



Flood Risk Management (Scotland) Act 2009

2009 asp 6

PART 6

POWERS OF ENTRY AND COMPENSATION

Compensation

82 Compensation

- (1) SEPA must compensate any person who has sustained damage in consequence of—
 - (a) any exercise of the power in section 76(1)(c) or (d), or
 - (b) the exercise of a right of entry conferred by section 79(1) (including the ancillary rights mentioned in section 81(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 56(1),
 - (d) the carrying out of works under section 59,
 - (e) the variation or revocation of an improvement order under section 61, or
 - (f) the exercise of a right of entry conferred by section 79(2) (including the ancillary rights mentioned in section 81(1) and (2)).

83 Compensation: supplementary

- (1) In section 82, 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 82 to a person only if—

Status: This is the original version (as it was originally enacted).

- (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, exercise of a right of entry or, as the case may be, exercise of another function mentioned in section 82.
- (3) Subsection (2)(b) does not apply where the damage has been sustained in consequence of circumstances falling within section 82(2)(e).
- (4) Any question of disputed compensation under section 82 is to be determined by the Lands Tribunal for Scotland.