

9th October 2015

Paper Title	Reservoirs Act 1975 – Progress and Challenges
Paper Reference:	NRW B B 56.15
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Purpose of Paper:	For Information
Recommendation:	1. To note the responsibilities of Natural Resources Wales (NRW) under Reservoirs Act 1975 (RA75) and progress since April 2013. 2. To note the increasing responsibilities as a result of legislative change and the identification of additional NRW reservoirs under RA75. 3. To note the additional and sustained resources required to manage increasing duties and responsibilities, and note that this is under discussion with Welsh Government
Decision Required:	No
Impact: To note – all headings might not be applicable to the topic	Impact on the Environment: Compliance with RA75 reduces the risk of environmental damage due to uncontrolled release of water. Impact on the Economy: Compliance with RA75 reduces the risks to the economy due to uncontrolled release of water. Reservoir managers will incur costs to comply, suppliers and contractors will benefit. Impact on Community: Compliance with RA75 reduces the risks to people and property due to uncontrolled release of water. Impact on Knowledge: Improved understanding and management of the risks associated with uncontrolled release of water from large raised reservoirs.

Issue

1. This paper has been written to provide the Board with an overview of NRW responsibilities under the Reservoirs Act 1975 (RA75), our positive progress and performance since April 2013 and the challenges we face. These challenges are both immediate and long term.
2. Additional and sustained resources, (funding and staff) are required, to deliver our statutory duties to the standard required as the enforcement authority for Wales. These resources are primarily required in the Operations Directorates and in particular the Operations North and Mid Wales Directorate. We are in discussion with Welsh Government and are working on a submission for additional resources.

Summary

3. RA75 is concerned with protecting people and property from an uncontrolled release of water from large raised reservoirs. It is public safety legislation. NRW has two separate roles under RA75. We are the **enforcement authority** for all Wales and we are **managers of reservoirs** with a legal duty to ensure we comply with the legislation.
4. NRW became the enforcement authority for Wales on 1st April 2013. This role was previously carried out by the Environment Agency (EA) for England and Wales. There are currently **227** large raised reservoirs in Wales. NRW is currently directly responsible for the management of **34** reservoirs under current RA75. In Wales we are second only to Dwr Cymru – Welsh Water in terms of the number of reservoirs managed under the RA75. **Annex A** illustrates the current distribution of large raised reservoirs across Wales.
5. In September 2015 we submitted our first statutory biennial report to the Minister for Natural Resources (period 1st April 2013 – 31st March 15), **Annex B**. This reported that we have established NRW as the enforcement authority in Wales. The transition of duties from the EA was smooth and we have maintained a high level of compliance (around 96% of reservoirs) and therefore public safety assurance during this period. In addition, we have ensured our own NRW reservoirs complied with the law during this reporting period.
6. At the end of 2015 we expect WG to implement Schedule 4 (Reservoirs) Flood and Water Management Act 2010 (Schedule 4). Schedule 4 will introduce the most significant changes to reservoirs safety legislation since 1975. Following implementation of Schedule 4 we estimate this could increase the total number of regulated reservoirs in Wales to almost double to around **400**.
7. In preparation for the forthcoming change in legislation we have identified and investigated additional reservoirs under NRW management to which RA75 applies both now and following implementation of Schedule 4. **Annex C** illustrates the total number

of NRW reservoirs under regulation in April 2013 was **12**. Following implementation of Schedule 4 we estimate the number of NRW reservoirs could increase to around **48**, investigations are ongoing. We also anticipate an increase in the number of ‘orphan’ reservoirs across Wales. These are reservoirs which are either legally declared ownerless or we may be unable to prove ownership and may need to take action to ensure public safety using our powers as the enforcement authority.

8. The statutory requirements of RA75 currently have a significant funding and resource impact on NRW. This will increase with forthcoming changes to the legislation. It will impact both our roles as the enforcement authority and particularly as managers of reservoirs. The challenges and pressures are greatest in Operations North and Mid Wales. The increase in the number of reservoirs will require a ‘*step change*’ in our management of these assets.

Background

9. The 2nd November 2015 is the 90th anniversary of the Dolgarrog disaster, where failure of two dams in North Wales resulted in the deaths of 16 people. This disaster led to Parliament enacting the first reservoir safety legislation, the Reservoirs (Safety Provisions) Act 1930.
10. There has been no loss of life through reservoir failure since the legislation was first introduced, however, in recent years there have been a number of near-miss incidents where lives could have been lost if reservoirs had failed. Sir Michael Pitt’s report on the 2007 floods made 92 recommendations including updating reservoir safety legislation. This led to Schedule 4. A joint WG//Defra Consultation on the implementation of the Schedule 4 amendments to RA75 was issued in February 2012.
11. Large raised reservoirs are currently those with a capacity greater than 25,000m³. Following the implementation of Schedule 4 this will be reduced to 10,000m³.
12. As the enforcement authority for Wales it is essential we apply the same approach to ourselves as we do to other reservoir managers and there is clear transparency of decision making and separation of duties. We have established this, with National Services Directorate responsible for the enforcement role and Operations Directorates responsible for ensuring NRW reservoirs comply with the legislation.

Next Steps

13. We continue to develop and refine estimates for additional funding and resources to deliver our increased statutory duties. We are in discussion with WG and are working on a submission for additional resources.

14. We must continue to comply with our legal duties under RA75 before we have any additional resources in place or have implemented the required operational step change in reservoir management.

Risks

15. The risks are associated with potential NRW non-compliance with RA75, both long term and in the short term whilst the operational step change is designed and implemented. Non-compliance would result in;

- Unknown and unmanaged public safety risks, including risk to life;
- Serious credibility and reputation issues for NRW with the public and other reservoir and land managers in Wales, including the water companies;
- Serious credibility and reputation issues at the UK level;
- Undermine our ability to regulate and influence others.

16. This risk is included in the National Services Risk Register, management of it requires input from both Operations Directorates.

17. To date we have successfully ensured the safety of our reservoirs through the re-allocation of existing resources, re-prioritisation of activity in particular in our Operations Directorate North and Mid Wales and the allocation of additional funding circa £700k by WG for financial year 2015/16. However, continued compliance is becoming increasingly difficult to maintain without further sustained additional resource.

Financial Implications

18. Continued compliance with RA75 will have significant financial implications for NRW both in the present day and for the foreseeable future. These implications will include costs associated with supervision, maintenance, monitoring and works required to ensure NRW reservoirs comply with the provisions and requirements of RA75 (as amended). This is ongoing and emerging work and it is difficult to estimate the additional resources needed, particularly in the longer term. We currently estimate this could be of the order of £500k per year and 6 additional permanent full time staff as ongoing operational costs. In addition, there are likely to be capital costs associated with making the additional reservoirs compliant. We continue to develop and refine these estimates and discuss these with WG.

Communications

19. Communications associated with the implementation of Schedule 4 are led by WG. We have been providing information to reservoir managers and engineers in advance of this change. We are working with communications colleagues on a Communications Plan to support Schedule 4 implementation.

Equality impact assessment (EqIA)

20. Not required

Index of Annex

- Annex A:** Distribution of large raised reservoirs in Wales. Current situation before implementation of Schedule 4 (Reservoirs) Flood and Water Management Act 2010.
- Annex B:** Biennial Report to the Minister for Natural Resources, Reservoir Safety in Wales. For the period 1 April 2013 to 31 March 2015.
- Annex C:** Comparison of NRW reservoirs between April 2013 and August 2015.