

Flood Risk Management (Scotland) Bill

[AS INTRODUCED]

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Flood Risk Management (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the assessment and management of flood risks, including provision for implementing European Parliament and Council Directive 2007/60/EC; to make provision about local authorities' and the Scottish Environment Protection Agency's functions in relation to flood risk management; to amend the Reservoirs Act 1975; and for connected purposes.

PART 1

GENERAL DUTY, DIRECTIONS AND GUIDANCE

1 General duty

- (1) The Scottish Ministers, SEPA and responsible authorities must exercise their flood risk related functions with a view to reducing overall flood risk and, in particular, must exercise their functions under Part 3 so as to secure compliance with the Directive.
- (2) In exercising their functions in pursuance of subsection (1), the Scottish Ministers, SEPA and responsible authorities must—
- (a) have regard to the social and economic impact of such exercise of those functions,
 - (b) so far as is consistent with the purposes of the flood risk related function concerned—
 - (i) promote sustainable flood risk management,
 - (ii) act with a view to raising public awareness of flood risk, and
 - (iii) act in the way best calculated to contribute to the achievement of sustainable development, and
 - (c) so far as practicable, co-operate with each other so as to co-ordinate the exercise of their respective functions.
- (3) In this Act, “flood risk related functions” means—
- (a) in relation to the Scottish Ministers—
 - (i) their functions under Part 2 (responsible authorities), Part 3 (flood risk assessment, maps and plans), Part 4 (flood risk management: local authority functions), and Part 5 (SEPA: other flood risk management functions), and

(ii) their functions under such other enactments as the Scottish Ministers may specify by order,

(b) in relation to SEPA—

(i) its functions under Part 3 (flood risk assessment, maps and plans) and Part 5 (SEPA: other flood risk management functions), and

(ii) its functions under such other enactments as the Scottish Ministers may specify by order,

(c) in relation to a responsible authority which is a local authority—

(i) its functions under Part 3 (flood risk assessment, maps and plans) and Part 4 (flood risk management: local authority functions), and

(ii) such of its functions relevant to flood risk management as are specified in relation to it in an order made by the Scottish Ministers, and

(d) in relation to any other responsible authority—

(i) its functions under Part 3 (flood risk assessment, maps and plans), and

(ii) such of its functions relevant to flood risk management as are specified in relation to it in an order made by the Scottish Ministers (whether or not in an order under section 5(c) designating it as a responsible authority).

2 Directions and guidance

(1) The Scottish Ministers may give directions (whether general or specific) and guidance to—

(a) SEPA, in relation to the exercise of its flood risk related functions, and

(b) any responsible authority, in relation to the exercise of its flood risk related functions.

(2) SEPA and the responsible authorities must comply with any such directions and have regard to any such guidance.

(3) Directions under subsection (1) may include provision for any matter to which the directions relate to be determined, in such manner (if any) as the directions may specify, by a person other than the Scottish Ministers.

PART 2

PRINCIPAL EXPRESSIONS

3 “Flood” and “flood risk”

In this Act—

“flood” means the temporary covering by water from any source of land not normally covered by water, but does not include a flood solely from a sewerage system (and related expressions such as “flooding” are to be construed accordingly),

“flood risk” means the combination of the probability of a flood and of the potential adverse consequences, associated with a flood, for human health, the environment, cultural heritage and economic activity,

“flood solely from a sewerage system” means the temporary covering of land by sewage caused solely by a failure in or blockage of a sewerage system which is not connected with any loading on the system by external hydraulic factors (for example by heavier than usual rainfall or higher than usual river levels).

5 **4 SEPA**

In this Act, “SEPA” means the Scottish Environment Protection Agency.

5 Responsible authorities

For the purposes of this Act, responsible authorities are—

- 10 (a) local authorities,
 (b) Scottish Water, and
 (c) such other public bodies and office-holders (or public bodies or office-holders of such descriptions) as the Scottish Ministers may designate by order.

6 “The Directive”

15 In this Act, “the Directive” means Directive 2007/60/EC of the European Parliament and of the Council on the assessment and management of flood risks.

PART 3

FLOOD RISK ASSESSMENT, MAPS AND PLANS

Purpose of Part

7 General purpose of Part 3

20 The purpose of this Part is to make provision for or in connection with establishing a framework for the assessment and mapping of flood risks and the planning in relation to the management of such risks, including making provision, and enabling provision to be made, for or in connection with implementing the Directive.

Flood risk management districts

25 **8 Flood risk management districts**

- (1) A flood risk management district for the purposes of this Part is—
 (a) an area designated as a river basin district by order under section 4(1) of the 2003 Act, or
 (b) such other area as the Scottish Ministers may designate by order, being such area as they consider appropriate and to which they assign one or more coastal areas or river basins.
- 30 (2) An order under subsection (1)(b) must identify the flood risk management district by reference to a map prepared for the purposes of the order and laid before the Parliament.
- 35 (3) The Scottish Ministers must send SEPA a copy of any order under subsection (1)(b) and any map referred to in the order.
- (4) SEPA must, whether a flood risk management district is—

- (a) an area designated as a river basin district by order under section 4(1) of the 2003 Act, or
- (b) an area designated by order under subsection (1)(b),

make copies of the order concerned and the map to which the order refers available for public inspection.

Flood risk assessment

9 SEPA to prepare flood risk assessments

(1) SEPA must prepare a flood risk assessment for each flood risk management district providing an assessment of any flood risk for the district.

(2) A flood risk assessment must be prepared by 22nd December 2011 or such earlier date as the Scottish Ministers may direct.

(3) A flood risk assessment is to be based on available and readily derivable information (including in particular information on any impact of climate change on the occurrence of floods).

(4) A flood risk assessment must include—

(a) maps at the appropriate scale of the flood risk management district which show—

- (i) borders of any river basin, sub-basin and coastal area in the district,
- (ii) topography and land use, and
- (iii) such other information as the Scottish Ministers may specify by regulations,

(b) where—

- (i) SEPA considers there is reliable information that any flood has occurred in the flood risk management district which had significant adverse consequences for human health, the environment, cultural heritage or economic activity there, and
- (ii) a similar future flood in the district with significant adverse consequences for such matters there is still probable,

a description of the flood which has occurred (including its extent and conveyance routes and an assessment of the adverse consequences mentioned in subparagraph (i) that the flood entailed),

(c) where—

- (i) SEPA considers there is reliable information that a significant flood has occurred in the flood risk management district, and
- (ii) significant adverse consequences for the district of any similar future flood there might be envisaged,

a description of the flood which has occurred, and

(d) an assessment of the potential adverse consequences of any future flood for human health, the environment, cultural heritage and economic activity in the flood risk management district taking into account as far as possible issues such as—

- (i) the topography,

- (ii) the position, and the general hydrological and geomorphological characteristics, of any body of surface water,
- (iii) natural features of the district (for example flood plains, wetlands or woodlands) which can assist in retention of flood water (whether on a permanent or temporary basis),
- (iv) the effectiveness of any existing artificial flood protection structure,
- (v) the position of any populated area and area of economic activity, and
- (vi) long-term developments, including any impact of climate change on the occurrence of floods.

(5) A flood risk assessment, and any map included in it by virtue of subsection (4)(a), may also include such other information as SEPA considers appropriate.

(6) In this section—

“body of surface water” has the same meaning as in section 28(1) of the 2003 Act, “sub-basin” means an area of land from which all surface run-off water flows through a series of streams, rivers and, as the case may be, lakes to a particular point in a watercourse.

10 Flood risk assessments: review

(1) SEPA must—

- (a) by 22nd December 2018 or such earlier date as the Scottish Ministers may direct (“the operative date”), review and where appropriate update each flood risk assessment prepared under section 9, and
- (b) by the end of the period of 6 years beginning with the operative date, and of each subsequent period of 6 years, review and where appropriate update the latest flood risk assessment updated after review under this section.

(2) Section 9(3) to (6) applies in relation to the review and updating of a flood risk assessment.

11 Flood risk assessments: regulations

The Scottish Ministers may by regulations make further provision as to the preparation of a flood risk assessment under section 9, or the review or updating of such an assessment under section 10, including provision as to criteria to be applied and the methods and procedures to be followed in those matters.

12 Flood risk assessments: availability for public inspection

SEPA must make available for public inspection copies of the flood risk assessment for the time being applicable to each flood risk management district.

Identification of potentially vulnerable areas and local plan districts

13 SEPA to identify potentially vulnerable areas and local plan districts

(1) SEPA must prepare and submit to the Scottish Ministers a document identifying for each flood risk management district any area in the district for which it considers that significant flood risk—

- (a) exists, or
 - (b) is likely to occur.
- (2) The document must be submitted to the Scottish Ministers by such date as they may direct, and after carrying out such consultation as may be required by regulations under section 15.
- (3) The document must also identify geographical areas around the areas in the flood risk management district identified under subsection (1) for the purpose of preparing local flood risk management plans (see section 29).
- (4) SEPA’s identification—
- (a) of any area under subsection (1) is to be based on the flood risk assessment prepared by it under section 9 for the district in which the area is situated,
 - (b) of any area under subsection (3) is to be based on—
 - (i) that assessment, and
 - (ii) such other information as SEPA considers appropriate, and
 - (c) of any area under subsection (1) or (3) is to identify the area by reference to a map at the appropriate scale prepared for the purposes of and included in the document.
- (5) After considering the document, the Scottish Ministers may—
- (a) approve it (in whole or in part and with or without modifications), or
 - (b) reject it.
- (6) Before determining whether or not to approve the document, the Scottish Ministers may request such further information and carry out such further investigations and consultation as they consider appropriate.
- (7) The Scottish Ministers must advise SEPA in writing of the reasons for their determination under subsection (5).
- (8) Where the Scottish Ministers reject the document, they must return it to SEPA and direct SEPA to resubmit it by such date as the direction may specify with—
- (a) such modifications (if any) as the direction may specify, and
 - (b) any further modification which SEPA considers appropriate.
- (9) An area referred to in subsection (1) and identified in a document approved under this section or section 14 is referred to in this Part as a “potentially vulnerable area”.
- (10) An area referred to in subsection (3) and identified in such a document is referred to in this Part and Part 4 as a “local plan district”.

14 Potentially vulnerable areas and local plan districts: review

- (1) SEPA must, after carrying out such consultation as may be required by regulations under section 15—
- (a) by such date as the Scottish Ministers may direct, review and where appropriate update the document approved under section 13, and

(b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years (or, in each case, such lesser period as the Scottish Ministers may direct) review and where appropriate update the latest document approved under this section.

5 (2) SEPA must submit to the Scottish Ministers each updated document.

(3) Any review by SEPA under subsection (1) is to be based—

(a) on the flood risk assessment for the time being applicable to the flood risk management district concerned, and

10 (b) insofar as the review is of the identification of any local plan district, on such other information as SEPA considers appropriate.

(4) Section 13(4)(c) and (5) to (8) applies in relation to an updated document submitted to the Scottish Ministers under this section.

15 Potentially vulnerable areas and local plan districts: regulations

The Scottish Ministers may by regulations make provision as to—

15 (a) the form and content of a document submitted to them under section 13 or 14,

(b) consultation by SEPA in relation to its preparation of any such document,

(c) SEPA making available to the public—

(i) any such document,

(ii) information relating to matters included in it,

20 (iii) a summary of any consultation carried out by SEPA in relation to the document, and

(iv) a document as approved by the Scottish Ministers under section 13 or 14,

(d) SEPA publicising its making available to the public any of the things referred to in paragraph (c)(i) to (iv),

25 (e) the process to be followed in connection with preparation, submission, approval or modification of a document under section 13 or 14 or review or updating of a document approved under either of those sections, and

(f) such other matters in relation to any such document (including submission, approval, modification, review or updating) as the Scottish Ministers may consider appropriate.

30 *Assessment of possible contribution of alteration etc. of natural features*

16 SEPA to assess possible contribution of alteration etc. of natural features

35 (1) SEPA must, by such date as the Scottish Ministers may direct, assess whether alteration (including enhancement) or restoration of natural features in a flood risk management district (for example flood plains, wetlands or woodlands) could contribute to the management of flood risk for the district.

