



Flood Risk Management (Scotland) Act 2009

2009 asp 6

PART 3

FLOOD RISK ASSESSMENT, MAPS AND PLANS

Local flood risk management plans

34 Local authorities to prepare local flood risk management plans

- (1) The lead authority for each local plan district must prepare a local flood risk management plan to supplement the relevant flood risk management plan.
- (2) A local flood risk management plan is to consist of—
 - (a) a supplementary part, and
 - (b) an implementation part.
- (3) The supplementary part must include—
 - (a) a summary of the objectives, measures and other information included in the relevant flood risk management plan under paragraphs 1 to 3 of schedule 1 so far as relevant to the local plan district,
 - (b) such information supplemental to that plan including such—
 - (i) maps,
 - (ii) information about how implementing the measures summarised under paragraph (a) may alter (including enhance) or restore natural features and characteristics, and
 - (iii) further information about those measures,as the lead authority considers relevant to flood risk management within the local plan district, and
 - (c) a summary of—
 - (i) the steps taken under subsections (1) to (6) of section 35 in relation to the local flood risk management plan,

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- (ii) any other consultation measures taken in connection with the preparation of the plan, and
 - (iii) changes made to the plan in light of the views and representations received on it.
- (4) The implementation part must include a description of how the current measures are to be implemented including—
- (a) a detailed timetable for—
 - (i) the completion of measures currently being implemented, and
 - (ii) the implementation of measures yet to be commenced,
 - (b) in relation to each measure, a description of—
 - (i) who is, or is to be, responsible for implementing the measure, and
 - (ii) the arrangements for funding the measure,
 - (c) 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—
 - (i) the alteration (including enhancement) or restoration of natural features and characteristics, and
 - (ii) surface run-off water or urban drainage, and
 - (d) such other information as the lead authority considers relevant to the implementation of the measures.
- (5) The implementation part may also include a description of how other measures summarised in the supplementary part under subsection (3)(a) are to be implemented.
- (6) A local flood risk management plan must also include such other matters as the Scottish Ministers may specify by regulations.
- (7) 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.
- (8) A local flood risk management plan must not be inconsistent with anything in the relevant flood risk management plan.
- (9) For the purposes of this Part, the lead authority—
- (a) for a local plan district is—
 - (i) where a local authority's area includes all of the local plan district, that authority,
 - (ii) in any other case, one of the local authorities whose area includes part of the local plan district as may be agreed between those authorities or, in default of agreement, as may be determined by the Scottish Ministers, and
 - (b) in relation to a local flood risk management plan, is the local authority responsible for preparing the plan by virtue of subsection (1) and paragraph (a) of this subsection.
- (10) In this Act, the “current measures”, in relation to a local flood risk management plan, are those of the measures summarised in the plan under subsection (3)(a) which are

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identified in the relevant flood risk management plan as to be implemented before the plan is next reviewed under section 33.

- (11) In this section, “relevant flood risk management plan”, in relation to a local plan district (or the local flood risk management plan for that district), means the flood risk management plan prepared under section 27 or updated under section 33 for the flood risk management district which includes the local plan district.

Annotations:

Commencement Information

- II** S. 34 in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

35 Local flood risk management plans: publicity and consultation

- (1) Not less than one year before the beginning of the period to which the relevant flood risk management plan is to relate or by such date as the Scottish Ministers may direct, the lead authority must publish a draft of the supplementary part of the local flood risk management plan (“the draft supplementary part”).
- (2) Publication of a draft under subsection (1) is to be in such manner as the lead authority considers appropriate.
- (3) On publishing the draft supplementary part, the lead authority must—
- (a) publicise—
 - (i) that fact, and
 - (ii) the opportunity to make representations about the draft supplementary part under subsection (4), and
 - (b) make copies of the draft supplementary part available for public inspection for such period, which must be at least 3 months beginning with the date of its publication, as the lead authority may determine.
- (4) Any person who wishes to make representations to a lead authority about the draft supplementary part may do so before the expiry of the period determined under subsection (3)(b).
- (5) On publishing the draft supplementary part, the lead authority must also—
- (a) consult the persons specified in subsection (6) on—
 - (i) the draft supplementary part, and
 - (ii) a draft of the implementation part of the plan, and
 - (b) take such steps as it considers appropriate for the purpose of encouraging those persons to participate appropriately in the preparation of the plan.
- (6) The persons referred to in subsection (5)(a) are—
- (a) any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district to which the plan relates (“the district”),
 - (b) any category 1 responder (other than a responder which is a responsible authority) which has functions exercisable in or in relation to the district,
 - (c) SEPA,
 - (d) Scottish Natural Heritage,
 - (e) where any part of the district has been designated as a National Park, the National Park authority for the National Park, and

