

Flood Risk Management (Scotland) Bill

3rd 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.

After section 61

Peter Peacock

78* After section 61, insert—

<PART

FLOOD RISK MANAGEMENT: SCOTTISH WATER FUNCTIONS

Scottish Water: sustainable flood risk management

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

“(za) must have regard to Scottish Water’s duty under section 51A.”.
- (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 manage flood risk in a sustainable way.”.
- (5) In section 56A(3), for “section 51(1)” substitute “sections 51(1) “and 51A”.>

John Scott

132 After section 61, insert—

<Scottish Water charges scheme: specification of period

- (1) The Water Industry (Scotland) Act 2002 (asp 3) is amended as follows.
- (2) In section 29B, at the end of subsection (2) insert “(having regard in particular to the dates by which Scottish Water must carry out its functions under Part 3 of the Flood Risk Management (Scotland) Act 2009)”.>

Peter Peacock

134 After section 61, insert—

<Scottish Water: consultation on statements regarding charges

- (1) The Water Industry (Scotland) Act 2002 (asp 3) is amended as follows.
- (2) In section 29D(5)—
 - (a) the word “and” immediately following paragraph (b) is repealed, and
 - (b) after paragraph (c) insert “, and
 - (d) in so far as the content of the statement may affect Scottish Water’s ability to carry out its functions under Part 3 of the Flood Risk Management (Scotland) Act 2009, the Scottish Environment Protection Agency.”.>

After section 67

John Scott

Supported by: Liam McArthur, Peter Peacock

133 After section 67, insert—

<PART

FIRE AND RESCUE AUTHORITIES: FLOOD RISK MANAGEMENT FUNCTIONS

Duty to prepare strategy

- (1) Each relevant authority must prepare a strategy with a view to reducing overall flood risk in its area.
- (2) A strategy must identify—
 - (a) property held by category 1 and 2 responders—
 - (i) for the purposes of reducing overall flood risk, or
 - (ii) which the authority considers could be reasonably used to reduce flood risk,
 - (b) the human resources available to category 1 and 2 responders with a view to reducing overall flood risk,
 - (c) proposals for the deployment of that property and those human resources with a view to reducing overall flood risk,
 - (d) how the authority proposes to co-operate with—
 - (i) category 1 and 2 responders, and
 - (ii) any other person the authority considers appropriate,with a view to reducing overall flood risk,
 - (e) any other steps the authority proposes to take with a view to reducing overall flood risk.
- (3) In preparing a strategy, the relevant authority must have regard to—
 - (a) any current flood risk management plan for any flood risk management district in the relevant authority’s area,

- (b) any current local flood risk management plan for any local plan district in the relevant authority’s area,
 - (c) such other matters as the Scottish Ministers may specify by regulations.
- (4) Before finalising a strategy, a relevant authority must submit a draft of it for approval to the Scottish Ministers; and the Scottish Ministers may specify a date by which a relevant authority must submit a draft to them.
- (5) A relevant authority—
- (a) may from time to time, and
 - (b) must, when directed to do so by the Scottish Ministers,
- prepare a revised strategy; and subsections (2) to (4) apply to the revised strategy as they do to the strategy.
- (6) In this section—
- “relevant authority” has the same meaning as in section 6 of the Fire (Scotland) Act 2005 (asp 5);
 - the references to category 1 and 2 responders are to be construed by reference to Schedule 1 to the Civil Contingencies Act 2004 (c.36).>

Section 68

Roseanna Cunningham

- 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—

<(cb) 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)(cb).>

After section 72

John Scott

135 After section 72, insert—

<Payment schemes

Flood risk management agreement or arrangement: payment scheme

- (1) The Scottish Ministers are, by regulations, to establish a scheme for the making of payments by them to an owner or occupier of land who has entered into an agreement or arrangement with them which (in accordance with criteria set out in the scheme) meets the conditions set out in subsection (2).
- (2) Those conditions are—
 - (a) that the natural features and characteristics of the land are to be maintained in a manner which—
 - (i) is intended to reduce flood risk, and
 - (ii) is consistent with any current flood risk management plan and any current local flood risk management plan applying to the land, and

- (b) such other conditions as the Scottish Ministers consider appropriate.
- (3) For the purposes of subsection (2)(a), the maintenance of natural features and characteristics includes the alteration (including enhancement) or restoration of those features and characteristics.
- (3) The scheme may include provision for the recovery of payments where an owner or occupier fails to maintain the land in a manner which (in accordance with criteria set out in the scheme) is unsatisfactory.
- (4) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) SEPA,
 - (b) Scottish National Heritage,
 - (c) responsible authorities, and
 - (d) such other persons as they consider appropriate,
 on a draft of a scheme.
- (5) The Scottish Ministers must—
 - (a) publish a scheme established by virtue of this section, and
 - (b) publicise that fact,
 in such manner as they consider appropriate.>

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>

Section 83

Roseanna Cunningham

- 118 In section 83, page 43, line 27, at end insert—
<() regulations under section 44(1),>

John Scott

- 137 In section 83, page 43, line 28, at end insert—
<() regulations under section (*Flood risk management agreement or arrangement: payment scheme*)(1),>

Section 84

Roseanna Cunningham

- 59 In section 84, page 43, line 34, at end insert—
<“the 1961 Act” means the Flood Prevention (Scotland) Act 1961 (c.41),>

Rhoda Grant

- 138 In section 84, page 44, line 1, after <alteration,> insert <restoration, enhancement,>

Rhoda Grant

- 131 In section 84, page 44, line 3, at beginning insert <the alteration (including enhancement) or restoration of natural features and characteristics of any river basin or coastal area, including>

Schedule 4

Roseanna Cunningham

- 60 In schedule 4, page 54, line 12, at end insert—
<the 1961 Act Section 84(1)>

Roseanna Cunningham

- 61 In schedule 4, page 54, line 17, at end insert—
<body of surface water Section 48(1)>

Roseanna Cunningham

- 62 In schedule 4, page 55, line 6, at end insert—
<relevant body of water Section (*Local authorities to prepare maps of bodies of water etc.*)(5)>

Roseanna Cunningham

- 63 In schedule 4, page 55, line 14, at end insert—
<sub-basin Section 48(1)>

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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