



# Flood Prevention (Scotland) Act 1961 (repealed)

1961 CHAPTER 41 9 and 10 Eliz 2

## *Flood Prevention Operations*

### 3 **Supplementary provisions as to powers of local authorities.** **S**

- (1) The powers conferred on a local authority by the two foregoing sections shall, subject to the provisions of this Act, be exercisable—
  - (a) as well on land outwith the area of the local authority as on land within that area;
  - (b) notwithstanding that an incidental result of the exercise is that flooding of land other than such land as is specified in subsection (1) of section one of this Act is prevented or mitigated.
- (2) In relation to a watercourse—
  - (a) the power to carry out operations of the description specified in paragraph (a) of subsection (1) of the last foregoing section shall (without prejudice to the generality of that paragraph) include power to carry away, and where the watercourse is an open watercourse to deposit on the banks thereof, any mud, gravel or other material removed from the watercourse in the maintenance thereof, and to cut and lay aside or remove any bush or scrub timber growing on the banks of the watercourse; and
  - (b) the power to carry out operations of the description specified in paragraph (c) of the said subsection (1) shall (without prejudice to the generality of that paragraph) include power to remove any dam or other work situated, or any tree growing, in, on, over or under the watercourse.
- (3) Nothing in the foregoing provisions of this Act shall authorise the carrying out of any operations by a local authority in contravention of any enactment, and in particular in contravention of—
  - (a) [<sup>F1</sup>the Ancient Monuments and Archaeological Areas Act 1979], or of [<sup>F2</sup>section 53 of the <sup>M1</sup>Town and Country Planning (Scotland) Act 1972 (which relates to works on listed buildings)];

*Status: Point in time view as at 26/05/1997. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Flood Prevention (Scotland) Act 1961 (repealed), Section 3. (See end of Document for details)*

- (b) section thirty-four of the <sup>M2</sup>Coast Protection Act 1949 (which provides for the restriction of works detrimental to navigation);
  - [<sup>F3</sup>(c) section 30F (pollution offences) or section 49 (deposits and vegetation in rivers etc.) of the <sup>M3</sup>Control of Pollution Act 1974;]
  - (d) any enactment prohibiting the carrying out of development not authorised by planning permission granted or deemed to have been granted under Part II of the <sup>M4</sup>Town and Country Planning (Scotland) Act 1947.
- (4) Nothing in the foregoing provisions of this Act relating to maintenance and management operations shall authorise the carrying out by a local authority of any such operations so as to affect injuriously any works or property belonging to, or the carrying on of their statutory undertaking by, any statutory undertakers, [<sup>F4</sup>or any telecommunication apparatus kept installed for the purposes of a telecommunications code system or the running of any such system, except with the consent in writing of the statutory undertakers or, as the case may be, the operator of the system]:

Provided that consent for the purposes of this subsection shall not be required if it is withheld unreasonably, and any question whether any such consent has been withheld unreasonably shall be referred to and determined by the Secretary of State.

#### Textual Amendments

- F1** Words substituted by virtue of [Ancient Monuments and Archaeological Areas Act 1979](#) (c. 46, SIF 3), s. 64(2), **Sch. 4 para. 7**
- F2** Words in s. 3(3)(a) substituted (26.5.1997) by 1997 c. 36, s. 5(1)(a); S.I. 1997/1322, **art.2(1)**
- F3** S. 3(3)(c) substituted (26.5.1997) by 1997 c. 36, s. 5(1)(b); S.I. 1997/1322, **art.2(1)**
- F4** Words substituted by [Telecommunications Act 1984](#) (c. 12, SIF 96), ss. 2, 109, 110(2), **Sch. 4 para. 39(2)**

#### Modifications etc. (not altering text)

- C1** S. 3(4) extended to Post Office by [Post Office Act 1969](#) (c. 48), **Sch. 4 para. 93(1)(xviii)**
- C2** S. 3(4) extended by [Civil Aviation Act 1982](#) (c. 16, SIF 9), s. 19(2), **Sch. 2 para. 4**

#### Marginal Citations

- M1** 1972 c. 52.
- M2** 1949 c. 74.
- M3** 1974 c. 40.
- M4** 1947 c. 53.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Flood Prevention (Scotland) Act 1961 (repealed), Section 3.