

Flood Risk Management (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 86
Long Title

Schedules 1 to 4

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Elaine Murray

- 19 In section 1, page 1, line 26, leave out <co-operate> and insert <adopt an integrated approach by co-operating>

Section 2

Roseanna Cunningham

- 26 In section 2, page 2, line 39, at end insert—
- <(5) The Scottish Ministers must give guidance under subsection (1) to SEPA and all responsible authorities on their duties under—
 - (a) subsection (2)(a) of section 1, and
 - (b) subsection (2)(b)(zi) of that section.
 - (6) The guidance given in pursuance of subsection (5) must be given not later than 18 months after the provision to which the guidance relates is commenced.
 - (7) The Scottish Ministers must review and where appropriate update the guidance given in pursuance of subsection (5) not later than 6 years after it was first given or, as the case may be, last reviewed under this subsection.
 - (8) Before giving guidance in pursuance of subsection (5) or updating the guidance under subsection (7), the Scottish Ministers must consult—
 - (a) SEPA,
 - (b) every responsible authority, and
 - (c) such other persons as they consider appropriate.>

After section 2

Robin Harper

- 8 After section 2, insert—

<Guidance on sustainable flood risk management

- (1) The Scottish Ministers must, no later than one year after the day appointed under section 86(1), give guidance to SEPA and responsible authorities as to the management of flood risk in a sustainable way.
- (2) SEPA and responsible authorities must have regard to such guidance in relation to the exercise of their flood risk related functions.
- (3) The Scottish Ministers may from time to time, but in any case no later than 6 years after guidance was last given under subsection (1), review that guidance and give updated guidance under that subsection.
- (4) Before giving guidance under this section, the Scottish Ministers must consult—
 - (a) SEPA,
 - (b) responsible authorities, and
 - (c) such other persons as they consider appropriate.>

Section 9

Roseanna Cunningham

- 27 In section 9, page 5, line 34, leave out subsection (6)

Section 16

Roseanna Cunningham

- 28 In section 16, page 11, line 16, leave out <subsection (1)> and insert <this Act>

Roseanna Cunningham

- 29 In section 16, page 11, leave out line 35

Roseanna Cunningham

- 30 In section 16, page 11, line 38, at end insert—
- <() The map referred to in subsection (3)(b) must be prepared at a scale which SEPA considers will assist in—
- (a) the identification of measures under section 23(4)(b), and
 - (b) the inclusion of information in local flood risk management plans under section 29(3)(b)(ia) and (4)(ba)(i).>

Peter Peacock

- 5 In section 16, page 11, line 38, at end insert—
- <(3A) In subsection (3)(b)(i), the reference to a map at the appropriate scale for the purposes of the assessment is a reference to a map at a sufficient scale to enable—
- (a) SEPA, in setting objectives and identifying measures in a flood risk management plan under section 23(4), or

(b) a lead authority, in preparing the supplementary part of a local flood risk management plan under section 29(3),
to have regard in the plan to the possible contribution of the alteration (including enhancement) or restoration of any natural features and characteristics identified in an assessment under section 16(1) to managing flood risk in the district for which the plan is to be prepared.>

Section 19

Roseanna Cunningham

31 In section 19, page 14, line 16, at end insert—

- <(vi) areas classified pursuant to Article 4 of Council Directive 79/409/EEC on the conservation of wild birds,
- (vii) special areas of conservation designated under regulation 8(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (SI 1994/2716), and
- (viii) sites of special scientific interest which have been notified in terms of section 3 of the Nature Conservation (Scotland) Act 2004 (asp 6).>

Roseanna Cunningham

32 In section 19, page 14, line 18, leave out <(v)> and insert <(viii)>

Section 23

Roseanna Cunningham

33 In section 23, page 15, line 24, leave out subsections (4A) to (4C)

Section 24

Roseanna Cunningham

34 In section 24, page 16, line 10, leave out <cost> and insert <costs>

Roseanna Cunningham

35 In section 24, page 16, line 34, leave out from <flood> to end of line 35 and insert—

- <() flood warning,
- () awareness raising,
- () the preparation and review of development plans, and
- () the carrying out of research, monitoring and other methods of gathering information relevant to managing flood risk.>

Peter Peacock

65 In section 24, page 16, line 35, at end insert—

<(2AA)In considering structural measures under subsection (1)(b), SEPA must consider measures that seek to reduce, slow or otherwise manage flood water by altering (including enhancing) or restoring natural features and characteristics.

