

Flood Risk Management (Scotland) Bill

2nd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 23	Schedule 1
Sections 24 to 52	Schedule 2
Sections 53 to 84	Schedule 4
Section 85	Schedule 3
Section 86	Long title

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

Section 24

Bill Wilson

- 86** In section 24, page 12, line 12, at end insert <including social, environmental and economic costs,>

Roseanna Cunningham

- 28** In section 24, page 12, line 13, leave out from <(in> to end of line 16 and insert <that are likely to be derived from implementing proposed measures, including—
- () the benefits in terms of reducing the potential adverse consequences of flooding for human health, the environment, cultural heritage and economic activity, and
 - () any other environmental, social, and economic benefits,>

Roseanna Cunningham

- 29** In section 24, page 12, line 17, at end insert <including the management of surface run-off water and urban drainage>

Roseanna Cunningham

- 30** In section 24, page 12, line 20, at end insert—
- <() any plan or assessment published under section 2(1)(f) of the Civil Contingencies Act 2004 (c.36) relating to the district,>

Roseanna Cunningham

- 31** In section 24, page 12, line 28, leave out subsections (2) and (3) and insert—
- <(2A) For the purposes of subsection (1)(b)—
 - (a) a measure is structural if it involves flood protection work, and

- (b) non-structural measures include flood warning, awareness raising and the preparation and review of development plans.

(2B) In subsections (1)(a)(viii) and (2A)(b)—

“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.>

Section 25

John Scott

- 87** In section 25, page 13, line 22, leave out <considers> and insert <or the Scottish Ministers consider>

Section 27

Peter Peacock

- 71** In section 27, page 14, line 26, at end insert—

<(1A) In considering whether to approve a particular flood risk management plan, the Scottish Ministers must have regard to the other flood risk management plans to be approved within the same timescale and in particular to whether—

(a) the measures identified in the plans (taken together) as being for implementation before each plan is next reviewed under section 28, and

(b) the priority to be given to each such measure within that period,

constitute an appropriate national implementation programme.

(1B) If the Scottish Ministers conclude that, taken together, those measures do not constitute an appropriate national implementation programme they must—

(a) under subsection (1)(a), approve the plan with any modifications necessary, or

(b) under subsection (1)(b), reject the plan and direct SEPA under subsection (4) to make such modifications of the plan as are necessary,

to ensure that the relevant measures in the set of flood risk management plans due to be approved within the same timescale as the plan in question do constitute such a programme.

(1C) Subsection (1B) does not affect the Scottish Ministers’ other powers to approve, reject or make, or direct SEPA to make, modifications of a flood risk management plan under this section.>

After section 28

Peter Peacock

- 72** After section 28, insert—

<Strategic assessment and interim strategic assessment

- (1) SEPA must, as soon as practicable after a set of flood risk management plans for any period are approved under section 27, prepare and submit to the Scottish Ministers a report under this subsection (“a strategic assessment”).
- (2) A strategic assessment must include a national implementation programme setting out—
 - (a) the measures identified in each flood risk management plan (as approved under section 27) as being for implementation before the plan is next reviewed under section 28, and
 - (b) the proposed priority to be given to implementing each such measure.
- (3) A strategic assessment must also include an estimated—
 - (a) cost of, and
 - (b) timescale for,implementing each such measure.
- (4) A strategic assessment must also set out the measures identified in each flood risk management plan as being for implementation in each of the periods mentioned in paragraph 1(c)(ii) to (iv) of schedule 1.
- (5) A strategic assessment to which subsection (6)(b) or (c) applies must also include an assessment of the progress made in implementing the national implementation programme set out in the previous strategic assessment.
- (6) A strategic assessment relating to the set of flood risk management plans to which—
 - (a) section 23(3) applies must be laid before the Scottish Parliament by the Scottish Ministers no later than 3 months after the last plan in the set is approved,
 - (b) section 28(2) applies must be laid before the Scottish Parliament by the Scottish Ministers no later than 3 months after the last plan in the set is approved,
 - (c) paragraph (b) of section 28(1) applies must be laid before the Scottish Parliament by the Scottish Ministers no later than 3 months after the last plan in the set to be approved by the end of each period of 6 years mentioned in that paragraph is approved.
- (7) Where by virtue of subsection (6)(c) no strategic assessment is due to be laid before the Scottish Parliament within any period between two ordinary general elections (as scheduled to take place under or by virtue of section 2 of the Scotland Act 1998), SEPA is to prepare and submit to the Scottish Ministers (by such date as the Scottish Ministers specify) a report under this subsection (“an interim strategic assessment”).
- (8) An interim strategic assessment must contain—
 - (a) such of the information contained in the previous strategic assessment as remains relevant at the time the interim strategic assessment is prepared, and
 - (b) an assessment of the progress made in implementing the national implementation programme set out in the previous strategic assessment.
- (9) An interim strategic assessment must be laid before the Scottish Parliament by the Scottish Ministers on such date within the period mentioned in subsection (7) as the Scottish Ministers consider appropriate.>

