duties and powers of the four parties. Any failure to follow the terms of the Concordat is not to be taken as invalidating decisions taken by any of the four parties. Nor is the Concordat intended to cover every detailed aspect of the relationship between them. Rather, it is a statement of the principles that will guide relations between the four parties to ensure as far as possible agreement on common positions on administrative co-operation for the implementation of the regulatory framework established by the Act.

3. The Concordat is drawn up in accordance with the principles outlined in the Memorandum of Understanding and Supplementary Agreements between the UK Government, Scottish Ministers, the Cabinet of the National Assembly for Wales, and the Northern Ireland Executive Committee¹ ("the MoU"). The MoU sets out the broad understanding of the UK Government and the Devolved Administrations for Scotland, Wales and Northern Ireland of the principles and practices that underlie relations between them. The Concordat is also intended to be consistent with the overarching concordats between those administrations, particularly the Concordat on Co-ordination of EU Policy Issues, the Concordat on International Relations, and the Concordat on Statistics.

Objective

4. The objective of the Concordat is to ensure that the roles and responsibilities of the four parties under the constitutional structure established by the respective devolution settlements are effectively translated into practical working arrangements between them. The aims are to promote close and harmonious working relationships and good communications at all levels between the four parties, and to foster constructive co-operation, and where possible agreement in delivering a coherent and cost-effective climate change policy framework, while respecting the letter and spirit of the devolution settlements.

Legislative Framework

5. This Concordat is concerned with the implementation of the Climate Change Act 2008 including any subsequent secondary legislation.

6. In line with the devolution settlement, the UK has four parties who may exercise functions under the Climate Change Act. These are the Secretary of State, the relevant Northern Ireland Department, the Welsh Ministers and the Scottish Ministers. In terms of the practical working arrangements in this document the terms also apply to officials acting on behalf of Ministers.

Administrative Co-operation

Liaison Group

7. The four parties to the Concordat have jointly established a Liaison Group (LG). The LG is a body of senior officials representing the four parties. It serves the four parties by providing for:

- *Communication* – by ensuring that a high level of communication exists between the four parties;
- *Co-ordination* – by being the conduit through which the four parties discuss and agree common positions; and,
- *Consultation* – by facilitating proper consideration of the views of other parties.

8. The LG shall meet at the request of one of the four parties. Otherwise it will communicate by correspondence. At any meetings, the chair and secretary of the LG will be provided by the party hosting the meeting. The lead Whitehall Department appropriate at the time shall provide the official representing the Secretary of State.

Communication and consultation

9. The Act provides for formal consultation between the four parties. In addition, consistent with the four parties' obligations under the MoU and other overarching concords, the four parties will continue to communicate and co-operate closely with one another in this as in other areas.

Principles

10. Consultation between the four parties shall be guided by the following principles:
- It should ensure that parties’ views inform the decision-making process;
• It should be inclusive and participatory, so that all parties with an interest are consulted;
• It should be an ongoing activity;
• It should allow reasonable time to enable a considered response;
• It shall provide adequate forewarning, with the aim of fostering a constructive and harmonious working relationship based on the principle of “no surprises”.

11. The four parties wish to ensure that the information each supplies to the others is subject to appropriate safeguards, in accordance with the devolution settlements. These arrangements rely, for their effectiveness, on mutual respect for the confidentiality and sensitivity of information exchanged. The four parties will not disclose unpublished information to third parties without the permission of the administration which provided the information, subject to the requirements of the law. Matters not in the public domain may be:

- limited to the Northern Ireland Ministers and officials;
- limited to the Welsh Ministers and officials;
- limited to the Scottish Ministers and officials;
- limited to the Secretary of State and his officials

and, will be subject to the establishment of suitable arrangements to safeguard confidentiality. It is for the administration providing the information to state what, if any, restrictions there should be upon its usage.

Reaching agreement and arrangements for resolving disagreements

12. While recognising the ability of the four parties to make their own decisions insofar as permitted by the devolution settlements and the Act, the four parties will endeavour, wherever possible, to agree a common position on issues relating to the Act, and to do so through the Liaison Group and in line with the provisions set out in Annexes A to E.