(2) SEPA must—

(a) by such date as the Scottish Ministers may direct, review and where appropriate update its assessment under subsection (1), and

- (b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years (or, in each case, such lesser period as the Scottish Ministers may direct) review and where appropriate update the latest assessment reviewed under this subsection.
- 5 (3) Each assessment under subsection (1), and each assessment updated after review under subsection (2), must—
- (a) take into account the flood risk assessment, the flood hazard maps and flood risk maps and the flood risk management plan for the time being applicable to the flood risk management district, and
- 10 (b) refer to a map—
- (i) at the appropriate scale prepared for the purposes of the assessment, and
- (ii) showing where alteration (including enhancement) or restoration of natural features in the district could contribute to management of flood risk there.
- (4) SEPA must make available for public inspection copies of—
- 15 (a) any assessment under this section for the time being applicable to each flood risk management district, and
- (b) the map to which the assessment refers.

Flood hazard maps and flood risk maps

17 SEPA to prepare flood hazard maps and flood risk maps

- 20 (1) SEPA must prepare flood hazard maps and flood risk maps in accordance with this section and sections 18 and 19.
- (2) Flood hazard maps and flood risk maps must be prepared—
- (a) by 22nd December 2013,
- (b) for the potentially vulnerable areas in each flood risk management district,
- 25 (c) at the appropriate scale, and
- (d) so as to secure that the maps for the district (taken together) cover all such areas.

18 Flood hazard maps

- (1) A flood hazard map (or more than one such map taken together) must (except to the extent subsections (2) to (6) provide otherwise), show—
- 30 (a) the geographical areas which could be flooded by each of the following types of flood—
- (i) floods with a low probability (or which would be an extreme event),
- (ii) floods with a medium probability, and
- (iii) floods with a high probability, and
- 35 (b) the following elements for each of those types of flood—
- (i) the flood extent,
- (ii) water depths or water level, whichever is appropriate,
- (iii) where appropriate, the flow velocity or the relevant water flow, and

(iv) such other elements as the Scottish Ministers may specify by regulations.

(2) But a flood hazard map need not show information referred to in subsection (1) as respects a flood with a high probability where SEPA considers such a flood would be unlikely to have significant adverse consequences for the area which could be flooded by it.

(3) And—

(a) where a geographical area shown in a flood hazard map is or includes a coastal area which SEPA considers is adequately protected from coastal floods, subsection (4) applies instead of subsection (1) as respects any coastal flood (of the coastal area) with a medium or high probability,

(b) where a geographical area shown in a flood hazard map is or includes an area at risk of flooding from groundwater, subsection (5) applies instead of subsection (1) as respects any flood (of the area at such risk) with a medium or high probability and which would be from groundwater, and

(c) subsection (6) applies instead of subsection (1) as respects any flood from a sewerage system which is not a flood solely from a sewerage system.

(4) Where subsection (3)(a) applies, the map—

(a) may, where SEPA considers it appropriate, and

(b) must, to the extent that the Scottish Ministers direct,

show for any such coastal area information referred to in subsection (1) as respects any such flood of that area.

(5) Where subsection (3)(b) applies, the map—

(a) may where SEPA considers it appropriate, and

(b) must, to the extent that the Scottish Ministers direct,

show for the area at such risk information referred to in subsection (1) as respects any such flood of that area.

(6) Where subsection (3)(c) applies, the map—

(a) may where SEPA considers it practicable, and

(b) must to the extent that the Scottish Ministers direct,

show information referred to in subsection (1) as respects any flood in the area from a sewerage system which is not a flood solely from a sewerage system.

(7) To the extent (if any) that, in pursuance of subsections (2) to (6), a flood hazard map does not show information referred to in those subsections, the map must include a statement explaining that the information is not shown in it.

(8) In this section—

(a) as respects a flood—

“low probability” (or “extreme event”) means such probability as may be specified as such by the Scottish Ministers by order,

“medium probability” means such probability (involving a return period of 100 years or more) as may be specified as such by the Scottish Ministers by order,

“high probability” means such probability as may be specified as such by the Scottish Ministers by order,

(b) “groundwater” has the same meaning as in section 3(4) of the 2003 Act.

19 Flood risk maps

- 5 (1) The potential adverse consequences associated with each type of flood for which any information referred to in section 18(1) is shown in a flood hazard map must be shown in a flood risk map (or more than one flood risk map taken together) by reference to the matters mentioned in subsection (2).
- (2) The matters are—
- 10 (a) the indicative number of inhabitants who potentially could be affected,
- (b) the type of economic activity in the area which could be flooded,
- (c) installations referred to in Annex 1 to Directive 2008/1/EC of the European Parliament and of the Council concerning integrated pollution prevention and control, which might cause accidental pollution if any type of flood referred to in subsection (1) occurred,
- 15 (d) any of the following protected areas or bodies of water which potentially could be affected, if any type of flood referred to in subsection (1) occurred—
- (i) areas for the abstraction of water intended for human consumption identified by order under section 6(1) of the 2003 Act,
- 20 (ii) areas referred to in section 7(4)(a) of that Act (areas designated for the protection of economically significant aquatic species),
- (iii) bodies of water referred to in section 7(4)(b) of that Act (bodies of water designated as recreational waters),
- (iv) areas referred to in section 7(4)(c) of that Act (nutrient-sensitive areas), and
- 25 (v) areas referred to in section 7(4)(d) of that Act (areas designated for the protection of habitats or species where the maintenance or improvement of the status of the water is an important factor in such protection),
- (e) any area which is within a protected area or body of water referred to in paragraph (d)(i) to (v) and could be affected by pollution from any installation referred to in paragraph (c), and
- 30 (f) such other information as the Scottish Ministers may specify by regulations.
- (3) Where SEPA considers it appropriate, a flood risk map may also show the potential adverse consequences associated with any type of flood referred to in subsection (1) by reference to any of the following—
- 35 (a) information indicating any areas where floods with a high content of transported sediments or debris floods (or a combination of such floods) can occur,
- (b) such other sources of pollution as SEPA consider may be significant,
- (c) such other available and readily derivable information as SEPA considers appropriate.

20 Flood hazard maps and flood risk maps: review

- (1) SEPA must—
- (a) by 22nd December 2019, review and where appropriate update each flood hazard map and each flood risk map prepared under section 17, and
 - (b) by the end of each subsequent period of 6 years, review and where appropriate update the latest flood hazard map and flood risk map updated after review under this section.
- (2) SEPA must take into account in any review under this section the likely impact of climate change on the occurrence of floods.
- (3) Sections 17(2)(b) to (d), 18 and 19 apply in relation to the review and updating of a flood hazard map and a flood risk map.

21 Flood hazard maps and flood risk maps: availability for public inspection

SEPA must make available for public inspection copies of each flood hazard map and each flood risk map for the time being applicable to each flood risk management district.

22 Flood hazard maps and flood risk maps: regulations

The Scottish Ministers may by regulations make further provision as to the preparation of flood hazard maps and flood risk maps under section 17, or the review or updating of such maps under section 20, including provision as to criteria to be applied and the methods and procedures to be followed in those matters.

Flood risk management plans

23 SEPA to prepare flood risk management plans

- (1) SEPA must, for each flood risk management district, prepare and submit to the Scottish Ministers a flood risk management plan for the potentially vulnerable areas in the district.
- (2) A flood risk management plan must be submitted by such date as the Scottish Ministers may direct.
- (3) The date by which SEPA is directed to submit the plan must be a date that the Scottish Ministers consider allows them sufficient time to approve the plan by 22nd December 2015.
- (4) For the purposes of preparing a flood risk management plan, SEPA must—
- (a) set objectives for the management of flood risks for the potentially vulnerable areas, and
 - (b) identify measures to achieve those objectives.
- (5) A flood risk management plan must include—
- (a) the matters specified in Part 1 of schedule 1, and
 - (b) such other matters as the Scottish Ministers may specify by regulations.
- (6) A flood risk management plan may contain or be accompanied by such other maps, diagrams, illustrations and descriptive matter as SEPA considers appropriate for the purpose of explaining or illustrating any matter in the plan.

- (7) Any such maps, diagrams, illustrations and descriptive matter are to be treated as forming part of the plan; and references to such a plan are to be construed accordingly.

24 Flood risk management plans: objectives and measures

- (1) In setting objectives and identifying measures under section 23(4), SEPA—

- 5 (a) must take account of, so far as relevant—
- (i) any impact of climate change on the occurrence of floods within the flood risk management district to which the plan relates (“the district”),
 - (ii) the flood risk assessment prepared under section 9 for the district,
 - (iii) any assessment done under section 16 in relation to the district,
 - 10 (iv) the flood hazard maps and the flood risk maps prepared under section 17 for the district,
 - (v) the cost of implementing proposed measures,
 - (vi) the benefits (in terms of reducing the potential adverse consequences of flooding for human health, the environment, cultural heritage and economic activity or otherwise) that are likely to be derived from implementing proposed measures,
 - 15 (vii) land and water management,
 - (viii) any development plan relating to the district and anything else done under or in pursuance of the planning Acts which affects development or the use of land within the district,
 - 20 (ix) the environmental objectives within the meaning of section 9 of the 2003 Act,
 - (x) the conservation of nature in the district and elsewhere, and
 - (xi) navigation and port infrastructure,
 - 25 (b) must consider, so far as is appropriate, both structural and non-structural measures as means of achieving objectives, and
 - (c) may take into account such other matters as it considers relevant.

- (2) In subsection (1)(a)(viii)—

30 “development plan” has the meaning given in section 24 of the Town and Country Planning (Scotland) Act 1997 (c.8),

“the planning Acts” has the meaning given in section 277(1) of that Act.

- (3) For the purposes of subsection (1)(b), a measure is structural if it involves the carrying out of any operation on land.

25 Flood risk management plans: publicity of drafts etc. and consultation

- 35 (1) Not less than 3 years before the beginning of the period to which a flood risk management plan is to relate, SEPA must publish a statement setting out—
- (a) the steps under this section, and any other consultation measures, which it is to take in connection with the preparation of the plan, and
 - (b) the dates on or by which those steps and measures are to be taken.

- (2) Not less than one year before the beginning of the period to which a flood risk management plan is to relate, SEPA must publish a draft of the plan.
- (3) Publication of a statement under subsection (1) and a draft under subsection (2) is to be in such manner as SEPA considers appropriate.
- 5 (4) On publishing a statement or draft plan SEPA must—
- (a) publicise—
 - (i) that fact, and
 - (ii) the opportunity to make representations about the statement or draft plan under subsection (6),
 - 10 (b) make copies of the statement or draft plan available for public inspection for such period, which must be at least 3 months beginning with the date of its publication, as SEPA may determine,
 - (c) consult the persons specified in subsection (5), and
 - (d) take such steps as it considers appropriate for the purpose of encouraging those
15 persons to participate appropriately in the preparation of the plan.
- (5) The persons referred to in subsection (4)(c) are—
- (a) every responsible authority which has functions exercisable in or in relation to the flood risk management district to which the plan relates (“the district”),
 - (b) Scottish Natural Heritage,
 - 20 (c) where any part of the district has been designated as a National Park, the National Park authority for the National Park, and
 - (d) such other persons as SEPA considers appropriate.
- (6) Any person who wishes to make representations to SEPA about a statement or draft plan may do so before the expiry of the period determined under subsection (4)(b).
- 25 (7) In preparing the draft flood risk management plan SEPA must take into account—
- (a) any views on the statement relating to the plan expressed by those consulted under subsection (4)(c), and
 - (b) any representations about the statement,
- which are received by SEPA before the expiry of the period determined under
30 subsection (4)(b).
- (8) In preparing the flood risk management plan for submission to the Scottish Ministers SEPA must take into account—
- (a) any views on the draft plan expressed by those consulted under subsection (4)(c),
and
 - 35 (b) any representations about the draft plan,
- which are received by SEPA before the expiry of the period determined under
subsection (4)(b).