Section 29

Peter Peacock

125 In section 29, page 15, line 32, at end insert—

<() an assessment of the potential contribution that alteration (including enhancement) or restoration of natural features and characteristics of any river basin or coastal area within the local plan district could make to flood risk management within the district.>

Roseanna Cunningham

32 In section 29, page 15, line 33, after <plan> insert <including such—

- (i) maps, and
- (ii) further information about the measures summarised under paragraph (a),>

Elaine Murray

123 In section 29, page 16, line 2, at end insert—

<() Where the summary under subsection (3)(a) includes reference to the contribution that natural features and characteristics could make to flood risk management within the local plan district, information included under subsection (3)(b)(ii) must include the lead authority's detailed assessment of the contribution those features and characteristics could make to the management of flood risk within that district.>

Roseanna Cunningham

33 In section 29, page 16, line 10, at end insert—

<() a description of how the functions of the persons identified under paragraph (b)(i) will be coordinated to implement the measures and, in particular, a description of how those functions will be coordinated insofar as the measures relate to surface run-off water or urban drainage, and>

Peter Peacock

126 In section 29, page 16, line 12, at end insert—

<(4A) Subsection (4B) applies where the implementation of any current measure is not to involve the alteration (including enhancement) or restoration of natural features and characteristics of any river basin or coastal area within the local plan district.

(4B) The implementation part must explain why that implementation is not to involve such alteration or restoration.>

Roseanna Cunningham

90 In section 29, page 16, line 16, at end insert—

<() Before making regulations under subsection (6), the Scottish Ministers must consult—

- (a) SEPA,
- (b) every responsible authority, and

(c) such other persons as they consider appropriate.>

Section 30

Roseanna Cunningham

91 In section 30, page 16, line 38, leave out <a local> and insert <the relevant>

Roseanna Cunningham

92 In section 30, page 16, line 40, after second <the> insert <local flood risk management>

Section 34

Bill Wilson

89 In section 34, page 19, line 23, at end insert—

<() In pursuance of subsection (1), those authorities may use any means of working together (including, for example, a joint board established by the Scottish Ministers under section 62A of the Local Government (Scotland) Act 1973 (c.65)).>

Section 36

Peter Peacock

73 In section 36, page 20, line 22, at end insert—

<() The Scottish Ministers must, in determining any funding to be allocated to SEPA or any responsible authority for any period, have regard to the national implementation programme covering that period.>

Peter Peacock

74 In section 36, page 20, line 22, at end insert—

<() The Scottish Ministers must, in determining any funding to be allocated to SEPA or any responsible authority for any period, have regard to flood risk management plans and local flood risk management plans as they relate to that period.>

After section 36

Rhoda Grant

75 After section 36, insert—

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

- (1) The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (SSI 2008/426) are amended as follows.
- (2) In regulation 1(1) (citation, commencement and interpretation) insert at the appropriate place in alphabetical order the following definitions—

““flood risk management plan” means a flood risk management plan approved under section 27 of the Flood Risk Management (Scotland) Act 2009;”,

““local flood risk management plan” means a local flood risk management plan finalised under section 31 of the Flood Risk Management (Scotland) Act 2009;”.

(3) After regulation 3(1)(e) (information and considerations) insert—

“(ea) any flood risk management plan relating to the strategic development plan area;”.