13. Where agreement cannot be reached, or if there is disagreement as to the extent of the competence of different parties, the four parties will endeavour to resolve these disagreements within the letter and spirit of the devolution settlements between officials or through the Liaison Group, or where necessary through the following:

- discussion at Ministerial level;
- the good offices of the relevant territorial Secretary of State; or
- bringing the disagreement to the Joint Ministerial Committee (JMC) for resolution in accordance with the MoU.
14. Annexes A to E contain further information on arrangements with respect to:
   a. Targets and budgets
   b. Reporting
   c. Committee on Climate Change
   d. Trading Scheme Powers
   e. Adaptation

Duration of the Concordat

15. This Concordat takes effect from the date on which it is signed by all of the four parties. It will run until its termination by any of the parties giving six months notice in writing.

Liaison and review

16. Each of the four parties will appoint at least one official to the Liaison Group who will act as liaison officer for the general purpose of ensuring the smooth running of the Concordat, including adherence by the four parties to its guiding principles. The Concordat can be reviewed at any time at the request of one of the four parties, and can be amended at any time with the agreement of all parties. A first review will start no later than three years after the Concordat has been signed. Changes to the Concordat can only be made with agreement of all four parties.

Financial and staffing issues

17. Each of the four parties will bear its own costs in relation to the operation of the Concordat.
Signatories

Secretary of State for Energy and Climate Change

[Signature]

Minister of the Environment, Northern Ireland Executive

[Signature]

Cabinet Secretary for Finance and Sustainable Growth, Scottish Government

[Signature]

Minister for Environment, Sustainability and Housing, Welsh Assembly Government

[Signature]

Date of commencement

1 December 2008
Annex A: Carbon target and budgeting

1. Part 1 of the Act sets out a number of requirements for the Secretary of State to consult the other parties in relation to the Act’s targets and carbon budgets. Where there is an obligation to consult, this will be done in accordance with any timetable set out in the Act, and the principles of consultation set out in this Concordat (see in particular paragraph 10, above).

2. Some provisions contain specific requirements on consultation: these relate to setting and amending targets and budgets. The Act specifies the timescale available to the other parties to make representations to the Secretary of State. In order to ensure transparency about the consideration given to the views of the other parties in relation to these issues, the Secretary of State will publish a statement stating how the views of the other parties have been taken into account.

3. Some provisions of the Act do not require the Secretary of State to consult the other parties. Prior to taking decisions on the matters listed below, the Secretary of State shall inform the other parties at the earliest practicable stage of his intentions, and highlight the potential implications for the other parties’ responsibilities:
   - Extending the period for responding to the Committee on Climate Change’s report on progress;
   - Defining what is to be regarded as international aviation and shipping;
   - Making regulations regarding international aviation and shipping; and,
   - Making regulations specifying international agreements or arrangements in relation to international carbon reporting practice.
Annex B: Reporting provisions

General provisions (sections 10, 13, 16, 18, 19, 20, and 36)

1. The Secretary of State will consult the other parties before publishing each of the reports relating to these sections, and will consider any separate reports published by the other parties to ensure that appropriate linkages are made concerning the timing and content of different reports. In accordance with the overall MoU between the UK Government and the Devolved Administrations, consultation is not required where pre-publication material covers matters that as a matter of established practice are not notified in advance, such as on fiscal matters.

2. Each party will, when publishing relevant individual reports, inform the Secretary of State and the other parties and ensure that appropriate linkages are made between different reports. Each party will also contribute to UK Government reports as appropriate.

3. For each report, the party publishing the report will agree with the other parties a timetable for exchange of information which allows reasonable time for consideration and any discussions necessary to resolve points raised.

Specific provisions

Report on proposals and policies for meeting each budget (section 13) and report on proposals and policies for compensating for budget excess (section 19).

4. These reports will contain sections setting out the proposals and policies of the other parties who will provide appropriate contributions. For each report, the UK Government will agree with the other parties the format and level of detail required for their sections, taking into account separate commitments and requirements applying to each party.