26 Flood risk management plans: submission for approval

- 40 (1) As soon as a flood risk management plan is submitted to the Scottish Ministers under section 23 or 28, SEPA must—

- (a) publicise that fact, and
 - (b) make copies of the plan available for public inspection.
- (2) A flood risk management plan submitted to the Scottish Ministers by SEPA must be accompanied by a statement—
- (a) of the action taken by SEPA to comply with subsections (2) and (so far as relating to the draft plan) (3) to (5) of section 25,
 - (b) containing a summary of the views and representations referred to in subsection (8) of that section and of any adjustments made to the plan in light of those views and representations.
- (3) If the Scottish Ministers, having considered the statement, are of the opinion that further action should be taken by SEPA in relation to the plan under subsections (2) to (5) of section 25, they may return the plan to SEPA and direct it—
- (a) to take such further action under those subsections as they may specify, and
 - (b) to resubmit the plan with such modifications, if any, as SEPA considers appropriate by such date as the direction may specify.
- (4) Where the Scottish Ministers return the plan to SEPA under subsection (3), they must state their reasons for doing so.
- (5) This sections applies, with the necessary modifications, in relation to a flood risk management plan resubmitted to the Scottish Ministers in pursuance of subsection (3)(b) as it applies to the plan as originally submitted.

27 Flood risk management plans: approval and publication

- (1) After considering a flood risk management plan submitted to them under section 23(1) or in pursuance of section 26(3)(b) or subsection (4) of this section, the Scottish Ministers may—
- (a) approve it (in whole or in part and with or without modifications), or
 - (b) reject it.
- (2) Before determining whether or not to approve a plan, the Scottish Ministers may request such further information and carry out such further investigations and consultation as they consider appropriate.
- (3) The Scottish Ministers must advise SEPA in writing of their reasons for their determination under subsection (1) in relation to a plan.
- (4) Where the Scottish Ministers reject a plan, they must return the plan to SEPA and direct it to resubmit the plan with—
- (a) such modifications as the direction may specify, and
 - (b) any further modifications which SEPA considers appropriate,
- by such date as the direction may specify.
- (5) Where the Scottish Ministers approve a plan, SEPA must—
- (a) publish the approved plan in such manner as it considers appropriate,
 - (b) make copies of it available for public inspection,
 - (c) make copies of it available to the public, and

(d) publicise the publication of the approved plan.

(6) In making copies of the plan available to the public under subsection (5)(c), SEPA may charge a reasonable price for each copy.

28 Flood risk management plans: review

5 (1) SEPA must—

(a) by such date as the Scottish Ministers may direct—

(i) review and update each flood risk management plan, and

(ii) submit each updated plan to the Scottish Ministers,

10 (b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years (or, in each case, such lesser period as the Scottish Ministers may direct)—

(i) review and update each flood risk management plan updated under this section, and

(ii) submit each updated plan to the Scottish Ministers.

15 (2) The date by which SEPA is directed under subsection (1)(a) to submit each updated plan must be a date that the Scottish Ministers consider allows them sufficient time to approve the updated plan before 22nd December 2021.

(3) An updated plan must include (in addition to the matters required to be included by section 23(5)) the matters specified in Part 2 of schedule 1.

20 (4) Sections 23(4) to (7) and 24 to 27 apply in relation to the preparation, submission and approval of an updated flood risk management plan.

Local flood risk management plans

29 Local authorities to prepare local flood risk management plans

25 (1) The lead authority for each local plan district must prepare a local flood risk management plan to supplement the relevant flood risk management plan.

(2) A local flood risk management plan is to consist of—

(a) a supplementary part, and

(b) an implementation part.

(3) The supplementary part must include—

30 (a) a summary of the objectives, measures and other information included in the relevant flood risk management plan under paragraphs 1 to 3 of schedule 1 so far as relevant to the local plan district,

(b) such information supplemental to that plan as the lead authority considers relevant to flood risk management within the local plan district, and

35 (c) a summary of—

(i) the steps taken under subsections (1) to (6) of section 30 in relation to the local flood risk management plan,

(ii) any other consultation measures taken in connection with the preparation of the plan, and

- (iii) changes made to the plan in light of the views and representations received on it.
- (4) The implementation part must include a description of how the current measures are to be implemented including—
- 5 (a) a detailed timetable for—
- (i) the completion of measures currently being implemented, and
- (ii) the implementation of measures yet to be commenced,
- (b) in relation to each measure, a description of—
- (i) who is, or is to be, responsible for implementing the measure, and
- 10 (ii) the arrangements for funding the measure, and
- (c) such other information as the lead authority considers relevant to the implementation of the measures.
- (5) The implementation part may also include a description of how other measures summarised in the supplementary part under subsection (3)(a) are to be implemented.
- 15 (6) A local flood risk management plan must also include such other matters as the Scottish Ministers may specify by regulations.
- (7) A local flood risk management plan must not be inconsistent with anything in the relevant flood risk management plan.
- (8) For the purposes of this Part, the lead authority—
- 20 (a) for a local plan district is—
- (i) where a local authority’s area includes all of the local plan district, that authority,
- (ii) in any other case, one of the local authorities whose area includes part of the local plan district as may be agreed between those authorities or, in
- 25 default of agreement, as may be determined by the Scottish Ministers, and
- (b) in relation to a local flood risk management plan, is the local authority responsible for preparing the plan by virtue of subsection (1) and paragraph (a) of this subsection.
- (9) In this Act, the “current measures”, in relation to a local flood risk management plan, are those of the measures summarised in the plan under subsection (3)(a) which are identified in the relevant flood risk management plan as to be implemented before the plan is next reviewed under section 28.
- 30 (10) In this section, “relevant flood risk management plan”, in relation to a local plan district (or the local flood risk management plan for that district), means the flood risk management plan prepared under section 23 or updated under section 28 for the flood risk management district which includes the local plan district.
- 35

30 Local flood risk management plans: publicity and consultation

- (1) Not less than one year before the beginning of the period to which a local flood risk management plan is to relate or by such date as the Scottish Ministers may direct, the lead authority must publish a draft of the supplementary part of the plan (“the draft supplementary part”).
- 40

- (2) Publication of a draft under subsection (1) is to be in such manner as the lead authority considers appropriate.
- (3) On publishing the draft supplementary part, the lead authority must—
- (a) publicise—
- 5 (i) that fact, and
- (ii) the opportunity to make representations about the draft supplementary part under subsection (4), and
- (b) make copies of the draft supplementary part available for public inspection for such period, which must be at least 3 months beginning with the date of its
- 10 publication, as the lead authority may determine.
- (4) Any person who wishes to make representations to a lead authority about the draft supplementary part may do so before the expiry of the period determined under subsection (3)(b).
- (5) On publishing the draft supplementary part, the lead authority must also—
- 15 (a) consult the persons specified in subsection (6) on—
- (i) the draft supplementary part, and
- (ii) a draft of the implementation part of the plan, and
- (b) take such steps as it considers appropriate for the purpose of encouraging those persons to participate appropriately in the preparation of the plan.
- 20 (6) The persons referred to in subsection (5)(a) are—
- (a) any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district to which the plan relates (“the district”),
- (b) SEPA,
- (c) Scottish Natural Heritage,
- 25 (d) where any part of the district has been designated as a National Park, the National Park authority for the National Park, and
- (e) such other persons as the lead authority considers appropriate.
- (7) The lead authority must co-ordinate the steps it takes under subsections (1) to (6) with those taken by SEPA in relation to the relevant flood risk management plan under
- 30 section 25(2) to (4).
- (8) Before finalising the local flood risk management plan, the lead authority must take into account—
- (a) any representations about the draft supplementary part made under subsection (4), and
- 35 (b) any views on the draft local flood risk management plan expressed by those consulted under subsection (5)(a),
- which are received by the lead authority before the expiry of the period determined under subsection (3)(b).
- (9) Not later than 2 months after receiving them, the lead authority must inform SEPA of
- 40 any views expressed by those consulted under subsection (5)(a) which the lead authority considers relevant to the relevant flood risk management plan.

- (10) In subsections (7) and (9), “relevant flood risk management plan” means the flood risk management plan prepared under section 23 or updated under section 28 for the flood risk management district which includes the local plan district.

31 Local flood risk management plans: completion and publication

- 5 (1) A local flood risk management plan for a local plan district is finalised when—
- (a) the flood risk management plan which it supplements is approved under section 27, and
- (b) either—
- 10 (i) the lead authority, every other responsible authority which has flood risk related functions exercisable in or in relation to the local plan district and SEPA agrees to its content, or
- (ii) the Scottish Ministers determine its content under subsection (3).
- (2) If—
- (a) the lead authority considers that the local flood risk management plan will not be
- 15 finalised by the local plan deadline, or
- (b) the plan is not finalised by that deadline,
- the lead authority must notify the Scottish Ministers of that fact.
- (3) Where the Scottish Ministers receive notice under subsection (2), they must determine the content of the local flood risk management plan.
- 20 (4) Before determining the content of a plan under subsection (3), the Scottish Ministers must take into account any representations made by SEPA and any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district.
- (5) When a local flood risk management plan is finalised, the lead authority must—
- 25 (a) publish the final plan in such manner as it considers appropriate,
- (b) make copies of it available for public inspection,
- (c) provide a copy of it to SEPA and the Scottish Ministers,
- (d) make copies of it available to the public, and
- (e) publicise the publication of the final plan.
- 30 (6) In making copies of the plan available to the public under subsection (5)(d), the lead authority may charge a reasonable price for each copy.
- (7) In subsection (2), the “local plan deadline” is the date 6 months after the date the flood risk management plan mentioned in subsection (1)(a) is approved or such other date as the Scottish Ministers may direct.

32 Local flood risk management plans: interim report

- (1) Not earlier than 2 years and not later than 3 years after a local flood risk management plan is finalised, the lead authority must—
- (a) review the plan, and

- (b) publish a report on the conclusions of the review including information on the progress that has been made towards implementing the measures identified in the implementation part of the plan.

- (2) The lead authority must make copies of the report available for public inspection.

5 **33 Local flood risk management plans: final report**

- (1) Not earlier than 5 years, and not later than 6 years, after a local flood risk management plan is finalised, or by such other date as the Scottish Ministers may direct, the lead authority must publish a report on the plan containing—

- (a) an assessment of the progress made towards implementing the current measures,
- 10 (b) a summary of the current measures which were not implemented, with reasons for their non-implementation, and
- (c) a description of any other measures implemented since the plan was finalised which the lead authority considers have contributed to the achievement of the objectives summarised in the supplementary part of the plan.

- 15 (2) The lead authority must make copies of the report available for public inspection.

34 Local flood risk management plans: joint working

Where a local plan district covers more than one local authority's area, the lead authority and the other authorities must, so far as practicable, co-operate with each other with a view to assisting in—

- 20 (a) the preparation of the local flood risk management plan for the district,
- (b) the review of that plan under section 32,
- (c) the preparation of the report published under that section, and
- (d) the preparation of the report published under section 33.

Regulations about plans

25 **35 Regulations relating to flood risk management plans and local flood risk management plans**

- (1) The Scottish Ministers may by regulations make further provision as to—

- (a) the form of flood risk management plans and local flood risk management plans,
- (b) the matters to be taken into account in preparing such plans,
- 30 (c) the procedures to be followed in connection with the preparation, submission, approval, review and modification of such plans,
- (d) consultation by SEPA in relation to its preparation of flood risk management plans,
- (e) consultation by lead authorities in relation to their preparation of local flood risk management plans, and
- 35 (f) the form, content, preparation and publication of reports under sections 32 and 33.

- (2) Such regulations may, in particular, do any of the following—

- (a) provide for the notice to be given of, or the publicity to be given to—

- (i) matters to be included or proposed to be included in any such plan,
 - (ii) the approval of any such plan, and
 - (iii) any other procedural step,
- (b) provide for the publicity to be given to the procedures referred to in subsection (1)(c),
- (c) make provision for documents and information relating to matters included in the plan to be made available to the public,
- (d) make provision as to the making and consideration of representations with respect to any such plan,
- (e) require or authorise—
- (i) in relation to a flood risk management plan, SEPA,
 - (ii) in relation to a local flood risk management plan, the lead authority,
- to consult, or consider the views of, other persons before taking any particular procedural step.