(4) After regulation 10(1)(f) (information and considerations) insert—

“(fa) any local flood risk management plan relating to the local development plan area;”>.

Peter Peacock

127 After section 36, insert—

<Town and Country Planning (Scotland) Act 1997

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

“(2A) Where an assessment has been carried out under paragraph 1(1) of schedule 5 to the Town and Country Planning (Development Planning Procedure) (Scotland) Regulations 2008 (SSI 2008/432), that assessment is, for the purposes of subsection (2), a material consideration.”>

Section 37

Roseanna Cunningham

34 In section 37, page 20, line 31, after <10,> insert <(SEPA to prepare maps of artificial structures and natural features),>

Roseanna Cunningham

35 In section 37, page 20, line 31, after <10,> insert <16,>

Section 38

Roseanna Cunningham

93 In section 38, page 21, line 31, leave out <other>

Roseanna Cunningham

94 In section 38, page 21, line 31, after <not> insert <SEPA, a responsible authority or>

After section 38

Roseanna Cunningham

36 After section 38, insert—

<Power of local authorities to obtain information

- (1) A person mentioned in subsection (2) must, on being requested by a local authority, provide the authority with such information in its possession or under its control as the authority may reasonably seek in connection with its functions under sections (*Local authorities to prepare maps of bodies of water etc.*) and 56.
- (2) Those persons are—
 - (a) SEPA, and
 - (b) any other responsible authority which has flood risk related functions exercisable in or in relation to the local authority's area.
- (3) Where SEPA or, as the case may be, a responsible authority cannot agree with the local authority on whether information is being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.>

Section 42

Roseanna Cunningham

37 In section 42, page 23, line 27, after <features> insert <and characteristics>

Section 43

Roseanna Cunningham

38 In section 43, page 24, line 26, after <features> insert <and characteristics>

Roseanna Cunningham

95 In section 43, page 25, line 9, at end insert—

- <() In determining the remit and membership of a sub-district advisory group, SEPA must seek to ensure appropriate representation of the interests of—
- (a) every responsible authority which has functions exercisable in or in relation to the sub-district,
 - (b) Scottish Natural Heritage,
 - (c) where any part of the sub-district has been designated as a National Park, the National Park authority for the National Park, and
 - (d) such other persons as appear to SEPA to have an interest in flood risk management for the sub-district.>

Section 46

Roseanna Cunningham

- 39 In section 46, page 26, line 2, at end insert <unless the document is—
- (a) a map prepared under section (*Local authorities to prepare maps of bodies of water etc.*), or
 - (b) a schedule prepared under section 56(1)(ba)>

Section 48

Roseanna Cunningham

- 40 In section 48, page 26, line 20, leave out <“river basin” has the same meaning> and insert <“body of surface water”, “loch”, “river basin” and “watercourse” have the same meanings>

Roseanna Cunningham

- 41 In section 48, page 26, line 20, at end insert—
- <“sub-basin” means an area of land from which all surface run-off water flows through a series of streams, rivers, other watercourses and, as the case may be, lochs to a particular point in a watercourse or loch,>

Roseanna Cunningham

- 42 In section 48, page 26, line 21, leave out from <has> to end of line and insert <means an area of ground the ecological, chemical and hydrological characteristics of which are attributable to frequent inundation or saturation by water.>

Section 49

Elaine Murray

- 128 In section 49, page 27, line 10, at end insert—
- <() apply to the Scottish Ministers for a land management order (see section (*Land Management Orders*)),>

After section 49

Elaine Murray

- 129 After section 49, insert—
- <Land management orders**
- Chapter 3 (land management orders) of Part 2 of, and schedule 3 (land management orders and related orders: procedure) to, the Nature Conservation (Scotland) Act 2004 (asp 6) apply, with these modifications—