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- (f) such other persons as the lead authority considers appropriate.
- (7) The lead authority must co-ordinate the steps it takes under subsections (1) to (6) with those taken by SEPA in relation to the relevant flood risk management plan under section 30(2) to (4).
- (8) Before finalising the local flood risk management plan, the lead authority must take into account—
 - (a) any representations about the draft supplementary part made under subsection (4), and
 - (b) any views on the draft local flood risk management plan expressed by those consulted under subsection (5)(a),
 which are received by the lead authority before the expiry of the period determined under subsection (3)(b).
- (9) Not later than 2 months after receiving them, the lead authority must inform SEPA of any views expressed by those consulted under subsection (5)(a) which the lead authority considers relevant to the relevant flood risk management plan.
- (10) In subsections (7) and (9), “relevant flood risk management plan” means the flood risk management plan prepared under section 27 or updated under section 33 for the flood risk management district which includes the local plan district.

Annotations:

Commencement Information

I2 S. 35 in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

36 Local flood risk management plans: completion and publication

- (1) A local flood risk management plan for a local plan district is finalised when—
 - (a) the flood risk management plan which it supplements is approved under section 32, and
 - (b) either—
 - (i) the lead authority, every other responsible authority which has flood risk related functions exercisable in or in relation to the local plan district and SEPA agrees to its content, or
 - (ii) the Scottish Ministers determine its content under subsection (3).
- (2) If—
 - (a) the lead authority considers that the local flood risk management plan will not be finalised by the local plan deadline, or
 - (b) the plan is not finalised by that deadline,
 the lead authority must notify the Scottish Ministers of that fact.
- (3) Where the Scottish Ministers receive notice under subsection (2), they must determine the content of the local flood risk management plan.
- (4) Before determining the content of a plan under subsection (3), the Scottish Ministers must take into account any representations made by SEPA and any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district.

Changes to legislation: There are currently no known outstanding effects for the Flood Risk Management (Scotland) Act 2009, Cross Heading: Local flood risk management plans. (See end of Document for details)

- (5) When a local flood risk management plan is finalised, the lead authority must—
 - (a) publish the final plan in such manner as it considers appropriate,
 - (b) make copies of it available for public inspection,
 - (c) provide a copy of it to SEPA and the Scottish Ministers,
 - (d) make copies of it available to the public, and
 - (e) publicise the publication of the final plan.
- (6) In making copies of the plan available to the public under subsection (5)(d), the lead authority may charge a reasonable price for each copy.
- (7) In subsection (2), the “local plan deadline” is the date 6 months after the date the flood risk management plan mentioned in subsection (1)(a) is approved or such other date as the Scottish Ministers may direct.

Annotations:

Commencement Information

I3 S. 36 in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

37 Local flood risk management plans: interim report

- (1) Not earlier than 2 years and not later than 3 years after a local flood risk management plan is finalised, the lead authority must—
 - (a) review the plan, and
 - (b) publish a report on the conclusions of the review including information on the progress that has been made towards implementing the measures identified in the implementation part of the plan.
- (2) The lead authority must make copies of the report available for public inspection.

Annotations:

Commencement Information

I4 S. 37 in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

38 Local flood risk management plans: final report

- (1) Not earlier than 5 years, and not later than 6 years, after a local flood risk management plan is finalised, or by such other date as the Scottish Ministers may direct, the lead authority must publish a report on the plan containing—
 - (a) an assessment of the progress made towards implementing the current measures,
 - (b) a summary of the current measures which were not implemented, with reasons for their non-implementation, and
 - (c) a description of any other measures implemented since the plan was finalised which the lead authority considers have contributed to the achievement of the objectives summarised in the supplementary part of the plan.
- (2) The lead authority must make copies of the report available for public inspection.

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Annotations:

Commencement Information

I5 S. 38 in force at 26.11.2009 by [S.S.I. 2009/393](#), [art. 2](#), [Sch.](#)

39 Local flood risk management plans: joint working

Where a local plan district covers more than one local authority's area, the lead authority and the other authorities must, so far as practicable, co-operate with each other with a view to assisting in—

- (a) the preparation of the local flood risk management plan for the district,
- (b) the review of that plan under section 37,
- (c) the preparation of the report published under that section, and
- (d) the preparation of the report published under section 38.

Annotations:

Commencement Information

I6 S. 39 in force at 26.11.2009 by [S.S.I. 2009/393](#), [art. 2](#), [Sch.](#)

Changes to legislation:

There are currently no known outstanding effects for the Flood Risk Management (Scotland) Act 2009, Cross Heading: Local flood risk management plans.