Duty to have regard to plans

36 Duty to have regard to flood risk management plans and local flood risk management plans

The Scottish Ministers and every public body and office-holder must, in exercising any functions so far as affecting a flood risk management district, have regard to—

- (a) the flood risk management plan for that district as approved under section 27,
- (b) so far as the exercise of the functions affects a local plan district, the local flood risk management plan for that district as finalised under section 31.

Provision of information and assistance

37 Power of SEPA to obtain information, documents and assistance

(1) The Scottish Ministers and any responsible authority must, on being requested by SEPA, provide SEPA with—

- (a) such information in their or, as the case may be, its possession or under their or its control, and
- (b) such assistance,

as SEPA may reasonably seek in connection with the exercise of any of SEPA's functions under sections 9, 10, 17, 20, 23, 24 and 28.

(2) Any responsible authority must, on being requested by SEPA—

(a) gather and provide SEPA with such information—

- (i) as respects flood risk, and
- (ii) which SEPA considers could contribute to improving understanding of flood risk, and

(b) prepare and provide SEPA with such assessments or maps which SEPA considers could contribute to such understanding,

as SEPA may reasonably seek in connection with the exercise of any of those functions.

(3) Information requested by SEPA in pursuance of subsection (2) may include in particular information about, or as the case may be assessments or maps of, urban drainage and flooding caused by surface run-off water or a sewerage system.

5 (4) Information and assistance which a responsible authority is required to provide to SEPA in pursuance of subsection (1) or (2) must be provided in such form and manner as SEPA may reasonably seek.

(5) SEPA may serve a notice on any person (but not the Scottish Ministers or a responsible authority) requiring the person to—

10 (a) provide SEPA, or a person authorised by it, in the form and manner specified in the notice, with such information, or

(b) produce to SEPA, or to a person authorised by it, such documents,

as it may reasonably require in connection with the exercise of any of the functions referred to in subsection (1).

15 (6) Where a responsible authority or, as the case may be, a person on whom a notice is served under subsection (5) cannot agree with SEPA on whether information or assistance is, or assessments, maps or documents are, being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

20 **38 Power of lead authorities to obtain information, documents and assistance**

(1) A person mentioned in subsection (2) must, on being requested by a lead authority, provide the authority with—

(a) such information in its possession or under its control, and

(b) such assistance,

25 as the authority may reasonably seek in connection with its functions under sections 29 to 33.

(2) Those persons are—

(a) SEPA, and

30 (b) any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district.

(3) A lead authority may serve a notice on any other person (but not the Scottish Ministers) requiring the person to—

(a) provide the authority, or a person authorised by it, in the form and manner specified in the notice, with such information, or

35 (b) produce to the authority, or to a person authorised by it, such documents,

as it may reasonably require in connection with the exercise of any of the functions under sections 29 to 33.

40 (4) Where a responsible authority, SEPA or, as the case may be, a person on whom a notice is served under subsection (3) cannot agree with the lead authority on whether information or assistance is, or documents are, being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

39 Power to obtain information, documents and assistance: supplementary

- (1) The information or documents required to be provided or produced in pursuance of a notice under section 37(5) or section 38(3) (an “information notice”) must be specified or described in the notice.
- 5 (2) An information notice may require information to be provided or documents to be produced—
- (a) at or by a time and at a place specified in the notice,
 - (b) in circumstances specified in the notice, or
 - (c) from time to time, in accordance with criteria specified in the notice.
- 10 (3) Nothing in this section or section 37 or 38 authorises SEPA or, as the case may be, a lead authority to require disclosure of anything which a person would be entitled to refuse to disclose in proceedings in the Court of Session on grounds of confidentiality in proceedings in that court.
- (4) Where by virtue of an information notice documents are produced to any person, that
- 15 person may take copies of or make extracts from them.
- (5) References in this section or section 37 or 38 to documents are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.

40 Power to obtain information, documents and assistance: offence

- (1) A person who—
- (a) refuses or fails, without reasonable excuse, to do anything required of that person by a notice under section 37(5) or 38(3), or
 - (b) intentionally alters, suppresses or destroys a document which that person has been
- 25 required by such notice to produce,
- commits an offence.
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.

Consistency and co-ordination with river basin management planning under the 2003 Act

41 Consistency and co-ordination with characterisations and plans under the 2003 Act

- (1) SEPA—
- (a) must secure appropriate consistency in the information in flood risk assessments, flood hazard maps, flood risk maps and flood risk management plans prepared under this Part with information contained in characterisations of river basin districts and river basin management plans prepared under Chapter 2 of Part 1 of the 2003 Act,
 - (b) must co-ordinate—
- 35

- 5
- (i) preparation and review of flood hazard maps, flood risk maps and flood risk management plans under this Part with preparation and review of information mentioned in subsection (2), and
 - (ii) making available such maps and plans for public inspection with making available such information for such inspection, and
 - (c) may, where it considers it appropriate, integrate any such flood hazard map, flood risk map or flood risk management plan with the information mentioned in subsection (2).
- 10
- (2) The information referred to in subsection (1)(b)(i) and (c) is—
 - (a) as respects flood risk maps and flood hazard maps, characterisations of river basin districts prepared under Chapter 2 of Part 1 of the 2003 Act, and
 - (b) as respects flood risk management plans, river basin management plans prepared under that Chapter.
 - (3) A lead authority responsible for preparing a local flood risk management plan must secure appropriate consistency in the information contained in the plan with information contained in characterisations of river basin districts and river basin management plans prepared under Chapter 2 of Part 1 of the 2003 Act.
- 15

Advisory groups

42 District flood risk advisory groups

- 20
- (1) Each flood risk management district is to have one or more district flood risk advisory groups (“district advisory groups”).
 - (2) The function of each district advisory group is to advise SEPA on any matter which—
 - (a) relates to—
 - 25 (i) the preparation of any of the documents mentioned in subsection (3),
 - (ii) the review and updating of any such document,
 - (iii) any assessment (of possible contribution of alteration etc. of natural features) under section 16, and
 - (iv) the review and updating of any such assessment, and
 - (b) is within the remit of the group.
 - 30 (3) The documents mentioned in subsection (2)(a)(i) are—
 - (a) the flood risk assessment for the district,
 - (b) the document (under section 13) identifying—
 - (i) potentially vulnerable areas in the district, and
 - (ii) local plan districts,
 - 35 (c) each flood hazard map and flood risk map for the district,
 - (d) the flood risk management plan for the district.
 - (4) SEPA must, in preparing, reviewing and updating the documents referred to in subsection (3) and in carrying out or reviewing any assessment under section 16, have regard to any advice given by a district advisory group for the district.

- (5) The number of district advisory groups, and their remits, membership and procedure are to be such as SEPA may determine.
- (6) SEPA may determine the remit of a district advisory group for any flood risk management district by reference to one or more of the following—
- 5 (a) a particular geographical area,
- (b) any other particular aspect of flood risk management within the district.
- (7) In determining the number of district advisory groups for any flood risk management district and their remits and membership, SEPA must seek to ensure appropriate representation of the interests of—
- 10 (a) the persons specified or referred to in section 25(5)(a) to (c), and
- (b) such other persons as appear to SEPA to have an interest in flood risk management for the district.
- (8) SEPA may pay to members of a district advisory group such expenses and allowances as it may determine.

15 **43 Sub-district flood risk advisory groups**

- (1) For the purpose of setting up sub-district flood risk advisory groups, SEPA must divide each flood risk management district into such geographical areas (“sub-districts”) as it considers appropriate.
- (2) Each sub-district is to have a sub-district flood risk advisory group (“sub-district advisory group”).
- 20 (3) The function of each sub-district advisory group is to advise—
- (a) SEPA, on any matter which relates to—
- (i) the preparation of the documents mentioned in subsection (4),
- (ii) the review and updating of those documents,
- 25 (iii) any assessment (of possible contribution of alteration etc. of natural features) under section 16, and
- (iv) the review and updating of any such assessment, and
- (b) lead authorities for local plan districts, all or part of which form part of the sub-district, on any matter which relates to the preparation of—
- 30 (i) a local flood risk management plan,
- (ii) a report under section 32 or 33,
- so far as those matters are within the remit of the group.
- (4) The documents referred to in subsection (3)(a)(i) are—
- 35 (a) the flood risk assessment for the flood risk management district of which the sub-district forms part,
- (b) the document (under section 13) identifying—
- (i) potentially vulnerable areas in the district, and
- (ii) local plan districts in the district,
- (c) each flood hazard map and flood risk map for the district,

(d) the flood risk management plan for the district.

(5) SEPA must, in preparing, reviewing and updating the documents referred to in subsection (4) and in carrying out or reviewing any assessment under section 16, have regard to any advice given by a sub-district advisory group.

5 (6) A lead authority must, in preparing a local flood risk management plan or a report under section 32 or 33, have regard to any advice given by a sub-district advisory group.

(7) The remits, membership and procedure of sub-district advisory groups are to be such as SEPA, after consulting local authorities all or part of whose areas form part of the sub-district, may determine.

10 (8) SEPA may pay to members of a sub-district advisory group such expenses and allowances as it may determine.

Supplementary

44 Power to give effect to Community obligations etc.

15 (1) The Scottish Ministers may by regulations provide that the provisions of this Part are to have effect with such modifications as the regulations may specify for the purpose of giving effect to any Community obligation of the United Kingdom or of exercising any related right.

(2) In this section “related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.

45 Annual report on implementation of Directive

The Scottish Ministers must either—

(a) as soon as practicable after the end of each calendar year lay before the Parliament a report summarising action taken during the year for securing compliance with the requirements of the Directive in accordance with this Part by—

- 25 (i) the Scottish Ministers,
(ii) SEPA, and
(iii) the responsible authorities, or

(b) incorporate into their report under section 26 of the 2003 Act for the calendar year concerned a report summarising such action.

46 Availability of documents for public inspection

30 (1) Where, under this Part, any order, assessment, map, plan, or report is to be made available for public inspection, it—

(a) must be made available—

- 35 (i) free of charge,
(ii) at all reasonable times, and

(b) may be made available by such means, or in such formats, as the person required to make it available considers appropriate for the purpose of encouraging the inspection of it by members of the public.

- (2) The person required to make available the document referred to in subsection (1) must publicise the arrangements for making it available.

47 Publicity of matters

- (1) Where, under this Part, a person (“the publisher”) is required to publicise any matter, the publisher—

- (a) must do so by means of a notice published in the appropriate newspapers, and
 (b) may further publicise the matter by such electronic or other means as the publisher considers appropriate.

- (2) In subsection (1), the appropriate newspapers are—

- (a) in relation to a local flood risk management plan, such newspapers circulating in the local plan district, or any part of the district, as the publisher considers appropriate,

- (b) in relation to any other matter—

- (i) at least one newspaper circulating throughout Scotland, and

- (ii) such local newspapers circulating in any part of the flood risk management district to which the matter relates as the publisher considers appropriate.

48 Interpretation of Part 3

- (1) In this Part—

“appropriate scale” means such scale as SEPA considers most appropriate,

“river basin” has the same meaning as in section 28(1) of the 2003 Act,

“wetland” has the same meaning as in section 3(5) of that Act.

- (2) The Scottish Ministers may by order specify boundaries of any coastal area for the purposes of this Part.

PART 4

FLOOD RISK MANAGEMENT: LOCAL AUTHORITY FUNCTIONS

General power

49 General power to manage flood risk

- (1) A local authority may do anything which it considers—

- (a) will contribute to the implementation of current measures described in any relevant local flood risk management plan,

- (b) is necessary to reduce the risk of a flood in its area which is likely to—

- (i) occur imminently, and

- (ii) have serious adverse consequences for human health, the environment, cultural heritage or economic activity, or

- (c) will otherwise manage flood risk in its area without affecting the implementation of the measures mentioned in paragraph (a).