- (a) any reference to land which is, which forms part of, or which is contiguous to a site of special scientific interest is to be construed as a reference to land on which the local authority considers it necessary to carry out—
 - (i) operations to which a flood protection scheme relates (see section 52 of this Act), or
 - (ii) other flood protection work,
- (b) any reference to SNH is to be construed as a reference to a local authority acting in pursuance of section 49 of this Act,
- (c) any reference to the conservation, restoration or enhancement of any natural feature specified in an SSSI notification, or to the carrying out of operations for such conservation, restoration, or enhancement, is to be construed as a reference to—
 - (i) the carrying out of operations to which a flood protection scheme relates, or
 - (ii) other flood protection work,
- (d) any reference to a management agreement is to be construed as a reference to an agreement or arrangement under section 49(2)(d) of this Act between the local authority and the owner or occupier of the land to which the land management order relates.>

After section 51

Roseanna Cunningham

43 After section 51, insert—

<Clearance and repair works

Duty to carry out clearance and repair works

A local authority must carry out the works described in a schedule prepared by it under section 56 if it considers carrying out the works—

- (a) will contribute to the implementation of current measures described in any relevant local flood risk management plan, or
- (b) will not affect the implementation of the measures mentioned in paragraph (a).>

Section 52

Roseanna Cunningham

96 In section 52, page 28, line 11, at end insert—

- <() Before making an order under subsection (4), the Scottish Ministers must consult—
- (a) every local authority,
 - (b) such bodies appearing to them to be representative of the interests of local authorities as they consider appropriate,
 - (c) SEPA,
 - (d) Scottish Natural Heritage,

- (e) Scottish Water,
- (f) the National Park authority for each National Park, and
- (g) such other persons as they consider appropriate.>

After section 53

Roseanna Cunningham

97 After section 53, insert—

<Registers of flood protection schemes

- (1) Every local authority must keep a register of flood protection schemes.
- (2) A local authority must enter into its register—
 - (a) details of each relevant scheme including—
 - (i) a summary of the operations described in the scheme,
 - (ii) a description (by reference to a map) of the land affected by those operations, and
 - (iii) a note of the date on which notice of the scheme is first published under paragraph 1(1)(a) of schedule 2,
 - (b) a note of the following in relation to each such scheme—
 - (i) any decision made under paragraph 4(1), 5(1), 7(4), or 9(1) of schedule 2,
 - (ii) the fact that notice has been given to the Scottish Ministers under paragraph 5(5) of that schedule including whether any relevant objector is a local authority or a National Park authority,
 - (iii) the fact that notice has been given of proposed modifications under paragraph 7(5)(a) or 9(3)(a) of that schedule,
 - (c) where such a scheme is confirmed with modifications, the information specified in paragraph (a)(i) and (ii) in relation to the modified scheme, and
 - (d) a note of any suspension of the operation of such a scheme under paragraph 12(6) of schedule 2.
- (3) For the purposes of subsection (2)(a), a relevant scheme is a scheme—
 - (a) proposed by the local authority, or
 - (b) in relation to which it is notified under paragraph 1(1)(f)(iii) of schedule 2.
- (4) A local authority may remove information from its register relating to a scheme if the scheme is rejected under paragraph 4(1)(b), 7(4)(c) or 9(1)(c) of schedule 2.
- (5) A local authority must amend its register to reflect any decision of a sheriff under paragraph 12(7) of schedule 2 to quash a scheme recorded in its register in whole or in part.
- (6) Where a local authority enters information in its register about a scheme in relation to which it notified another local authority under paragraph 1(1)(f)(iii) of schedule 2, it must notify that authority of the information entered.
- (7) A local authority must make available its register for public inspection and may charge a reasonable fee for doing so.>

Roseanna Cunningham

98 After section 53, insert—

<Registers of flood protection schemes: information about schemes under 1961 Act

A local authority must enter into its register details of every flood prevention scheme made by it under the 1961 Act including—

- (a) a summary of the operations to which the scheme relates, and
- (b) a description (by reference to a map) of the land affected by those operations.>

Roseanna Cunningham

99 After section 53, insert—

<Registers of flood protection schemes: regulations etc.