Statement of previous year’s emissions and information on credits used (section [16]) and Statement of emissions in 2050 and information on credits used (section [20])

5. The Government will consult the DAs as part of the National Inventory Steering Committee scrutiny of the annual inventory of UK emissions. The DAs will also be given full opportunity to comment on the disaggregated data which follows the main inventory.

Response to annual reports of the Committee on Climate Change (section 36)

6. The response will include coverage of approaches taken by the other parties insofar as is consistent with the level of detail contained in the
Committee on Climate Change’s report. Content relating to DA activity will be agreed with the relevant DA.
Annex C: Committee on Climate Change

1. This annex sets out the roles and responsibilities of the parties relevant to the exercise of the functions, duties and powers of the Committee on Climate Change (CCC), in particular:

- Accountability arrangements and levels of delegation;
- Planning and financial budgeting procedures; and,
- The procedure for appointing the Committee and Adaptation Sub-Committee (ASC) Chair and Members.

2. The associated Framework Document sets out in greater detail governance arrangements for the CCC and ASC, and the financial provisions which the CCC shall observe.

Responsibilities and Accountability

Ministers

3. The Secretary of State is accountable to the UK Parliament for the activities and performance of the CCC. In the same way, the Scottish Ministers are accountable to the Scottish Parliament, the Welsh Ministers and the Minister of the Environment in Northern Ireland are accountable to the National Assembly for Wales and the Northern Ireland Assembly, respectively.

4. Ministers’ responsibilities include:

- Approving the CCC’s strategic objectives and the policy and performance framework within which the CCC will operate (as set out in this document and other associated documents);
- Keeping Legislatures informed about the CCC’s performance;
- Approving the amount of grant-in-aid to be paid to the CCC, and securing Parliamentary/Assembly approval;
- Carrying out responsibilities specified in the Climate Change Act 2008 including appointments to the CCC and ASC, approving the terms and conditions of Committee and sub-committee members; and,
- Laying the annual report and accounts for the CCC before the Legislatures.

Accounting officer

5. The role and responsibilities of the Accounting Officer are set out in section 6 of the Framework Document.
6. Each party shall designate a sponsorship team to act as the primary point of contact with the CCC.

7. For the Secretary of State, the Climate and Energy: Strategy and Delivery team in DECC is the sponsoring team for the CCC. The sponsoring team, in consultation as necessary with the relevant departmental Accounting Officer, is the primary source of advice to the Secretary of State on the discharge of his responsibilities in respect of the CCC, and is the primary point of contact for the CCC in dealing with the Department. For the other parties, a similar role is undertaken for Scottish Ministers by the Climate Change and Water Industry Directorate (or equivalent), for the Welsh Ministers by the Welsh Assembly Government Department for Environment, Sustainability and Housing (or equivalent), and in Northern Ireland by the Department of the Environment in Northern Ireland (or equivalent).

8. The sponsoring teams shall advise Ministers on:

- An appropriate framework of objectives and targets for the CCC in the light of the Government’s and DAs’ wider strategic aims;
- An appropriate budget for the CCC in the light of the UK Government’s and the other parties’ overall public expenditure priorities; and,
- How well the CCC is achieving its strategic objectives and whether it is delivering value for money.

9. In support of the departmental Accounting Officer the sponsoring team shall: inform the CCC of relevant policy in a timely manner; advise on the interpretation of that policy; and issue specific guidance to the CCC as necessary. The other parties shall inform the CCC on relevant devolved policies.

10. In the event of any concerns which may arise regarding the CCC’s activities, DECC’s Accounting Officer shall co-ordinate a response to ensure that it is made in a timely manner and through consultation with the other parties to this document. In support of DECC’s Accounting Officer, the sponsoring team within DECC shall:

- Bring concerns about the activities of the CCC to the attention of DECC’s Permanent Secretary, as lead Accounting Officer, and require explanations and assurances from the CCC;
- In its lead Accounting Officer role, address in a timely manner any significant problems arising in the CCC, whether financial or otherwise, making such interventions in the affairs of the CCC as judged necessary.

