Flood Risk Management (Scotland) Act 2009

2009 asp 6

PART 3

FLOOD RISK ASSESSMENT, MAPS AND PLANS

Provision of information and assistance

43 Power of SEPA to obtain information, documents and assistance

(1) The Scottish Ministers and any responsible authority must, on being requested by SEPA, provide SEPA with—

(a) such information in their or, as the case may be, its possession or under their or its control, and

(b) such assistance,

as SEPA may reasonably seek in connection with the exercise of any of SEPA's functions under sections 9, 10, 19, 20, 21, 24, 27, 28 and 33.

(2) Any responsible authority must, on being requested by SEPA—

(a) gather and provide SEPA with such information—

(i) as respects flood risk, and

(ii) which SEPA considers could contribute to improving understanding of flood risk, and

(b) prepare and provide SEPA with such assessments or maps which SEPA considers could contribute to such understanding,

as SEPA may reasonably seek in connection with the exercise of any of those functions.

(3) Information requested by SEPA in pursuance of subsection (2) may include in particular information about, or as the case may be assessments or maps relating to—

(a) the contribution that altering (including enhancing) or restoring natural features and characteristics could make to managing flood risk, and

(b) urban drainage and flooding caused by surface run-off water or a sewerage system.

(4) Information and assistance which a responsible authority is required to provide to SEPA in pursuance of subsection (1) or (2) must be provided in such form and manner as SEPA may reasonably seek.

(5) SEPA may serve a notice on any person (but not the Scottish Ministers or a responsible authority) requiring the person to—

(a) provide SEPA, or a person authorised by it, in the form and manner specified in the notice, with such information, or

(b) produce to SEPA, or to a person authorised by it, such documents,

as it may reasonably require in connection with the exercise of any of the functions referred to in subsection (1).

(6) Where a responsible authority or, as the case may be, a person on whom a notice is served under subsection (5) cannot agree with SEPA on whether information or assistance is, or assessments, maps or documents are, being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

Commencement Information

I1 S. 43 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, **Sch.**

44 Power of lead authorities to obtain information, documents and assistance

(1) A person mentioned in subsection (2) must, on being requested by a lead authority, provide the authority with—

(a) such information in its possession or under its control, and

(b) such assistance,

as the authority may reasonably seek in connection with its functions under sections 34 to 38.

(2) Those persons are—

(a) SEPA, and

(b) any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district.

(3) A lead authority may serve a notice on any person (but not SEPA, a responsible authority or the Scottish Ministers) requiring the person to—

(a) provide the authority, or a person authorised by it, in the form and manner specified in the notice, with such information, or

(b) produce to the authority, or to a person authorised by it, such documents,

as it may reasonably require in connection with the exercise of any of the functions under sections 34 to 38.

(4) Where a responsible authority, SEPA or, as the case may be, a person on whom a notice is served under subsection (3) cannot agree with the lead authority on whether information or assistance is, or documents are, being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

Commencement Information

I2 S. 44 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, **Sch.**

45 Power of local authorities to obtain information

(1) A person mentioned in subsection (2) must, on being requested by a local authority, provide the authority with such information in its possession or under its control as the authority may reasonably seek in connection with its functions under sections 17 and 18.

(2) Those persons are—

(a) SEPA, and

(b) any other responsible authority which has flood risk related functions exercisable in or in relation to the local authority's area.

(3) Where SEPA or, as the case may be, a responsible authority cannot agree with the local authority on whether information is being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

Commencement Information

I3 S. 45 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, **Sch.**

46 Power to obtain information, documents and assistance: supplementary

(1) The information or documents required to be provided or produced in pursuance of a notice under section 43(5) or section 44(3) (an "information notice") must be specified or described in the notice.

(2) An information notice may require information to be provided or documents to be produced—

(a) at or by a time and at a place specified in the notice,

(b) in circumstances specified in the notice, or

(c) from time to time, in accordance with criteria specified in the notice.

(3) Nothing in this section or section 43 or 44 authorises SEPA or, as the case may be, a lead authority to require disclosure of anything which a person would be entitled to refuse to disclose in proceedings in the Court of Session on grounds of confidentiality in proceedings in that court.

(4) Where by virtue of an information notice documents are produced to any person, that person may take copies of or make extracts from them.

(5) References in this section or section 43 or 44 to documents are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.

Commencement Information

I4 S. 46 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, **Sch.**

47 Power to obtain information, documents and assistance: offence

(1) A person who—

(a) refuses or fails, without reasonable excuse, to do anything required of that person by a notice under section 43(5) or 44(3), or

(b) intentionally alters, suppresses or destroys a document which that person has been required by such notice to produce,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to a fine.

Commencement Information

I5 S. 47 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: Provision of information and assistance.