- (1) The Scottish Ministers may by regulations make further provision about the keeping of registers under section (*Registers of flood protection schemes*)(1) including, in particular, provision as to—
 - (a) the content of a register,
 - (b) the time by which information must be entered into a register,
 - (c) the circumstances in which information may or must be removed from a register, and
 - (d) the time by which notice must be given under section (*Registers of flood protection schemes*)(6).
- (2) Regulations under subsection (1) may also—
 - (a) make further provision about the availability of registers under section (*Registers of flood protection schemes*)(7) including, in particular, provision as to the form and manner in which registers are to be made available,
 - (b) make provision—
 - (i) requiring local authorities to make available their registers to a person specified in the regulations,
 - (ii) as to the form and manner in which the registers are made available to the person,
 - (iii) requiring local authorities to inform the person of any change to their registers as soon as reasonably practicable or within a period specified in the regulations, and
 - (iv) requiring the person to make available information from local authorities' registers for public inspection.
- (3) References in this section and sections (*Registers of flood protection schemes*) and (*Registers of flood protection schemes: information about schemes under 1961 Act*) to a local authority's register are references to the register of flood protection schemes kept by the authority.>

Section 55

Roseanna Cunningham

- 100 In section 55, page 29, line 21, after <land> insert <(other than Crown land within the meaning of section 80(7)(a))>

Section 56

Roseanna Cunningham

- 44 In section 56, page 29, line 28, at end insert <(or when directed to do so by the Scottish Ministers)>

Roseanna Cunningham

- 45 In section 56, page 29, line 29, leave out <watercourses> and insert <relevant bodies of water (other than canals)>

Roseanna Cunningham

- 46 In section 56, page 29, line 30, leave out <watercourse> and insert <body of water>

Roseanna Cunningham

- 47 In section 56, page 29, leave out lines 32 to 35 and insert—
- <(ba) where—
- (i) a body of water gives rise to such a risk, and
 - (ii) the authority considers that clearance and repair works would substantially reduce that risk,
- prepare a schedule of those clearance and repair works.
- (1A) In subsection (1)(ba), clearance and repair works are works that consist of any or all of the following—
- (a) removing obstructions from a body of water,
 - (b) removing things that are at significant risk of becoming such obstructions,
 - (c) repairing artificial structures which form part of the bed or banks of a body of water.
- (1B) A schedule prepared under subsection (1)(ba) must—
- (a) indicate when the local authority next intends to carry out an assessment under subsection (1)(a) of the body of water in question,
 - (b) contain such other information and be in such form as the Scottish Ministers may specify in regulations.
- (1C) A local authority must make available for public inspection the schedule of clearance and repair works prepared under subsection (1)(ba) for the time being applicable to its area.>

Elaine Murray

- 76 In section 56, page 29, line 32, leave out from <consider> to end of line 35 and insert <cleanse, repair and otherwise maintain the watercourse and any apparatus ancillary to it in a due state of efficiency.>

Roseanna Cunningham

- 48 In section 56, page 29, line 37, leave out <watercourse> and insert <relevant body of water>

Roseanna Cunningham

- 49 Move section 56 to after section 15

Section 57

Roseanna Cunningham

- 101 In section 57, page 30, line 6, leave out <under section 49> and insert—
<(a) under section 49, or
(b) in accordance with a flood prevention scheme confirmed under section 4 of the 1961 Act,>

Elaine Murray

- 130 In section 57, page 30, line 6, after <49> insert <, or any cleansing, repairs or maintenance of watercourses required under section 56,>

Section 59

Roseanna Cunningham

- 102 In section 59, page 30, line 25, leave out from <in> to <Part> in line 26 and insert—
<(i) in exercise of any of its functions under this Part, or
(ii) in accordance with a flood prevention scheme confirmed under section 4 of the 1961 Act>

Section 60

Roseanna Cunningham

- 50 In section 60, page 31, line 8, leave out <Flood Prevention (Scotland) Act 1961 (c.41)> and insert <1961 Act>

Section 61

Elaine Murray

- 77 In section 61, page 31, line 10, at end insert—

<“cleanse” means the removal of mud, silt, debris or other obstructive matter in the ordinary course of good maintenance,>