11. Should the nature of the concern mean that action is required before there is an opportunity to consult the other parties, DECC will ensure that all parties are informed at the earliest opportunity through the Liaison Group.
The Liaison Group shall be kept informed of the progress of any concerns raised with the CCC and any interventions taken as a result.

12. Should a concern affect one party only (e.g. if one party has requested a piece of country specific advice), that party may raise the issue directly with the CCC, after informing the Liaison Group of its intention to do so.

**Planning and budgeting**

**CCC’s status as a going concern**

13. Under the normal conventions applying to parliamentary control over income and expenditure, grant-in-aid may not be issued in advance of need and the Legislatures are not bound in advance to authorise funds needed to honour any liabilities. There is, however, no reason to believe that sponsorship by the parties will not be forthcoming as part of the normal annual budgetary process.

**Sponsor meetings**

14. The CCC’s Sponsor Group will consist of senior representatives of DECC, those Departments providing financial contributions to the CCC, the Devolved Administrations, and the CCC. The Group will be chaired by DECC. The group will meet twice yearly or at other intervals by agreement and will:

- Agree with the CCC the issues to be addressed in the corporate plan and the timetable for its preparation;
- Agree with the CCC the main elements of the corporate plan – including the key performance targets – in the light of decisions on policy and resources taken in the context of the Government’s wider public expenditure plans and decisions;
- Inform the CCC of its indicative budget for the following year and planning figures for the following two years and agree any ring-fencing provisions to be made for funding particular work by the CCC or the ASC; and,
- Review the CCC’s performance and outturn for the previous financial year.

15. If the CCC’s Sponsor Group is unable to reach agreement on any of these issues, it will refer the issue to the Liaison Group who will seek resolution through the procedures set out above.

**The CCC’s corporate and business plans**

16. The parties agree that the CCC shall prepare a corporate plan covering three years ahead (the first year of the corporate plan, amplified as necessary, shall form the business plan), updated annually, in consultation with the Sponsor Group. The plan shall reflect the CCC’s statutory duties
and, within those duties, the priorities set from time to time by the UK Government and the other parties (including decisions taken on policy and resources in the light of wider public expenditure decisions).

17. In preparing these plans, the CCC must be able to fulfil those functions for which the Act imposes a timetable. Requests for advice under section [37] will nevertheless be important and their prioritisation will be determined by business planning and funding discussions.

Financial Budgeting procedures

18. The four parties will set the total budget for the CCC each year. The budget will be based on an indicative budget given a year ahead of the year in question, as part of a rolling three-year budget.

The four parties will:

- aim to decide (before they advise the CCC of the indicative budget), the Committee’s likely entitlement to end-year flexibility (EYF) against the overall DECC position (having regard to any loss of EYF as a result of Departmental Expenditure Limit (DEL) Reserve claims made by DECC and Ministerial priorities, on the presumption that at least 80% of any underspend by the CCC that represents slippage (as opposed to initial overprovision or abandonment of a project or programme, for example) will normally be available for carryover in the area where it has arisen; and,
- adjust (if necessary) and confirm the amount of EYF when accurate information is available in the Public Expenditure Outturn White Paper, taking account of outturn and of any DEL Reserve claims which might limit the EYF entitlement of the Department itself.

Annual report and accounts

- The CCC’s annual report and accounts will be sent to the Secretary of State and each of the Devolved Administrations. The period in which accounts should be sent to the four parties and the Comptroller and Auditor General is to be determined jointly by the four parties themselves.
- After the end of the financial year, the CCC shall publish an annual report of its activities together with its audited annual accounts, as described in section 9 of the CCC’s Framework Document. The report and accounts shall be laid before the Legislatures by the relevant Ministers.

Audit

19. The CCC’s internal and external audit arrangements are described in sections 10 and 11 respectively of the CCC’s Framework Document. The
four parties shall have the right of access to the CCC records and personnel for purposes such as sponsorship audits and operational investigations. As set out in the Act, the CCC’s accounts do not need to be sent to auditors in the other parties; audit by the Comptroller and Auditor General is sufficient.