(2AB)The measures considered in pursuance of subsection (2AA) must include measures that consist of carrying out any alteration or restoration of natural features and characteristics identified as being capable of contributing to the management of flood risk in an assessment done under section 16 in relation to the district.>

After section 24

Roseanna Cunningham

36 After section 24, insert—

<Flood risk management plans: guidance

- (1) The Scottish Ministers must give guidance to SEPA on the setting of objectives and identification of measures under sections 23 and 24.
- (2) The guidance must, in particular, address the consideration of measures that consist of carrying out any alteration (including enhancement) or restoration of a natural feature or characteristic.
- (3) The guidance must be given no later than 22 December 2012.
- (4) The Scottish Ministers must review and where appropriate update the guidance not later than—
 - (a) 6 years after it was given, or
 - (b) where the guidance has been reviewed under this subsection, 6 years after the last such review.
- (5) Before giving the guidance or updating it under subsection (4), the Scottish Ministers must consult—
 - (a) SEPA,
 - (b) every responsible authority, and
 - (c) such other persons as they consider appropriate.
- (6) SEPA must have regard to any guidance given under this section.>

Section 25

Roseanna Cunningham

37 In section 25, page 17, line 24, at end insert—

<() every category 1 responder (other than a responder which is a responsible authority) which has functions exercisable in or in relation to the district,>

Section 26

Roseanna Cunningham

- 38 In section 26, page 18, line 16, leave out <action should be> and insert <consultation should be undertaken or other action>

Roseanna Cunningham

- 39 In section 26, page 18, line 18, after <to> insert <undertake such further consultation and>

Section 29

Roseanna Cunningham

- 40 In section 29, page 20, line 1, after <maps,> insert—
<(ia) information about how implementing the measures summarised under paragraph (a) may alter (including enhance) or restore natural features and characteristics,>

Roseanna Cunningham

- 41 In section 29, page 20, line 2, leave out <the measures summarised under paragraph (a)> and insert <those measures>

Peter Peacock

- 9 In section 29, page 20, line 11, at end insert—
<() Where a summary under subsection (3)(a) includes reference to the contribution that natural features and characteristics could make to flood risk management within the local plan district, the supplementary part must also include—
(a) a map which shows, or
(b) more than one map which, taken together, show,
those natural features and characteristics at such level of detail as the lead authority considers appropriate for the purposes of the implementation part.>

Roseanna Cunningham

- 42 In section 29, page 20, line 22, after <to> insert—
<(i) the alteration (including enhancement) or restoration of natural features and characteristics, and
(ii)>

Peter Peacock

- 10 In section 29, page 20, line 23, after <drainage,> insert—
<() where the lead authority considers that implementation of a measure requires a co-ordinated approach across two or more local plan districts, a description of how the lead authority proposes to secure such an approach,>

Section 30

Roseanna Cunningham

43 In section 30, page 21, line 41, at end insert—

<() any category 1 responder (other than a responder which is a responsible authority) which has functions exercisable in or in relation to the district.>

Section 36

Peter Peacock

4 In section 36, page 24, line 37, at end insert—

<() The Scottish Ministers must, in determining any funding to be allocated to SEPA or any responsible authority for the purpose of flood risk management for any period, have regard to flood risk management plans (as approved under section 27) and local flood risk management plans (as finalised under section 31).>

After section 36

Karen Gillon

13 After section 36, insert—

<Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

In regulation 24 (further information) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 (SSI 2008/432)—

(a) the words from “may” to the end become paragraph (a), and

(b) at the end there is inserted—

“(b) must, where the application relates to a development that is likely to result in a material increase in the number of buildings at risk of being damaged by flooding, require from the applicant an assessment of flood risk in respect of the development.”.>

Karen Gillon

14 After section 36, insert—

<Town and Country Planning (Scotland) Act 1997

After section 37(2) of the Town and Country Planning (Scotland) Act 1997 (c.8) insert—

“(2A) Where a flood risk assessment has been provided by virtue of regulation 24(b) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 (SSI 2008/432), that assessment is, for the purposes of subsection (2), a material consideration.”.>

Section 37

Roseanna Cunningham

- 44 In section 37, page 25, line 19, leave out <of,> and insert <relating to—
() the contribution that altering (including enhancing) or restoring natural features and characteristics could make to managing flood risk, and
()>

Section 43

Roseanna Cunningham

- 45 In section 43, page 30, line 2, at end insert—
<() any category 1 responder (other than a responder which is a responsible authority) which has functions exercisable in or in relation to the sub-district,>

Section 45

Roseanna Cunningham

- 46 In section 45, page 30, line 21, leave out from <action> to <Part> in line 22 and insert <the action referred to in subsection (2) taken during the year>