- (2) Without prejudice to the generality of subsection (1), a local authority may in particular—
- (a) carry out any operations to which a flood protection scheme relates (see section 52),
 - 5 (b) carry out any other flood protection work,
 - (c) carry out any temporary works required for the purposes of a flood protection scheme or any other flood protection work,
 - (d) enter into agreements or arrangements with any other person for the carrying out by that person or by the authority of any work which could be done by the
10 authority under this Part,
 - (e) acquire land in accordance with section 55,
 - (f) make contributions towards expenditure incurred by any other person doing something which could be done by the authority under this Part, and
 - 15 (g) receive from any other person contributions towards expenditure incurred by the authority in exercising any of its functions under this Part.
- (3) Work carried out under this section may be carried out within or outwith the local authority's area.

50 Limits of general power

- (1) The power under section 49 does not enable a local authority to do anything which it is,
20 by virtue of a limiting provision, unable to do.
- (2) In subsection (1), a “limiting provision” is one which—
- (a) prohibits or prevents the local authority from doing anything or limits its powers in that respect, and
 - (b) is expressed in an enactment (whenever passed or made).
- 25 (3) The absence from an enactment of provision conferring any power does not of itself make that enactment a limiting provision.

51 Limits of general power: statutory undertakings

- (1) A local authority may not exercise the power under section 49 in a way which—
- 30 (a) damages any works or property belonging to a statutory undertaker, or
 - (b) interferes with the carrying on of its statutory undertaking,
- unless the undertaker consents.
- (2) But consent is not required if it is withheld unreasonably.
- (3) It is for the Scottish Ministers to determine any question which arises as to whether consent has been withheld unreasonably, and their decision is final.

Flood protection schemes

52 Flood protection schemes

- (1) A flood protection scheme is a scheme by a local authority for the management of flood risk within the authority's area.

- (2) A proposed flood protection scheme must—
- (a) contain a description of the operations the local authority proposes to carry out,
 - (b) include such maps, plans and specifications as may be specified by regulations by the Scottish Ministers,
 - 5 (c) state how the operations will contribute to the implementation of current measures described in any relevant local flood risk management plan, and
 - (d) inasmuch as they will not so contribute, state the reasons why the local authority considers carrying them out will not affect the implementation of those measures.
- (3) Schedule 2 makes further provision about the making of flood protection schemes.
- 10 (4) The Scottish Ministers may by order amend schedule 2 so as to modify the procedure for making flood protection schemes.

53 Orders under the Land Drainage (Scotland) Act 1958

- (1) This section applies where an improvement order affects any land on which operations are proposed to be carried out under a flood protection scheme.
- 15 (2) The flood protection scheme may include proposals to—
- (a) vary the improvement order by—
 - (i) removing land from the improvement area,
 - (ii) removing or rendering ineffective all or any part of the drainage or protective works specified in the improvement order, or
 - 20 (iii) amending, reapportioning or removing any obligations of maintenance imposed on the authorised persons under the improvement order, or
 - (b) revoke the improvement order.
- (3) But the scheme may not include proposals to vary the improvement order so as to impose any new obligations on the authorised persons in respect of operations described in the scheme.
- 25 (4) Where the proposed operations will materially alter drainage works or protective works, the scheme must include proposals to vary the improvement order so as to remove the obligation of maintenance in respect of the part of the drainage works or protective works so altered.
- 30 (5) On commencement of the flood protection scheme, the improvement order is varied or, as the case may be, revoked to the extent specified in the scheme.
- (6) Where an improvement order has been varied or revoked by a flood protection scheme, the local authority must cause a notice of the variation or revocation to be registered in the Land Register of Scotland or recorded in the Register of Sasines (as applicable).
- 35 (7) The Scottish Ministers may by order specify the form and content of a notice under subsection (6).
- (8) In this section—
- “authorised persons” has the meaning given in section 2(2) of the Land Drainage (Scotland) Act 1958 (c.24),
 - 40 “drainage works” has the meaning given in section 18(1) of that Act,
 - “improvement area” has the meaning given in section 1(3) of that Act,

“improvement order” has the meaning given in section 1(1) of that Act,

“protective works” has the meaning given in section 2(1)(d) of that Act.

Deemed planning permission

54 Deemed planning permission for scheme work

5 In section 57 of the Town and Country Planning (Scotland) Act 1997 (c.8) (deemed
planning permission), after subsection (2A) insert—

“(2B) On—

10 (a) confirming a flood protection scheme under paragraph 7(4) of schedule 2
to the Flood Risk Management (Scotland) Act 2009 (asp 00) in respect
of any operation which would constitute development, or

(b) a local authority confirming such a scheme under paragraph 4(1) or 9(1)
of that schedule,

15 the Scottish Ministers must direct that planning permission for that
development shall be deemed to be granted, subject to such conditions (if any)
as may be specified in the direction.”.

Acquisition of land

55 Acquisition of land

(1) A local authority may—

20 (a) by agreement, acquire land which it requires for the exercise of its functions under
this Part,

(b) with the authorisation of the Scottish Ministers, compulsorily acquire land which
it requires for the purpose of carrying out scheme operations.

25 (2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42) applies
in relation to an acquisition under subsection (1)(b) as if that provision were contained
in an Act of Parliament in force immediately before the commencement of that Act.

Assessment of watercourses etc.

56 Assessment of watercourses etc.

(1) Every local authority must, from time to time—

30 (a) assess the watercourses in its area for the purpose of ascertaining whether the
condition of any such watercourse gives rise to a risk of flooding of land within or
outwith its area, and

35 (b) where a watercourse gives rise to such a risk, consider whether exercising any of
its functions under this Part would substantially reduce that risk taking into
account the effect of any such exercise on the implementation of current measures
described in any relevant local flood risk management plan.

(2) Where it appears to a local authority, whether or not as a result of an assessment carried
out under subsection (1)(a), that any watercourse in its area is in a condition which is
likely to cause flooding of land outwith its area, it must notify the local authority for the
area in which that land is situated.

- (3) Subsection (2) does not apply where it appears to the first mentioned authority that the second mentioned authority is aware of the likelihood of the flooding.

General

57 Recovery of expenses

5 A local authority may recover any expense it incurs in carrying out any repairs or re-instatement to flood protection work done under section 49 from the owner or, as the case may be, occupier of the land on which the work was carried out if such expense is as a result of the actions of that person.

58 Information about ownership etc. of land

10 (1) For the purposes of enabling it to exercise any of its functions under this Part, a local authority may require any person it believes to be the owner or occupier of any land to state in writing—

- 15 (a) the nature of the person's interest in that land, and
(b) the name and address of any other person known to the person as having a interest in that land.

(2) Any person who—

- (a) fails to comply with a requirement of a local authority under this section, or
(b) in answer to any such requirement, intentionally or recklessly makes any statement which is false or misleading in a material particular,

20 commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

59 Damage to certain flood protection work

(1) Any person who intentionally or recklessly damages any—

25 (a) barrier, embankment or other work for defence against flooding constructed or otherwise created by a local authority in exercise of any of its functions under this Part, or

(b) apparatus ancillary to such work,

commits an offence.

30 (2) For the avoidance of doubt, a person carrying out flood protection work under this Part does not commit an offence under subsection (1).

(3) It is a defence to a charge in proceedings for an offence under subsection (1) that the person did not know and had no reasonable means of knowing that the works or apparatus were for defence against flooding.

35 (4) A person who commits an offence under subsection (1) is liable on summary conviction—

(a) in the JP court, to imprisonment for a term not exceeding 60 days, or to a fine not exceeding level 3 on the standard scale, or to both,

(b) in the sheriff court—

(i) for a first such offence, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the prescribed sum (within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995 (c.46)), or to both, and

5 (ii) for any subsequent such offence, to imprisonment for a term not exceeding 6 months, or to the fine mentioned in sub-paragraph (i) above, or to both.

60 Repeal of Flood Prevention (Scotland) Act 1961

The Flood Prevention (Scotland) Act 1961 (c.41) is repealed.

61 Interpretation of Part 4

10 In this Part—

“relevant local flood risk management plan” means, in relation to a local authority, a local flood risk management plan for a local plan district that includes all or part of the local authority’s area,

15 “scheme documents” means, in relation to a proposed flood protection scheme, the documents containing the material specified in, or by regulations made under, section 52(2),

“statutory undertaker” has the meaning given in the Town and Country Planning (Scotland) Act 1997 (c.8),

“statutory undertaking”—

20 (a) means, in relation to Scottish Water, its core functions within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002 (asp 3),

(b) otherwise has the meaning given in the Town and Country Planning (Scotland) Act 1997,

“watercourse”—

25 (a) includes—

(i) the bed and banks of any river, stream or burn (whether for the time being carrying water or not), and

(ii) any ditch, drain, cut, canal, culvert, sluice or passage carrying or designed to carry water, together with the walls, pipes or other works containing or intended to contain the same, but

30 (b) does not include any sewer or water-main.

PART 5

SEPA: OTHER FLOOD RISK MANAGEMENT FUNCTIONS

Advice to planning authorities and others as to flood risk

62 Advice to planning authorities and others as to flood risk

(1) SEPA must, when requested by a planning authority, give the authority advice as to flood risk in the authority’s district.

- (2) SEPA must, when requested by a National Park authority which, though not a planning authority, is (by virtue of the order designating the National Park for which the authority is established) to be treated as the planning authority for the Park for any purpose, give the authority advice in relation to flood risk in the Park.
- 5 (3) Advice under subsection (1) or (2) is to be based on such information as respects such flood risk as SEPA possesses, taking into account—
- (a) the flood risk assessment, any flood hazard map and flood risk map, the flood risk management plan and any local flood risk management plan for the time being applicable to the authority’s district, and
- 10 (b) information provided to it by any planning authority or National Park authority which is not a planning authority.
- (4) In this section—
- (a) “planning authority” and a planning authority’s “district” (except where paragraph (b) provides otherwise) have the meanings given in section 1(1) of the Town and
- 15 Country Planning (Scotland) Act 1997 (c.8),
- (b) where—
- (i) all or part of a planning authority’s district is designated as a National Park, and
- (ii) the designation order makes provision for the National Park authority to be
- 20 the planning authority for the Park for the purposes of the planning Acts,
- “planning authority” in relation to the National Park means the National Park authority and a planning authority’s “district” means the National Park for which the National Park authority is established, and
- (c) “the planning Acts” has the meaning given in section 277(1) of that Act.

Other assessment and maps of flood risk

63 Other assessment and maps of flood risk

- (1) SEPA may—
- (a) (in addition to the flood risk assessment it is required to prepare under section 9 and review under section 10) carry out such other assessment of flood risk as it
- 30 considers appropriate, and
- (b) (in addition to the flood hazard maps and flood risk maps it is required to prepare under section 17 and review under section 20) prepare such other maps in relation to flood risk as it considers appropriate.
- (2) In the exercise of its power under subsection (1), SEPA must take into account the flood risk assessment, any flood hazard map and flood risk map and the flood risk management plan for the time being applicable to the area being assessed.
- 35 (3) SEPA may, where it considers it appropriate, integrate any map prepared by it under subsection (1)(b) with any such flood hazard map or flood risk map.

Flood warning

64 Flood warning

(1) SEPA must, where it considers that a flood is occurring or likely to occur in the near future, make available warnings in relation to the flood.

(2) Any warning under subsection (1)—

(a) of a flood which SEPA considers is occurring must be made available as soon as practicable after SEPA considers that is the case,

(b) of a flood which SEPA considers is likely to occur in the near future must be made available as soon as SEPA considers appropriate,

(c) is to be based on information available to SEPA, and

(d) must be made publicly available by SEPA by such means as it considers appropriate.

65 Assessment of whether flood warning system should be provided or altered

(1) SEPA may, and must where the Scottish Ministers direct, assess whether in its opinion—

(a) provision and operation by it of a flood warning system, or alteration of any flood warning system provided and operated by it, would assist in providing earlier or more accurate flood warning as respects an area, and

(b) the earlier or more accurate flood warning so provided would be likely to reduce the potential adverse consequences of flooding of the area for human health, the environment, cultural heritage and economic activity there.

(2) Any assessment under subsection (1) is to be based on such information as SEPA possesses.

(3) In carrying out any such assessment SEPA must consult in accordance with section 67(1).

(4) In this section and section 66, “flood warning system” means a system by which, for the purpose of detecting, forecasting or providing warning of any flood which is occurring or likely to occur in the near future, information as respects any of the following matters is obtained and transmitted—

(a) rainfall,

(b) the level or flow of any surface water (within the meaning of section 3(3) of the 2003 Act),

(c) such other matters as appear to SEPA to be appropriate for that purpose.