Financial framework

20. The costs of the CCC’s ‘core budget’ will be divided between the four parties according to a formula based on population:

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<th>%</th>
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<tbody>
<tr>
<td>England</td>
<td>83.8</td>
</tr>
<tr>
<td>Scotland</td>
<td>8.4</td>
</tr>
<tr>
<td>Wales</td>
<td>4.9</td>
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<tr>
<td>Northern Ireland</td>
<td>2.9</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
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21. The ‘core budget’ will include the costs of the statutory duties the CCC is required to carry out by a particular date under the Act and also contains some provision towards meeting requests made under the duty to provide additional advice on request (section 37). If a party makes a request for advice, assistance, information or other analysis, either as part of the annual Business Planning process or on a more urgent basis, it may need to provide additional funding if the task requires the CCC to do one or more of the following:

- Recruit additional staff;
- Commission external research or consultancy assistance; or,
- Procure additional services.

22. This list is not exhaustive. Any requirement for additional funding from one of the parties will be negotiated and agreed through the Sponsor Group as part of the business planning process.

23. The basis for the division of costs will be reviewed every three years, as part of the corporate planning round and agreed with the Liaison Group.

24. With respect to the ASC, costs relating to the UK-wide risk assessment will be shared on the basis of the ‘population model’ for cost sharing (set out in paragraph 20. The UK Government will ensure that costs for the ASC are ring-fenced for the sole use of the ASC.

25. CCC staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the national authorities.
26. Section 39 of the Climate Change Act allows the national authorities to place conditions on any grants given to the CCC. Should any national authority wish to impose conditions, this should be discussed and agreed by the Liaison Group.

Translation of CCC Documents

27. Where the CCC is required to lay a report directly before the National Assembly of Wales, it will provide a Welsh translation of the document. Technical analysis accompanying the report will not need to be translated.

28. The costs of translation relating to the Committee’s annual progress report, will be covered by the CCC out of their core funding. Any costs in connection with additional translation requirements will need to be discussed first with the Welsh Assembly Government, who will be responsible for covering the costs.

Appointments to the CCC

29. The appointments processes for the CCC will be managed by DECC. The Devolved Administrations (acting collectively) will be invited to nominate a representative to sit on the recruitment panel. DECC shall keep the Devolved Administrations informed of progress in the appointment process.

30. The Chair and Members will be recruited according to Office of the Commissioner for Public Appointments (OCPA) procedures and the recruitment panel’s recommendations for appointable candidates will be put to the Secretary of State and Devolved Ministers in parallel. Within two weeks of receiving this advice, the devolved Ministers should submit their preference for candidates to the Secretary of State. A meeting/telephone conference can be scheduled in advance to facilitate the process of agreement if the recruitment panel consider this to be appropriate. Where agreement on the most suitable candidate cannot be achieved, resolution will be sought through the Liaison Group which would then provide advice to Ministers in parallel.

31. The Secretary of State shall as soon as reasonably practicable inform the relevant Ministers in the Devolved Administrations if the Chair or a Member resigns from the Committee.

Appointments to the ASC

32. The appointments process for Chair and members of the ASC will be managed by Defra in concert with DECC. The Devolved Administrations (acting collectively) will be invited to nominate a representative to sit on the recruitment panel. Defra shall keep the other parties informed of progress in the appointment process.
33. The Chair will be recruited by the procedures set out in paragraph 29 and 30.

**Requests for advice under section 30**

34. All parties shall make reasonable endeavours to provide the CCC and the other parties with sufficient advance notice of any requests for advice, so that these requests can be taken into account in developing the CCC’s corporate and business plans.

35. Where a party is considering requesting the CCC’s advice following finalisation of the CCC’s corporate and business plans, it shall notify the Sponsor Group and, if deemed necessary, the liaison group, setting out the scope of, and timescales for, the advice required, along with any known additional cost implications.