Roseanna Cunningham

- 47 In section 45, page 30, line 27, at end insert—
<(2) The action is—
(a) action taken in accordance with this Part (including, in particular, action taken for securing compliance with the requirements of the Directive), and
(b) action taken to implement measures identified in a flood risk management plan approved under section 27.>

Section 48

Peter Peacock

- 7 In section 48, page 31, line 19, after <means> insert <(subject, in the case of the map mentioned in subsection (3)(b) of section 16, to subsection (3A) of that section)>

Section 49

Elaine Murray

- 11 In section 49, page 32, line 10, at end insert—

<() carry out any operation that would assist in the retention of flood water, whether on a permanent or temporary basis (such as the restoration of floodplains, woodland or wetland), or in slowing the flow of such water (such as through the management of woodlands or other vegetation),>

John Scott

20 In section 49, page 32, line 13, after <person> insert—
<(i)>

John Scott

21 In section 49, page 32, line 15, at end insert <or,
(ii) relating to the management by that person of land in a way which can assist in the retention of flood water or slowing the flow of such water,>

Roseanna Cunningham

48 In section 49, page 32, leave out line 16

Elaine Murray

12 In section 49, page 32, line 17, after <incurred> insert <or income foregone>

John Scott

22 In section 49, page 32, line 18, after <Part,> insert—
<() make payments to any other person in compensation for income lost as a result of entering into agreements or arrangements of the type mentioned in paragraph (d)(ii),>

Section 57

Elaine Murray

23 In section 57, page 36, line 36, after <out> insert—
<()>

Elaine Murray

24 In section 57, page 37, line 2, at end insert <or
() any work required under section 51A,>

After section 61

Robin Harper

15 After section 61, insert—

<PART

FLOOD RISK MANAGEMENT: SCOTTISH WATER

Powers of Scottish Ministers to set objectives for Scottish Water

In section 56A(3) of the Water Industry (Scotland) Act 2002 (asp 3)—

- (a) the words “section 51(1)” become paragraph (a), and
- (b) at the end, insert “, and
 - (b) section 1(2)(b)(zi) of the Flood Risk Management (Scotland) Act 2009 (asp 00)”.>

Peter Peacock

16 After section 61, insert—

<PART

FLOOD RISK MANAGEMENT: SCOTTISH WATER

Scottish Water: exercise of functions regarding charges

In section 29C(2)(c) of the Water Industry (Scotland) Act 2002 (asp 3)—

- (a) the word “and” which immediately follows sub-paragraph (i) is repealed, and
- (b) after sub-paragraph (ii) insert “and
 - (iii) Scottish Water’s duty under section 1(2)(b)(zi) of the Flood Risk Management (Scotland) Act 2009 (asp 00),”.>

Section 67

Roseanna Cunningham

49 In section 67, page 41, leave out lines 20 and 21 and insert—

<() every category 1 responder (other than a local authority) which has functions exercisable in or in relation to the area which is the subject of the assessment.>

Roseanna Cunningham

50 In section 67, page 41, leave out lines 24 and 25 and insert—

<() any category 1 responder (other than a local authority) which has functions exercisable in or in relation to the area in which the power is to be exercised.>

Roseanna Cunningham

51 In section 67, page 41, line 26, leave out subsections (3) and (4)

After section 67

John Scott

Supported by: Peter Peacock, Liam McArthur

25 After section 67, insert—

<PART

FIRE AND RESCUE AUTHORITIES: FLOOD RISK MANAGEMENT FUNCTIONS

Duty to prepare a strategy

- (1) Each relevant authority must prepare a strategy for its area that—
 - (a) identifies (so far as is relevant in relation to reducing overall flood risk)—
 - (i) the property held by, and
 - (ii) the human resources available to, category 1 and 2 responders,
 - (b) sets out how it proposes to—
 - (i) deploy that property and those human resources, and
 - (ii) co-operate with category 1 and 2 responders and any other person the authority considers appropriate,in a way that would, in its opinion, best contribute to reducing overall flood risk.
- (2) The strategy must also contain proposals for the promotion of flood prevention measures in the authority’s area (including in particular measures which members of the public can take in order to protect property and individuals from the effects of flooding).
- (3) In preparing a strategy, the relevant authority must have regard to—
 - (a) any current flood risk management plan for any flood risk management district in the area,
 - (b) any current local flood risk management plan for any local plan district in the area,
 - (c) such other matters as the Scottish Ministers may specify in regulations.
- (4) Before finalising a strategy, a relevant authority must submit a draft of it for approval to the Scottish Ministers; and the Scottish Ministers may specify a date by which a relevant authority must submit a draft to them.
- (5) A relevant authority—
 - (a) may from time to time, and
 - (b) must, when directed to do so by Scottish Ministers,prepare a revised strategy; and subsections (1) to (4) apply to the revised strategy as they do to the strategy.
- (6) In this section—