Roseanna Cunningham

- 103** In section 61, page 31, line 17, leave out <has the meaning given in> and insert <means—
- (a) the holder of a licence under section 6(1) of the Electricity Act 1989 (c.29),
 - (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986 (c.44),
 - (c) the Civil Aviation Authority,
 - (d) a holder of a licence under Chapter 1 of the Transport Act 2000 (c.38),
 - (e) the operator of an electronic communications code network within the meaning of paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c.21), and
 - (f) any other person who is a statutory undertaker within the meaning of section 214(1) of>

Roseanna Cunningham

- 104** In section 61, page 31, line 19, at end insert—
- <() means, in relation to a person mentioned in paragraphs (a) to (e) in the definition of “statutory undertaker”, the person’s undertaking.>

Roseanna Cunningham

- 51** In section 61, page 31, leave out lines 24 to 31

After section 61

Peter Peacock

- 78** After section 61, insert—

<PART

FLOOD RISK MANAGEMENT: SCOTTISH WATER FUNCTIONS

Scottish Water

- (1) The Water Industry (Scotland) Act 2002 (asp 3) is amended as follows.
- (2) In section 29B(4), before paragraph (a) insert—

“(za) the Commission must have regard to Scottish Water’s duty under section 51(A),”.
- (3) In section 29D(4), for section “51(1)” substitute “sections 51(1) and 51A”.
- (4) After section 51, insert—

“51A Sustainable flood risk management

Scottish Water must, in exercising its functions, act in a way best calculated to promote sustainable flood risk management.”.
- (5) In section 56A(3), for “section 51(1)” substitute “sections 51(1) “and 51A”.>

Section 68

Roseanna Cunningham

105 In section 68, page 34, line 35, at end insert—

- <() section 9 (preparation of flood risk assessments),
- () section 10 (review and updating of flood risk assessments),>

Roseanna Cunningham

52 In section 68, page 34, line 37, at end insert—

- <() section (*SEPA to prepare maps of artificial structures and natural features*)
- (preparation of maps of artificial structures and natural features),>

Roseanna Cunningham

53 In section 68, page 35, line 2, after <features> insert <and characteristics>

Roseanna Cunningham

54 In section 68, page 35, line 9, at end insert—

- <() any land for the purposes of preparing, reviewing or updating a map under section (*Local authorities to prepare maps of bodies of water etc.*),
- () any land for the purposes of assessing a body of water under section 56,>

Roseanna Cunningham

106 In section 68, page 35, line 15, leave out <under section 49> and insert—

- <(i) under section 49, or
- (ii) in accordance with a flood prevention scheme confirmed under section 4 of the 1961 Act>

Roseanna Cunningham

55 In section 68, page 35, line 16, at end insert—

- <() any land for the purposes of carrying out works under section (*Duty to carry out clearance and repair works*), and>

Section 71

Roseanna Cunningham

56 In section 71, page 37, line 15, at end insert—

- <() the carrying out of works under section (*Duty to carry out clearance and repair works*), or>

Roseanna Cunningham

107 In section 71, page 37, line 15, at end insert—

<(ca) the variation or revocation of an improvement order under section 53, or>

Section 72

Roseanna Cunningham

108 In section 72, page 37, line 34, at end insert—

<() Subsection (2)(b) does not apply where the damage has been sustained in consequence of circumstances falling within section 71(2)(ca).>

Section 74

Roseanna Cunningham

109 In section 74, page 38, line 20, leave out <as soon as practicable> and insert <no later than 28 days>

Section 77

Roseanna Cunningham

110 In section 77, page 39, line 22, leave out <large raised reservoirs> and insert <reservoirs in Scotland which meet criteria specified in, or otherwise determined in accordance with, the regulations>

Roseanna Cunningham

111 In section 77, page 39, line 23, at end insert—

<() provide that the enforcement authority or another person—
(i) may specify the criteria, and
(ii) is to determine whether a reservoir meets the criteria,>

Roseanna Cunningham

112 In section 77, page 39, line 33, at end insert—

<() confer powers of entry on the enforcement authority in connection with its functions under the regulations,>

Roseanna Cunningham

113 In section 77, page 40, line 12, leave out <an order> and insert <regulations>

Roseanna Cunningham

114 In section 77, page 40, leave out line 15 and insert—

<() undertakers of reservoirs to which they consider the regulations will apply,>

