



# Flood Risk Management (Scotland) Act 2009 2009 asp 6

## PART 4

### FLOOD RISK MANAGEMENT: LOCAL AUTHORITY FUNCTIONS

#### *Flood protection schemes*

#### **60 Flood protection schemes**

- (1) A flood protection scheme is a scheme by a local authority for the management of flood risk within the authority's area.
- (2) A proposed flood protection scheme must—
  - (a) contain a description of the operations the local authority proposes to carry out,
  - (b) include such maps, plans and specifications as may be specified by regulations by the Scottish Ministers,
  - (c) state how the operations will contribute to the implementation of current measures described in any relevant local flood risk management plan, and
  - (d) inasmuch as they will not so contribute, state the reasons why the local authority considers carrying them out will not affect the implementation of those measures.
- (3) Schedule 2 makes further provision about the making of flood protection schemes.
- (4) The Scottish Ministers may by order amend schedule 2 so as to modify the procedure for making flood protection schemes.
- (5) Before making an order under subsection (4), the Scottish Ministers must consult—
  - (a) every local authority,
  - (b) such bodies appearing to them to be representative of the interests of local authorities as they consider appropriate,
  - (c) SEPA,
  - (d) Scottish Natural Heritage,

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- (e) Scottish Water,
- (f) the National Park authority for each National Park, and
- (g) such other persons as they consider appropriate.

#### **Commencement Information**

**II** S. 60 in force at 29.11.2010 by S.S.I. 2010/401, art. 2(a)

### **61 Orders under the Land Drainage (Scotland) Act 1958**

- (1) This section applies where an improvement order affects any land on which operations are proposed to be carried out under a flood protection scheme.
- (2) The flood protection scheme may include proposals to—
  - (a) vary the improvement order by—
    - (i) removing land from the improvement area,
    - (ii) removing or rendering ineffective all or any part of the drainage or protective works specified in the improvement order, or
    - (iii) amending, reapportioning or removing any obligations of maintenance imposed on the authorised persons under the improvement order, or
  - (b) revoke the improvement order.
- (3) But the scheme may not include proposals to vary the improvement order so as to impose any new obligations on the authorised persons in respect of operations described in the scheme.
- (4) Where the proposed operations will materially alter drainage works or protective works, the scheme must include proposals to vary the improvement order so as to remove the obligation of maintenance in respect of the part of the drainage works or protective works so altered.
- (5) On commencement of the flood protection scheme, the improvement order is varied or, as the case may be, revoked to the extent specified in the scheme.
- (6) Where an improvement order has been varied or revoked by a flood protection scheme, the local authority must cause a notice of the variation or revocation to be registered in the Land Register of Scotland or recorded in the Register of Sasines (as applicable).
- (7) The Scottish Ministers may by order specify the form and content of a notice under subsection (6).
- (8) In this section—
  - “authorised persons” has the meaning given in section 2(2) of the Land Drainage (Scotland) Act 1958 (c. 24),
  - “drainage works” has the meaning given in section 18(1) of that Act,
  - “improvement area” has the meaning given in section 1(3) of that Act,
  - “improvement order” has the meaning given in section 1(1) of that Act,
  - “protective works” has the meaning given in section 2(1)(d) of that Act.

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### Commencement Information

**I2** S. 61 in force at 24.12.2010 by S.S.I. 2010/401, art. 3(b)

PROSPECTIVE

## 62 Registers of flood protection schemes

- (1) Every local authority must keep a register of flood protection schemes.
- (2) A local authority must enter into its register—
  - (a) details of each relevant scheme including—
    - (i) a summary of the operations described in the scheme,
    - (ii) a description (by reference to a map) of the land affected by those operations, and
    - (iii) a note of the date on which notice of the scheme is first published under paragraph 1(1)(a) of schedule 2,
  - (b) a note of the following in relation to each such scheme—
    - (i) any decision made under paragraph 4(1), 5(1), 7(4), or 9(1) of schedule 2,
    - (ii) the fact that notice has been given to the Scottish Ministers under paragraph 5(5) of that schedule including whether any relevant objector is a local authority or a National Park authority,
    - (iii) the fact that notice has been given of proposed modifications under paragraph 7(5)(a) or 9(3)(a) of that schedule,
  - (c) where such a scheme is confirmed with modifications, the information specified in paragraph (a)(i) and (ii) in relation to the modified scheme, and
  - (d) a note of any suspension of the operation of such a scheme under paragraph 12(6) of schedule 2.
- (3) For the purposes of subsection (2)(a), a relevant scheme is a scheme—
  - (a) proposed by the local authority, or
  - (b) in relation to which it is notified under paragraph 1(1)(f)(iii) of schedule 2.
- (4) A local authority may remove information from its register relating to a scheme if the scheme is rejected under paragraph 4(1)(b), 7(4)(c) or 9(1)(c) of schedule 2.
- (5) A local authority must amend its register to reflect any decision of a sheriff under paragraph 12(7) of schedule 2 to quash a scheme recorded in its register in whole or in part.
- (6) Where a local authority enters information in its register about a scheme in relation to which it notified another local authority under paragraph 1(1)(f)(iii) of schedule 2, it must notify that authority of the information entered.
- (7) A local authority must make available its register for public inspection and may charge a reasonable fee for doing so.

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## PROSPECTIVE

**63 Registers of flood protection schemes: information about schemes under 1961 Act**

A local authority must enter into its register details of every flood prevention scheme made by it under the 1961 Act including—

- (a) a summary of the operations to which the scheme relates, and
- (b) a description (by reference to a map) of the land affected by those operations.

## PROSPECTIVE

**64 Registers of flood protection schemes: regulations etc.**

(1) The Scottish Ministers may by regulations make further provision about the keeping of registers under section 62(1) including, in particular, provision as to—

- (a) the content of a register,
- (b) the time by which information must be entered into a register,
- (c) the circumstances in which information may or must be removed from a register, and
- (d) the time by which notice must be given under section 62(6).

(2) Regulations under subsection (1) may also—

- (a) make further provision about the availability of registers under section 62(7) including, in particular, provision as to the form and manner in which registers are to be made available,
- (b) make provision—
  - (i) requiring local authorities to make available their registers to a person specified in the regulations,
  - (ii) as to the form and manner in which the registers are made available to the person,
  - (iii) requiring local authorities to inform the person of any change to their registers as soon as reasonably practicable or within a period specified in the regulations, and
  - (iv) requiring the person to make available information from local authorities' registers for public inspection.

(3) References in this section and sections 62 and 63 to a local authority's register are references to the register of flood protection schemes kept by the authority.

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