“relevant authority” has the same meaning as in section 6 of the Fire (Scotland) Act 2005 (asp 5); and

the references to category 1 and 2 responders are to be construed by reference to Schedule 1 to the Civil Contingencies Act 2004 (c. 36).>

Section 68

Roseanna Cunningham

52 In section 68, page 42, line 23, at end insert—

<(zb) any land for the purposes of preparing a local flood risk management plan under section 29,

(zc) any land for the purposes of preparing a report under section 32 or 33,>

Roseanna Cunningham

53 In section 68, page 42, line 35, at end insert—

<() In subsection (2), paragraphs (zb) and (zc) apply only where the local authority is a lead authority within the meaning of section 29.>

Section 72

Roseanna Cunningham

54 In section 72, page 45, line 18, leave out <or, as the case may be>

Roseanna Cunningham

55 In section 72, page 45, line 19, at end insert <or, as the case may be, exercise of another function mentioned in section 71>

Peter Peacock

66 In section 72, page 45, line 21, at end insert—

<(2AA)SEPA or, as the case may be, a local authority must pay any compensation due under section 71 within a reasonable period of notice being given in accordance with subsection (2).

(2AB)The Scottish Ministers must, no later than one year after section 71 comes into force, give guidance to SEPA and local authorities as to what constitutes a “reasonable period” for the purposes of subsection (2AA).>

Section 80

Roseanna Cunningham

56 In section 80, page 51, line 14, after <68> insert <(whether those specified in that section or the ancillary powers mentioned in section 70(1) and (2))>

Section 84

Roseanna Cunningham

57 In section 84, page 53, line 12, at end insert—

<“category 1 responder” means a person or body listed in Part 2 of Schedule 1 to the Civil Contingencies Act 2004 (c.36),>

Rhoda Grant

17 In section 84, page 53, line 16, at end insert—

<() any work that involves the alteration (including enhancement) or restoration of natural features and characteristics of any river basin or coastal area,>

Rhoda Grant

18 In section 84, page 53, line 18, leave out <paragraph (a) or> and insert <paragraphs (a) to>

Roseanna Cunningham

58 In section 84, page 53, line 23, at end insert—

<(1A) In this Act, any reference to a Directive of the European Parliament and of the Council or, as the case may be, a Council Directive includes a reference to the Directive as amended from time to time.>

Schedule 1

Roseanna Cunningham

59 In schedule 1, page 54, line 11, leave out from <before> to end of line 12 and insert—

- <(i) before the plan is next reviewed under section 28,
- (ii) in the 6 years following that review, or
- (iii) after the end of the period mentioned in sub-paragraph (ii).>

Roseanna Cunningham

60 In schedule 1, page 54, line 27, at end insert—

<A description of—

- (a) in relation to each measure included in the plan under paragraph 1(b), the reasons for identifying the measure, and
- (b) in relation to any alteration (including enhancement) or restoration of a natural feature or characteristic in the flood risk management district which—
 - (i) is identified in an assessment under section 16,
 - (ii) could contribute to the management of flood risk, and
 - (iii) is not to be carried out by a measure included in the plan under paragraph 1(b),

the reasons why no such measure has been identified.>

Roseanna Cunningham

61 In schedule 1, page 54, line 31, at end insert—

<In relation to measures to be implemented before the plan is next reviewed under section 28, an estimate of the cost of implementing the measures.>

Schedule 4

Roseanna Cunningham

- 62 In schedule 4, page 63, line 30, column 2, after <6> insert <(see also section 84(1A))>

Roseanna Cunningham

- 63 In schedule 4, page 64, line 3, at end insert—
<category 1 responder Section 84(1)>

Roseanna Cunningham

- 64 In schedule 4, page 64, line 18, at end insert—
<natural features and characteristics Section 16(1A)>

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Published in Edinburgh by RR Donnelley and available from:

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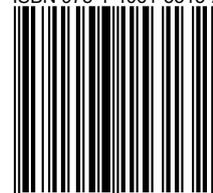
and through good booksellers

Printed in Scotland by RR Donnelley

ISBN 978-1-4061-5313-2

£2.40

ISBN 978-1-4061-5313-2



9 781406 153132