66 Provision, alteration etc. of flood warning system

(1) SEPA may—

(a) provide and operate any flood warning system,

(b) alter any flood warning system provided and operated by it,

(c) for those purposes provide, install or alter apparatus and carry out any engineering or building operations, and

(d) maintain any such apparatus.

(2) Before—

- (a) providing a flood warning system in pursuance of paragraph (a) of subsection (1),
 (b) for that purpose doing any of the things referred to in paragraph (c) of that
 subsection, or
 (c) for either of the purposes in paragraph (a) or (b) carrying out any engineering or
 building operations,

SEPA must consult in accordance with section 67(2).

(3) Where SEPA considers—

- (a) the alteration of any flood warning system in pursuance of paragraph (b) of
 subsection (1), or
 (b) for that purpose doing any of the things referred to in paragraph (c) of that
 subsection (“any related thing”),

would be material, it must consult in accordance with section 67(2) before carrying out
 the alteration of the system or for that purpose any related thing.

67 Consultation required by sections 65 and 66

(1) The consultation required by section 65 is consultation with—

- (a) every local authority whose area includes any part of the area which is the subject
 of the assessment, and
 (b) as regards the police duties mentioned in subsection (3), the chief constable of the
 police force maintained for the police area which is the subject of the assessment.

(2) The consultation required by section 66 is consultation with—

- (a) every local authority in whose area the power is to be exercised, and
 (b) as regards the police duties mentioned in subsection (3), the chief constable of the
 police force maintained for the police area in which the power is to be exercised.

(3) The police duties are such duties under section 17(1)(a)(ii) and (iii) of the Police
 (Scotland) Act 1967 (c.77) (general duties of guarding, patrolling and watching so as to
 preserve order and protect life and property) as arise in relation to any flood risk.

(4) In this section, “police area” has the same meaning as in that Act.

PART 6

POWERS OF ENTRY AND COMPENSATION

Powers of entry

68 Powers of entry

(1) Any person authorised by SEPA is entitled to enter any land for the purposes of carrying
 out SEPA’s functions under—

- (a) section 13 (identification of potentially vulnerable areas and local plan districts),
 (b) section 14 (review of potentially vulnerable areas and local plan districts),

- (c) section 16 (assessment of possible contribution of alteration etc. of natural features),
- (d) section 17 (preparation of flood hazard maps and flood risk maps),
- (e) section 20 (review of flood hazard maps and flood risk maps),
- 5 (f) section 23 (preparation of flood risk management plans),
- (g) section 28 (review of flood risk management plans),
- (h) section 63 (other assessment and maps of flood risk), and
- (i) section 66 (provision, alteration etc. of flood warning systems).

(2) Any person authorised by a local authority is entitled to enter—

- 10 (a) any land on which scheme operations are to be carried out, for the purposes of carrying out the operations or of executing any temporary works in relation to them,
- (b) any land for the purpose of carrying out flood protection work on the ground mentioned in section 49(1)(b),
- 15 (c) any land for the purposes of maintaining flood protection work carried out under section 49, and
- (d) any land for the purposes of determining whether, and if so in what manner, any function conferred by or under Part 4 is to be exercised.

69 Warrants authorising entry

- 20 (1) A sheriff or justice of the peace may by warrant authorise any person entitled to exercise a right conferred by section 68 to do so, if necessary using reasonable force, in accordance with the warrant.
- (2) A warrant may be granted under subsection (1) only if the sheriff or justice is satisfied, by evidence on oath—
 - 25 (a) that there are reasonable grounds for the exercise of the right in relation to the land concerned, and
 - (b) that—
 - (i) the conditions in subsection (3) are satisfied,
 - (ii) the land is unoccupied, or
 - 30 (iii) the case is one of urgency.
- (3) The conditions mentioned in subsection (2)(b)(i) are—
 - (a) the person applying for the warrant has given notice under section 70(3) of the person's intention to exercise the right,
 - (b) the notice period has expired,
 - 35 (c) either—
 - (i) permission to exercise the right in relation to the land has been refused, or
 - (ii) such a refusal is reasonably expected.
- (4) A warrant granted under this section—
 - (a) does not entitle a person to use force against an individual, and

(b) continues in force until the purpose for which the warrant was issued has been fulfilled or, if earlier, the expiry of such period as the warrant may specify.

- (5) Any person who, without reasonable excuse, prevents or obstructs any other person from doing anything which is authorised by a warrant granted under this section commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

70 Powers of entry: supplementary

- (1) A right to enter any land conferred by section 68 includes a right to—

- (a) enter for the same purpose any land adjacent to it, and
 (b) survey and examine the land.

- (2) Any person who enters any land in exercise of a right conferred by section 68 is entitled, subject in the case of a right exercisable in accordance with a warrant to the terms of the warrant, to—

- (a) take on to the land such other persons and such materials and equipment (including vehicles) as may be reasonably required for the purposes of assisting the person, and
 (b) do anything else which is reasonably required in order to fulfil the purpose for which entry is taken.

- (3) Before any such person exercises any such right, the occupant of the land concerned must be given—

- (a) where—
 (i) the person exercising any such right intends to take heavy equipment onto the land concerned or entry is sought to a house, and
 (ii) the right being exercised is not being exercised in accordance with a warrant,
 at least 7 days' notice,
 (b) in any other case, at least 24 hours' notice.

- (4) A right to enter any land conferred by section 68 may be exercised only at a reasonable time.

- (5) Subsections (3) and (4) do not apply to the exercise of—

- (a) a right under section 68(2)(b), or
 (b) if the situation is urgent, a right under section 68(1)(i).

- (6) A person authorised to exercise any right conferred by section 68 must, if required to do so, produce written evidence of that authorisation.

- (7) In subsection (3)(a)(i)—

“heavy equipment” does not include vehicles designed solely or mainly for the carriage of passengers,

“house” has the meaning given in section 194(1) of the Housing (Scotland) Act 2006 (asp 1).

- (8) In this section and section 71, references to a right to enter land conferred by section 68 include references to that right exercised in accordance with a warrant granted under section 69.

Compensation

71 Compensation

- (1) SEPA must compensate any person who has sustained damage in consequence of—
- (a) any exercise of the power in section 66(1)(c) or (d), or
 - (b) the exercise of a right of entry conferred by section 68(1) (including the ancillary rights mentioned in section 70(1) and (2)).
- (2) A local authority must compensate any person who has sustained damage in consequence of—
- (a) scheme operations carried out by or on behalf of the local authority,
 - (b) the subsequent maintenance of any such operations by or on behalf of the local authority,
 - (c) any other exercise of the power in section 49(1), or
 - (d) the exercise of a right of entry conferred by section 68(2) (including the ancillary rights mentioned in section 70(1) and (2)).

72 Compensation: supplementary

- (1) In section 71, a person sustains damage if—
- (a) the value of the person's interest in land has been depreciated, or
 - (b) the person has been disturbed in the person's enjoyment of land.
- (2) SEPA or, as the case may be, a local authority must pay compensation under section 71 to a person only if—
- (a) the damage is not attributable to an act or omission of the person,
 - (b) the act or omission causing the damage would have been actionable at the person's instance if it had been done or omitted otherwise than in exercise of statutory powers,
 - (c) the person gives notice to SEPA or, as the case may be, the local authority of the person's claim stating the grounds of the claim and the amount claimed, and
 - (d) the notice is given no later than the earlier of—
 - (i) 2 years after the depreciation first becomes apparent or, as the case may be, the first occurrence of the disturbance, and
 - (ii) 10 years from the completion of the scheme operations, maintenance or, as the case may be, exercise of a right of entry.
- (3) Any question of disputed compensation under section 71 is to be determined by the Lands Tribunal for Scotland.

PART 7**RESERVOIRS***SEPA to be enforcement authority under the Reservoirs Act 1975***73 SEPA to be enforcement authority under the Reservoirs Act 1975**

- 5 (1) The Reservoirs Act 1975 (c.23) (referred to in this Part as “the 1975 Act”) is amended as follows.
- (2) In section 1 (ambit and interpretation), after subsection (4A) insert—
- 10 “(4B) The “area” of the Scottish Environment Protection Agency (referred to in this Act as “SEPA”), in its capacity as a relevant authority for the purposes of this Act, is the whole of Scotland.”.
- (3) In section 2(1) (relevant authorities), for the words from “councils” to “1994” substitute “SEPA”.
- (4) In Schedule 1 (index of definitions), after the entry for “Area (in relation to the Environment Agency)” insert—
- 15 “Area (in relation to SEPA) Section 1(4B)”.

74 Transitional arrangements

- (1) An existing relevant authority is a body which, immediately before the date of commencement of section 73 (“the commencement date”), is a relevant authority in Scotland for the purposes of the 1975 Act.
- 20 (2) Each existing relevant authority must, as soon as practicable after the commencement date, give to SEPA—
- (a) the register maintained by the authority under section 2(2) of that Act, and
- (b) any other documents, records or other information in its possession which relate to the exercise of the authority’s functions as an enforcement authority within the meaning of section 2(6) of that Act (referred to in this section as its “enforcement functions”).
- 25 (3) An existing relevant authority must give SEPA such assistance as SEPA may reasonably require for the purposes of facilitating the taking over by SEPA of the authority’s enforcement functions.
- 30 (4) Nothing in this section affects the validity of anything done by or in relation to an existing relevant authority in the exercise of its enforcement functions before the commencement date.
- (5) There may be continued by or in relation to SEPA anything (including legal proceedings) which relates to any of an existing relevant authority’s enforcement functions and is in the process of being done by or in relation to the authority immediately before the commencement date.
- 35 (6) Anything which was done by an existing relevant authority for the purpose of or in connection with any of its enforcement functions and is in effect immediately before the commencement date has effect as if done by SEPA.

75 Service of documents

- (1) In section 15(4) of the 1975 Act (reserve powers of enforcement authorities)—
- (a) after “section 22A” insert “or 22B”,
 - (b) the words “or section 192 of the Local Government (Scotland) Act 1973” are repealed.
- (2) After section 22A of that Act insert—

“22B Service of notices by SEPA

Section 123 of the Environment Act 1995 (service of documents) applies to any document authorised or required by virtue of any provision of this Act to be served or given by SEPA as if it were authorised or required to be served or given by or under that Act.”.

Enforcement powers and incident reporting

76 Extension of enforcement authority’s reserve powers

The amendments to the 1975 Act made by section 75 of the Water Act 2003 (c.37) (which enable enforcement authorities to serve and enforce notices requiring undertakers to take measures in the interests of safety) extend to Scotland.

77 Incident reporting

After section 12 of the 1975 Act, insert—

“12ZA Incident reporting

- (1) The Scottish Ministers may by regulations made by statutory instrument make provision for the reporting to the enforcement authority of incidents occurring at large raised reservoirs.
- (2) The regulations may, in particular—
- (a) define what constitutes an incident by reference to circumstances which adversely affect the safety of a reservoir,
 - (b) provide for a supervising engineer or other person to determine whether an incident has occurred,
 - (c) require, in relation to a reservoir, the undertakers or other specified person to report incidents occurring at that reservoir,
 - (d) require undertakers, supervising engineers and any other person of a specified description to have regard to guidance issued by the enforcement authority or the Scottish Ministers,
 - (e) make provision for the publishing of reports,
 - (f) create offences,
 - (g) provide that any offence created is triable—
 - (i) only summarily, or
 - (ii) either summarily or on indictment,

- (h) provide for any offence created which is triable only summarily to be punishable on conviction by a fine not exceeding level 5 on the standard scale,
- (i) provide for any offence created which is triable either summarily or on indictment to be punishable—
- (i) on summary conviction, by a fine not exceeding the statutory maximum,
- (ii) on conviction on indictment, by a fine,
- (j) make provision in connection with ensuring remedial action is taken following an incident report including provision amending this Act (other than this section) or applying this Act with modifications.
- (3) Before making an order under subsection (1), the Scottish Ministers must consult—
- (a) SEPA,
- (b) all undertakers of large raised reservoirs,
- (c) the Institution of Civil Engineers, and
- (d) any other person as they consider appropriate.
- (4) A statutory instrument made under subsection (1) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.”.

