



Flood Risk Management (Scotland) Act 2009

2009 asp 6

PART 4

FLOOD RISK MANAGEMENT: LOCAL AUTHORITY FUNCTIONS

General power

56 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 60),
 - (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—
 - (i) for the carrying out by that person or by the authority of any work which could be done by the authority under this Part, or
 - (ii) relating to the management by that person of land in a way which can assist in the retention of flood water or slowing the flow of such water,

Status: This is the original version (as it was originally enacted).

- (e) make contributions towards expenditure incurred by any other person doing something which could be done by the authority under this Part,
 - (f) (make payments to any other person in compensation for income lost as a result of entering into agreements or arrangements of the type mentioned in paragraph (d)(ii), and
 - (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.

57 Limits of general power

- (1) The power under section 56 does not enable a local authority to do anything which it is, 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).
- (3) The absence from an enactment of provision conferring any power does not of itself make that enactment a limiting provision.

58 Limits of general power: statutory undertakings

- (1) A local authority may not exercise the power under section 56 in a way which—
- (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.