36. Arrangements for funding any additional advice requested under section 37 are set out above in paragraphs 21 and 22.

**Government Guidance and Directions to the CCC**

37. Where the parties provide guidance or directions to the CCC jointly, they shall make all reasonable efforts to agree this in a reasonable time. Where there is an obligation to consult, this will be done in accordance with the principles of consultation set out in this Concordat.

**Progress Report**

38. All parties should receive the CCC’s annual progress report in advance of legislatures (e.g. an embargoed copy).
Annex D: Trading Scheme Powers

1. A large, liquid and efficient carbon market can play an important role in maximising environmental benefits and reducing costs. All parties confirm their commitment to ensuring that any trading schemes implemented under the Act are fully integrated with other policy instruments to tackle climate change, reducing administrative burdens for participants, and to compliance with the requirements for prior consultation with stakeholders.

2. Prior to developing trading schemes using the powers provided under the Act, each party shall ensure that the other parties are informed and consulted in good time and in adequate detail, so that any views the other parties may have can be communicated and taken into account, and that the other parties have sufficient opportunity to decide whether they wish to participate in a joint scheme covering more than one party’s responsibilities. Where possible this should be done ahead of any public statement or consultation process.
Annex E: Adaptation

1. The adaptation provisions in the Act reflect the existing devolution settlements.

*Assessment of the risks of current and predicted impacts of climate change for the UK (section 55)*

2. The risk assessment will be carried out or commissioned by the UK Government. DECC’s research budget, through which the risk assessment will be funded, is administered by DECC on behalf of the UK Government and the other parties. Before commencing work on each risk assessment therefore, Government will inform other parties of its intention to do so and will agree with the other parties a process by which it will ensure the other parties’ interests are taken into consideration and share and seek comments on drafts. This usually involves the other parties signing off project specifications, being given an opportunity to review tenders and sitting on a steering group.

*Statutory adaptation programmes (sections 54, 60 and 82)*

3. The adaptation programme will cover matters which are the responsibility of the UK Government, covering England and reserved matters only. The UK Government will give the other parties maximum possible notice of the date when it intends to lay the report before Parliament, and provide the other parties with the opportunity to align publication of their own adaptation reports. The other parties will respond stating whether or not they intend to align their reports with that produced by the UK Government.

4. Where there is uncertainty as to responsibilities for adaptation in a particular policy or geographical area, other parties will be engaged early in discussion and all parties will endeavour to agree, as far as possible, to a common position. Disagreements will be resolved according to the principles agreed in paragraphs 9-11 of this concordat.

5. Under section 60, the relevant minister for Northern Ireland must send a copy of their programme for adaptation to climate change to each of the national authorities.

6. The relevant minister for Wales will send a copy of the Climate Change report to each of the national authorities.

*Statutory Guidance and directions to prepare reports (sections 54, 60, 61)*

7. Detailed explanation of the devolution aspects of the issuing of guidance and direction to provide reports are set out in sections [54], [60] and [61]. Where there is an obligation to consult or gain
consent from other national authorities before the Secretary of State or the Welsh Ministers exercise their powers to give guidance or directions, this will be done in accordance with the principles of consultation set out in this Concordat.

8. There may be cases where cross-border issues may occur, such as a reporting authority operating in two countries, or for example the case of a river running across borders. The UK Government and Welsh Ministers will work jointly to produce the statutory guidance so that guidance from Welsh Ministers is, as far as possible, consistent with HMG guidance, and vice versa, and will seek to issue joint guidance where appropriate. Similarly, in requesting reports, the UK Government will cooperate closely with Welsh Ministers as appropriate to ensure that a reporting authority does not receive conflicting requests.

Adaptation principles (supplemental to the provisions of the Act)

9. England, Wales, Scotland and Northern Ireland have already agreed on the need to ensure coherence on adaptation, and are committed to working closely together to share best practice and develop cross-border initiatives. An Adapting to Climate Change UK group has been established, and meets every six months.

10. In the future, the UK Government and the other parties will develop further high-level principles as appropriate, based on the findings of the risk report, which will guide the adaptation response of each party. It will continue to be for the UK to act in a coherent and strategic fashion, using complementary approaches and working together on cross-border issues.