Crown application

78 Reservoirs Act 1975: Crown application

After section 27A of the 1975 Act, insert—

“27B Crown application in Scotland

- (1) This Act binds the Crown.
- (2) No contravention by the Crown of a provision made by or under this Act makes the Crown criminally liable.
- (3) But the Court of Session may, on the application of SEPA, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (4) Despite subsection (2), the provisions made by and under this Act apply to persons in the public service of the Crown as they apply to other persons.
- (5) The power conferred by section 17 is exercisable in relation to Crown land only with the consent of the appropriate authority.
- (6) In subsection (5)—
- (a) “Crown land” means land, an interest in which—
- (i) belongs to Her Majesty in right of the Crown or in right of Her private estates,
- (ii) belongs to an office-holder in the Scottish Administration or to a government department, or

- (iii) is held in trust for Her Majesty for the purposes of the Scottish Administration or a government department,
- (b) “appropriate authority”, in relation to any land—
- (i) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners,
- (ii) in the case of any other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration or, as the case may be, government department having the management of the land,
- (iii) in the case of land belonging to Her Majesty in right of Her private estates, means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,
- (iv) in the case of land belonging to an office-holder in the Scottish Administration or to a government department or held in trust for Her Majesty for the purposes of the Scottish Administration or a government department, means that office-holder or government department.
- (7) In subsection (6), the references in paragraph (a)(i) and (b)(iii) to Her Majesty’s private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c.37).
- (8) It is for the Scottish Ministers to determine any question which arises as to who is the appropriate authority in relation to any land, and their decision is final.”.

PART 8

GENERAL

79 SEPA’s power to obtain information about land

Section 27 of the Environment Act 1995 (c.25) (SEPA’s power to obtain information about land for the purposes mentioned in that section) applies where SEPA considers that it requires information relating to any land for the purpose of the exercise of any of its functions under section 16 or Part 5, subject to the modification that the notice served by SEPA under subsection (1) of that section must specify the land, the function and this Act.

80 Crown application

- (1) This Act binds the Crown.
- (2) The modifications made by schedule 3 bind the Crown to the extent that the enactments modified bind the Crown.
- (3) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable.
- (4) But the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

- (5) Despite subsection (3), any provision made by or under this Act applies to persons in the public service of the Crown as it applies to other persons.
- (6) The powers conferred by section 68 are exercisable in relation to Crown land only with the consent of the appropriate authority.
- 5 (7) In subsection (6)—
- (a) “Crown land” means land, an interest in which—
- (i) belongs to Her Majesty in right of the Crown or in right of Her private estates,
- (ii) belongs to an office-holder in the Scottish Administration or to a
10 government department, or
- (iii) is held in trust for Her Majesty for the purposes of the Scottish Administration or a government department,
- (b) “appropriate authority”, in relation to any land—
- (i) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners,
15
- (ii) in the case of any other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration or, as the case may be, government department having the management of the land,
- (iii) in the case of land belonging to Her Majesty in right of Her private estates, means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,
20
- (iv) in the case of land belonging to an office-holder in the Scottish Administration or to a government department or held in trust for Her Majesty for the purposes of the Scottish Administration or a government department, means that office-holder or government department.
25
- (8) In subsection (7), the references in paragraph (a)(i) and (b)(iii) to Her Majesty’s private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c.37).
- (9) It is for the Scottish Ministers to determine any question which arises as to who is the
30 appropriate authority in relation to any land, and their decision is final.

81 Offences by bodies corporate etc.

- (1) Where—
- (a) an offence under this Act has been committed by—
- (i) a body corporate,
- (ii) a Scottish partnership, or
35
- (iii) an unincorporated association other than a Scottish partnership, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
- (i) a relevant individual, or
40
- (ii) an individual purporting to act in the capacity of a relevant individual,

that individual (as well as the body corporate, partnership or, as the case may be, unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1), “relevant individual” means—

(a) in relation to a body corporate—

(i) a director, manager, secretary or other similar officer of the body,

(ii) where the affairs of the body are managed by its members, the members,

(b) in relation to a Scottish partnership, a partner, and

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

82 Ancillary provision

(1) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes, or in consequence, of, or for giving full effect to, this Act or any provision of it.

(2) An order under this section may modify any enactment, instrument or document.

83 Orders and regulations

(1) Any power of the Scottish Ministers to make orders or regulations under this Act—

(a) must be exercised by statutory instrument,

(b) may be exercised so as to make different provision for different purposes (including different areas), and

(c) includes power to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate.

(2) A statutory instrument containing an order or regulations made under this Act (except an order made under section 86(1)) is, subject to subsection (3), subject to annulment in pursuance of a resolution of the Parliament.

(3) A statutory instrument containing—

(a) an order under section 52(4),

(b) an order under section 82(1) containing provisions which add to, replace or omit any part of the text of an Act,

is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

84 Interpretation: general

(1) In this Act—

“the 2003 Act” means the Water Environment and Water Services (Scotland) Act 2003 (asp 3),

“flood protection work” means any operation on land for the purpose of protecting any land from flooding including—

- (a) any work of construction, alteration, improvement, repair, maintenance, demolition or removal,
- (b) the sowing or planting of vegetation or forestry,
- (c) any work ancillary to an operation specified in paragraph (a) or (b),

5 “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39), and “area” in relation to such an authority is to be construed accordingly,

“scheme operation” means, in relation to a flood protection scheme, an operation described in that scheme in pursuance of section 52(2)(a).

10 (2) The words and other expressions listed in schedule 4 are defined or otherwise explained for the purposes of this Act by the provisions indicated in that schedule.

85 Minor and consequential modifications

Schedule 3 makes—

- (a) minor modifications, and
- 15 (b) modifications consequential on the provisions of this Act.

86 Commencement and short title

- (1) The provisions of this Act, except this section and sections 3 to 6, 48, 61, 83 and 84, come into force on such day as the Scottish Ministers may by order appoint.
- (2) This Act may be cited as the Flood Risk Management (Scotland) Act 2009.

SCHEDULE 1
(introduced by section 23(5)(a))

MATTERS TO BE INCLUDED IN FLOOD RISK MANAGEMENT PLANS

PART 1

MATTERS TO BE INCLUDED IN EVERY PLAN

5

1 A description of—

- (a) the objectives set by SEPA for the management of flood risks for the potentially vulnerable areas,
- (b) the measures identified for achieving those objectives, and
- (c) the priority to be given to implementing each measure including an indication of whether the measure is to be implemented before or after the plan is next reviewed under section 28.

10

2 The conclusions of the flood risk assessment as required by section 9 in the form of a map of the flood risk management district delineating the potentially vulnerable areas which are the subject of the flood risk management plan.

15

3 Flood hazard maps and flood risk maps prepared under section 17 and the conclusions that can be drawn from those maps.

4 A summary of flood-related measures taken under—

- (a) Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment,
- (b) Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances,
- (c) Directive 2001/42/EC of the European Parliament and the Council on the assessment of the effects of certain plans and programmes on the environment,
- (d) any other Community instrument which SEPA considers relevant to flood risk management, and
- (e) the 2003 Act.

20

25

5 A description of—

- (a) how the priority given to implementing each measure under paragraph 1(c) was determined, and
- (b) the way in which progress in implementing the plan will be monitored.

30

6 A summary of—

- (a) the steps taken under subsections (2) to (5) of section 25 in relation to the plan,
- (b) any other consultation measures taken in connection with the preparation of the plan (including those taken in connection with the flood risk assessment mentioned in paragraph 2 and the maps mentioned in paragraph 3), and
- (c) changes made to the plan in light of the views and representations received on it.

35

7 Information as to SEPA.

- 8 A description of the coordination process with the arrangements made under Part 1 of the 2003 Act including, in particular, anything done in pursuance of section 41.

PART 2

COMPONENTS OF THE SUBSEQUENT UPDATE OF FLOOD RISK MANAGEMENT PLANS

- 5 9 A summary of any changes which have been made as compared to the previous version of the plan.
- 10 An assessment of the progress made towards the achievement of the objectives included in the plan under paragraph 1(a).
- 10 11 A summary of any measures included in the previous plan under paragraph 1(b) which were not implemented, with reasons for the non-implementation.
- 12 A description of any other measures implemented since the publication of the previous version of the plan which SEPA considers have contributed to the achievement of the objectives included in the plan under paragraph 1(a).

SCHEDULE 2

(introduced by section 52)

FLOOD PROTECTION SCHEMES: PROCEDURE ETC.

Notification

- 1 (1) The local authority must give notice of a proposed flood protection scheme—
- 20 (a) in at least one newspaper circulating in the local authority's area (which must, if practicable, be a local newspaper),
- (b) where any of the proposed operations are to take place in another local authority's area, in at least one newspaper circulating in that area (which must, if practicable, be a local newspaper),
- (c) in the Edinburgh Gazette,
- 25 (d) to every person known to the local authority—
- (i) to have an interest in any land on which the proposed operations are to be carried out, or
- (ii) whose interest in any other land may be affected by any of the proposed operations or by any alteration in the flow of water caused by any of the proposed operations,
- 30 (e) where any of the proposed operations are to be carried out on land affected by an improvement order, to each of the authorised persons,
- (f) to the following persons—
- (i) SEPA,
- 35 (ii) Scottish Natural Heritage,
- (iii) any local authority in whose area any of the proposed operations are to be carried out,

(iv) where any of the proposed operations are to be carried out in a National Park, the National Park authority for that National Park,

5 (v) any responsible authority whose flood risk related functions may be affected by any of the operations or by any alteration in the flow of water caused by any of the operations (insofar as the authority has not been notified under another provision of this sub-paragraph),

(vi) any statutory undertaker whose statutory undertaking may be affected by any of the operations or by any alteration in the flow of water caused by any of the operations,

10 (vii) any other person specified by order by the Scottish Ministers, and

(g) in such other manner as the authority considers appropriate.

(2) The local authority must also display a notice of the proposed flood protection scheme in a prominent position in the locality in which the operations are to be carried out.

(3) A notice given under sub-paragraph (1) or (2) must—

15 (a) contain a general description of the effect of the proposed scheme including—

(i) a summary of the operations to be carried out, and

(ii) a summary of the benefits which the local authority considers are likely to be derived from carrying out the operations,

20 (b) state where and at what times the scheme documents can be inspected in pursuance of paragraph 2, and

(c) state that objections can be made about the proposed scheme to the local authority before the expiry of the period of 28 days beginning with the date notice is first published under sub-paragraph (1)(a).

25 (4) Notices under sub-paragraph (1)(d) and (f) and sub-paragraph (2) must be given or, as the case may be, displayed no later than the date that notice is first published under sub-paragraph (1)(a).

(5) In sub-paragraph 1(1)(e), “improvement order” and “authorised persons” have the meanings given in the Land Drainage (Scotland) Act 1958.

Public inspection of scheme proposal

30 2 (1) The local authority must make a copy of the scheme documents available for public inspection in a place in the authority’s area.

(2) Where the proposed operations are to be carried out in another local authority’s area, the authority must also make the scheme documents available for public inspection in a place in the other authority’s area.

35 (3) The scheme documents must be available for inspection at all reasonable times during the period from the date notice is given under paragraph 1(1)(a) until the date a decision is made under paragraph 4(1), 7(4) or, as the case may be, 9(1).

Objections

3 (1) Any person may object to a proposed flood protection scheme.

40 (2) An objection is valid if it—

- (a) is made in writing,
- (b) sets out the name and address of the objector, and
- (c) is made before the expiry of the period of 28 days beginning with the date notice of the scheme is first published under paragraph 1(1)(a).

- 5 (3) An objection which is made by electronic means is to be treated as being in writing if it is received in a form which is legible and capable of being used for subsequent reference.
- (4) In this schedule, a “late objection” is an objection that would be a valid objection but for the fact that it was made after the end of the period specified in sub-paragraph (2)(c).