Roseanna Cunningham

115 In section 77, page 40, line 17, at end insert—

- <() The power to make regulations under subsection (1) may be exercised so as to make different provision for different purposes.>

After section 77

Roseanna Cunningham

116 After section 77, insert—

<Flood plans

After section 12B of the 1975 Act, insert—

“12C Flood plans: Scotland

- (1) The Scottish Ministers may by regulations made by statutory instrument provide that a flood plan is to be prepared for each reservoir in Scotland which meets criteria specified in, or otherwise determined in accordance with, the regulations.
- (2) A “flood plan” is a plan setting out the action to be taken by the undertaker of the reservoir to which the plan relates in order to control or mitigate the effects of flooding likely to result from any escape of water from the reservoir.
- (3) The regulations may, in particular—
 - (a) provide that the enforcement authority or another person—
 - (i) may specify the criteria, and
 - (ii) is to determine whether a reservoir meets the criteria,
 - (b) specify what is to be included in a flood plan and may, in particular, provide that a plan must include a map,
 - (c) specify the form in which a flood plan is to be prepared,
 - (d) provide that it is for the undertaker of a reservoir or other person to prepare a flood plan in relation to the reservoir,
 - (e) require the person preparing a flood plan to have regard to guidance issued by the enforcement authority or the Scottish Ministers,
 - (f) require the flood plan to be produced or submitted to the enforcement authority by such time as—
 - (i) the regulations specify, or
 - (ii) the authority or Scottish Ministers may direct,
 - (g) make provision about the approval of flood plans,
 - (h) make provision for the review and updating of flood plans,
 - (i) provide for a register of flood plans to be established and maintained,
 - (j) make provision for the publication, or distribution of copies, of—
 - (i) a list of reservoirs in relation to which a flood plan must be prepared by virtue of the regulations,

- (ii) flood plans, and
 - (iii) reports,
 - (k) make provision in connection with the testing of flood plans,
 - (l) require the undertaker of a reservoir to take action set out in the flood plan relating to the reservoir in the event of an emergency,
 - (m) provide that the enforcement authority may, in circumstances specified in the regulations, do anything that another person is required to do under the regulations and may recover the costs of doing so from that person,
 - (n) confer powers of entry on the enforcement authority in connection with its functions under the regulations,
 - (o) make provision in connection with paragraphs (m) and (n) amending this Act (other than this section) or applying this Act with modifications,
 - (p) create offences,
 - (q) provide that any offence created is triable—
 - (i) only summarily, or
 - (ii) either summarily or on indictment,
 - (r) 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,
 - (s) 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.
- (4) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) SEPA,
 - (b) undertakers of reservoirs for which they consider a flood plan will require to be prepared under the regulations,
 - (c) the Institution of Civil Engineers, and
 - (d) such other persons as they consider appropriate.
- (5) The power to make regulations under subsection (1) may be exercised so as to make different provision for different purposes.
- (6) 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.”.>

Section 79

Roseanna Cunningham

57 In section 79, page 41, line 31, leave out <section 16 or Part 5> and insert <this Part>

Roseanna Cunningham

58 Move section 79 to after section 67

Section 81

Roseanna Cunningham

117 In section 81, page 43, line 7, leave out <the members> and insert <a member>

After section 81

Derek Brownlee

124 After section 81, insert—

<Annual financial impact report

- (1) As soon as is practicable, and no later than six months, after the end of a relevant period the Scottish Ministers must prepare and lay before the Scottish Parliament a report containing the information specified in subsection (2).
- (2) That information is—
 - (a) the costs—
 - (i) incurred by the Scottish Administration, SEPA and each of the groups of bodies mentioned in subsection (9); and
 - (ii) estimated by the financial memorandum to be incurred by the Scottish Administration, SEPA and each such group of bodies,
in implementing this Act in the relevant period to which the report relates;
 - (b) the total costs—
 - (i) incurred by the Scottish Administration, SEPA and each of the groups of bodies mentioned in subsection (9); and
 - (ii) estimated by the financial memorandum to be incurred by the Scottish Administration, SEPA and each such group of bodies,
in implementing this Act in the period from Royal Assent to the end of the relevant period to which the report relates;
 - (c) the difference between the figure listed for each of the Scottish Administration, SEPA and the groups of bodies mentioned in subsection (9) by virtue of—
 - (i) subsection (2)(a)(i); and
 - (ii) subsection (2)(a)(ii); and
 - (d) the difference between the figure listed for each of the Scottish Administration, SEPA and the groups of bodies mentioned in subsection (9) by virtue of—
 - (i) subsection (2)(b)(i); and
 - (ii) subsection (2)(b)(ii).
- (3) The difference identified by virtue of—
 - (a) subsection (2)(c) must be stated as an amount; and