10 *Decision where no valid objections received*

- 4 (1) Where, in relation to a proposed flood protection scheme, the local authority receives no valid objections the local authority must, after the expiry of the period referred to in paragraph 3(2)(c), either—
- (a) confirm the proposed scheme, or
 - 15 (b) reject the proposed scheme.
- (2) But if, before the local authority makes its decision under sub-paragraph (1), it receives a late objection it must treat that objection as a valid objection for the purposes of sub-paragraph (1) and paragraph 5 if satisfied that it was reasonable for the objector to make the objection after the deadline for doing so.

20 *Preliminary decision following objections*

- 5 (1) Where, in relation to a proposed flood protection scheme, the local authority receives a valid objection, it must make a preliminary decision to—
- (a) confirm the proposed scheme without modification,
 - (b) confirm the proposed scheme with modifications, or
 - 25 (c) reject the proposed scheme.
- (2) Before making the decision under sub-paragraph (1), the local authority—
- (a) must consider—
 - (i) any valid objections (unless withdrawn), and
 - 30 (ii) any late objection if the authority is satisfied that it was reasonable for the objector to make the objection after the deadline for doing so, and
 - (b) may also consider any other matters it considers appropriate.
- (3) The local authority must give notice of its decision under sub-paragraph (1) to every person who made an objection which it considered.
- (4) A person who made such an objection is referred to in this schedule as a “relevant objector”.
- 35 (5) Where any relevant objector is a person to whom sub-paragraph 6 applies, the local authority must also give to the Scottish Ministers notice of its decision together with—
- (a) the scheme documents,
 - (b) a summary of the objections received by the local authority,

- (c) copies of those objections, and
 - (d) copies of any other material considered by the local authority.
- (6) This sub-paragraph applies to any person—
- (a) having any interest in any land on which the proposed operations are to be carried out,
 - (b) whose interest in any other land may be affected by any of the operations or by any alteration in the flow of water caused by any of the operations, or
 - (c) referred to in paragraph 1(1)(e) or (f).

Ministerial call-in

- 10 6 (1) Where the Scottish Ministers receive a notice under paragraph 5(5) and any relevant objector is a local authority or a National Park authority, the Scottish Ministers must consider the proposed flood protection scheme.
- (2) Otherwise, the Scottish Ministers must, within 28 days of receipt, advise the local authority proposing the scheme either—
- 15 (a) that they will not consider the proposed scheme, or
- (b) that they will consider the proposed scheme.
- (3) In making their decision under sub-paragraph (2), the Scottish Ministers must have regard to—
- (a) the extent of the proposed operations,
- 20 (b) the likely reduction in flood risk that will result from the completion of those operations,
- (c) the nature of the objections made,
- (d) the likely effect on the objectors of the scheme being confirmed, and
- (e) the extent to which the objections appear to raise issues of disputed fact.
- 25 (4) The Scottish Ministers may extend the period mentioned in sub-paragraph (2) by up to 28 days if—
- (a) they require more time to consider their decision under that sub-paragraph, and
- (b) the period has not expired.
- (5) The Scottish Ministers must notify the local authority proposing the scheme of any decision under sub-paragraph (4) to extend the period as soon as reasonably practicable after making that decision.
- 30 (6) The local authority proposing the scheme must provide such further information as the Scottish Ministers request for the purpose of making their decision under sub-paragraph (2).

35 *Ministerial consideration of proposed scheme*

- 7 (1) This paragraph applies where the Scottish Ministers are required under paragraph 6(1), or decide under paragraph 6(2), to consider the proposed scheme.
- (2) The Scottish Ministers must cause a public local inquiry to be held unless all objections made by relevant objectors have been withdrawn.

- (3) Subsections (2) to (9) of section 210 of the Local Government (Scotland) Act 1973 (c.65) (which relate to the holding of local inquiries) apply in relation to a public local inquiry held under sub-paragraph (2) as they apply in relation to local inquiries held under that section.
- 5 (4) After considering the material received under paragraph 5(5) and the report of the person who held the public local inquiry (if one was held), the Scottish Ministers must—
- (a) confirm the scheme without modification,
 - (b) confirm the scheme with modifications, or
 - 10 (c) reject the scheme.
- (5) The Scottish Ministers may not confirm a scheme with modifications unless they have—
- (a) given notice of the proposed modification to the relevant objectors and anyone else the Scottish Ministers consider is affected by them at least 28 days before confirming the scheme,
 - 15 (b) given those persons an opportunity to make objections about the proposed modifications, and
 - (c) considered any objections so made.
- (6) The Scottish Ministers must notify the local authority of their decision as soon as reasonably practicable after making it.

20 *Local authority hearing to consider proposed scheme*

- 8 (1) This paragraph applies where—
- (a) the local authority has made a preliminary decision in relation to a proposed scheme under paragraph 5, and
 - (b) paragraph 7 does not apply.
- 25 (2) Before making a final decision under paragraph 9, the local authority—
- (a) must, if it has notified the Scottish Ministers under paragraph 5(5) but they have decided not to consider the proposed scheme,
 - (b) may, in any other case,
- hold a hearing to consider the proposed scheme.
- 30 (3) The local authority must—
- (a) invite to the hearing each objector who has made a valid objection (unless withdrawn) or a late objection which the authority intends to consider, and
 - (b) give notice of the hearing in the manner set out in paragraphs 1(1)(a) and (b).
- (4) An invitation under sub-paragraph (3)(a) must be given not less than 28 days before the proposed hearing.
- 35 (5) Notices given under sub-paragraph (3)(b) must be published at least 21 days before the proposed hearing.

Final decision following preliminary decision

- 9 (1) Unless paragraph 7 applies, the local authority must make a final decision in relation to the proposed scheme by—
- (a) confirming the proposed scheme without modifications,
 - 5 (b) confirming the proposed scheme with modifications, or
 - (c) rejecting the proposed scheme.
- (2) Before making a final decision, a local authority must consider—
- (a) any valid objections (unless withdrawn),
 - 10 (b) any late objection if the authority is satisfied that it was reasonable for the objector to make the objection after the deadline for doing so, and
 - (c) any representations made at a hearing held under paragraph 8.
- (3) A local authority may not confirm a scheme with modifications unless it has—
- 15 (a) given notice of the proposed modifications to the relevant objectors and anyone else who the local authority considers is affected by them at least 28 days before confirming the scheme,
 - (b) given those persons an opportunity to make objections about the proposed modifications, and
 - (c) considered any objections so made.

Notice of final decision

- 20 10 (1) Where—
- (a) a local authority makes a decision under paragraph 4(1) or 9(1), or
 - (b) the Scottish Ministers make a decision under paragraph 7(4),
- the local authority must give notice of the decision in accordance with sub-paragraph (2).
- 25 (2) Notice must be given—
- (a) to every person given notice in relation to the proposed scheme under paragraph 1(1)(d) to (f),
 - (b) to every relevant objector,
 - (c) to anyone else who was notified under paragraph 7(5)(a) or 9(3)(a), and
 - 30 (d) where the decision is to confirm the proposed scheme (with or without modifications), in the manner set out in paragraph 1(1)(a) to (c).

Commencement of scheme

- 11 A scheme becomes operative 6 weeks after notice of its confirmation is published in a newspaper circulating in the local authority's area under paragraph 10(2)(d).

Appeals

12 (1) A decision to confirm a proposed scheme made by a local authority or the Scottish Ministers (other than a decision under paragraph 5(1)) may be appealed by any person affected by the confirmed scheme.

5 (2) An appeal must be made before the expiry of the period of 6 weeks beginning with the day notice is published under paragraph 10(2)(d) in a newspaper circulating in the local authority's area.

(3) An appeal under this paragraph is to be made by way of summary application to the sheriff of an appropriate sheriffdom.

10 (4) An "appropriate sheriffdom" is a sheriffdom in which some or all of the proposed operations are to be carried out.

(5) The grounds on which a decision can be appealed are—

(a) that the confirmed scheme breaches the restriction in subsection (3) of section 53 or does not comply with the requirement in subsection (4) of that section,

15 (b) that, in reaching the decision, the local authority or, as the case may be, the Scottish Ministers erred in law, or

(c) that there was a failure to comply with a procedural requirement contained in this schedule or regulations made under it.

20 (6) The sheriff may, on the application of the appellant, suspend the operation of the scheme, or of any part of it, either generally or insofar as it affects any interest in land which the appellant has, pending determination of the appeal.

(7) If the sheriff is satisfied that the interests of the applicant have been substantially prejudiced by—

25 (a) the confirmed scheme breaching the restriction in subsection (3) of section 53 or not complying with the requirement in subsection (4) of that section,

(b) an error of law, or

(c) a failure to comply with a procedural requirement contained in this schedule or regulations made under it,

30 then the sheriff may uphold the appeal and quash the scheme, or any part of it, either generally or insofar as it affects any interest in land which the appellant has.

Assessment of environmental effects

13 The Scottish Ministers may by regulations make provision about the consideration to be given, before a flood protection scheme is confirmed under paragraph 4, 7 or 9, to the likely environmental effects of the operations proposed in the scheme.

Further provision

35 14 (1) The Scottish Ministers may by regulations make further provision about the procedure to be followed in connection with flood protection schemes.

(2) Regulations may, in particular, make provision about—

40 (a) the form and manner in which objections are to be made, including specifying circumstances in which objections are to be considered withdrawn,

- (b) the procedure to be followed at a hearing held under paragraph 8,
- (c) the form of any notice given under this schedule and the manner in which it is to be given.

SCHEDULE 3
(introduced by section 85)

MINOR AND CONSEQUENTIAL MODIFICATIONS

Land Drainage (Scotland) Act 1958 (c.24)

- 1 (1) The Land Drainage (Scotland) Act 1958 is amended as follows.
- 10 (2) In section 1(1), (2)(a) and (b) (application for improvement order and making of order by Secretary of State), the words “flooding or” are repealed.
- (3) In section 2(1)(c) (contents of improvement order), the words “flooding or” are repealed.
- (4) In the definition of “drainage works” in section 18(1) (interpretation), the words “flooding or” are repealed.

15 *Agriculture Act 1970 (c.40)*

- 2 In the Agriculture Act 1970, sections 92 (provision of flood warning systems by SEPA in Scotland) and 94 (arrangements by SEPA with others relating to apparatus for flood warning systems in Scotland) are repealed.

Roads (Scotland) Act 1984 (c.54)

- 20 3 In section 32 of the Roads (Scotland) Act 1984 (contributions to drainage works and flood prevention operations), for “flood prevention operations under the Flood Prevention (Scotland) Act 1961” substitute “flood protection work under section 49 of the Flood Risk Management (Scotland) Act 2009 (asp 00)”.

Local Government etc. (Scotland) Act 1994 (c.39)

- 25 4 Paragraph 56 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 is repealed.

Environment Act 1995 (c.25)

- 5 Section 25 of the Environment Act 1995 (assessment by SEPA of flood risk and advice by SEPA to planning authorities about such risk) is repealed.

30 *Planning (Consequential Provisions) (Scotland) Act 1997 (c.11)*

- 6 Paragraph 8 of Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 is repealed.

Flood Prevention and Land Drainage (Scotland) Act 1997 (c.36)

- 7 The Flood Prevention and Land Drainage (Scotland) Act 1997 is repealed.

Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5)

8 Paragraph 24 of schedule 12 to the Abolition of Feudal Tenure etc. (Scotland) Act 2000 is repealed.

Water Industry (Scotland) Act 2002 (asp 3)

5 9 Paragraph 3 of schedule 7 to the Water Industry (Scotland) Act 2002 is repealed.

Water Environment and Water Services (Scotland) Act 2003 (asp 3)

10 In section 2(4)(b)(i) of the Water Environment and Water Services (Scotland) Act 2003 (general duties under that Act), after “flood” insert “risk”.

SCHEDULE 4
(introduced by section 84(2))

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Flood Risk Management (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the assessment and management of flood risks, including provision for implementing European Parliament and Council Directive 2007/60/EC; to make provision about local authorities' and the Scottish Environment Protection Agency's functions in relation to flood risk management; to amend the Reservoirs Act 1975; and for connected purposes.

Introduced by: Richard Lochhead
On: 29 September 2008
Bill type: Executive Bill

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