- (b) subsection (2)(c) or (d) must be stated as a percentage of the relevant figure in the financial memorandum (unless the relevant figure in the financial memorandum was zero).
- (4) Subsection (5) applies where—
 - (a) any difference stated as mentioned in subsection (3)(a)—
 - (i) is between £1 million and £5 million (but only where the relevant figure in the financial memorandum was zero); or
 - (ii) exceeds £5 million;
 - (b) any difference stated as mentioned in subsection (3)(b) is—
 - (i) less than 95%; or
 - (ii) greater than 105%.
- (5) The report must—
 - (a) explain the reason for the difference; and
 - (b) set out any action the Scottish Ministers propose to take as a result of the difference arising (or the reason for no action being proposed).
- (6) In preparing the report the Scottish Ministers must—
 - (a) invite SEPA and the groups of bodies mentioned in subsection (9) to provide them with such information as the groups of bodies consider relevant; and
 - (b) take account of any relevant information provided to them by SEPA or those groups of bodies (whether in response to an invitation under paragraph (a) or otherwise).
- (7) Where the financial memorandum provided information in relation to other bodies, individuals or businesses further broken down by body or person, the report may do likewise.
- (8) Where the financial memorandum did not provide a cost in relation to any relevant period, the costs to be provided by virtue of subsection (2)(a)(ii) or (b)(ii) must be (or, as the case may be, include) the relevant figure for the most recent relevant period for which the financial memorandum did provide a cost.
- (9) The groups of bodies are—
 - (a) responsible authorities; and
 - (b) other bodies, individuals and businesses.
- (10) The Scottish Parliament may (no earlier than whichever is the later of the end of six years after Royal Assent or any period covered in the financial memorandum) by resolution agree that no further reports require to be prepared or laid under subsection (1).
- (11) For the purposes of subsection (10) a period is not covered in the financial memorandum if the only cost arising in that period is identified in the memorandum as an ongoing cost.
- (12) In this section—
 - “relevant period” means—
 - (a) the period between Royal Assent and the end of the first full financial year after that date;

Roseanna Cunningham

- 64 In schedule 4, page 55, line 15, leave out <61> and insert <48(1)>

Schedule 3

Roseanna Cunningham

- 119 In schedule 3, page 53, line 18, at end insert—

<*Civil Aviation Act 1982 (c.16)*>

In paragraph 4 of Schedule 2 to the Civil Aviation Act 1982 (Civil Aviation Authority deemed to be statutory undertaker), the entry relating to the Flood Prevention (Scotland) Act 1961 is repealed.>

Roseanna Cunningham

- 120 In schedule 3, page 53, line 23, at end insert—

<*Electricity Act 1989 (c.29)*>

Paragraph 1(1)(xi) of Schedule 16 to the Electricity Act 1989 (licence holder deemed to be statutory undertaker) is repealed.>

Roseanna Cunningham

- 121 In schedule 3, page 53, line 29, at end insert—

<*Gas Act 1995 (c.45)*>

Paragraph 2(1)(ix) of Schedule 4 to the Gas Act 1995 (gas transporter deemed to be statutory undertaker) is repealed.>

Roseanna Cunningham

- 122 In schedule 3, page 54, line 3, at end insert—

<*Transport Act 2000 (c.38)*>

Paragraph 1(2)(h) of Schedule 5 to the Transport Act 2000 (licence holder deemed to be statutory undertaker) is repealed.>

Long Title

Roseanna Cunningham

- 65 In the long title, page 1, line 1, after <and> insert <sustainable>

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