



# Flood Risk Management (Scotland) Act 2009

2009 asp 6

## PART 5

### SEPA: OTHER FLOOD RISK MANAGEMENT FUNCTIONS

#### *Advice to planning authorities and others as to flood risk*

#### **72 Advice to planning authorities and others as to flood risk**

- (1) SEPA must, when requested by a planning authority, give the authority advice as to flood risk in the authority's district.
- (2) SEPA must, when requested by a National Park authority which, though not a planning authority, is (by virtue of the order designating the National Park for which the authority is established) to be treated as the planning authority for the Park for any purpose, give the authority advice in relation to flood risk in the Park.
- (3) Advice under subsection (1) or (2) is to be based on such information as respects such flood risk as SEPA possesses, taking into account—
  - (a) the flood risk assessment, any flood hazard map and flood risk map, the flood risk management plan and any local flood risk management plan for the time being applicable to the authority's district, and
  - (b) information provided to it by any planning authority or National Park authority which is not a planning authority.
- (4) In this section—
  - (a) “planning authority” and a planning authority's “district” (except where paragraph (b) provides otherwise) have the meanings given in section 1(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8),
  - (b) where—
    - (i) all or part of a planning authority's district is designated as a National Park, and

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(ii) the designation order makes provision for the National Park authority to be the planning authority for the Park for the purposes of the planning Acts,

“planning authority” in relation to the National Park means the National Park authority and a planning authority's “district” means the National Park for which the National Park authority is established, and

(c) “the planning Acts” has the meaning given in section 277(1) of that Act.

**Commencement Information**

**II** S. 72 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, Sch.

*Other assessment and maps of flood risk*

**73 Other assessment and maps of flood risk**

- (1) SEPA may—
- (a) (in addition to the flood risk assessment it is required to prepare under section 9 and review under section 10) carry out such other assessment of flood risk as it considers appropriate, and
  - (b) (in addition to the flood hazard maps and flood risk maps it is required to prepare under section 21 and review under section 24) prepare such other maps in relation to flood risk as it considers appropriate.
- (2) In the exercise of its power under subsection (1), SEPA must take into account the flood risk assessment, any flood hazard map and flood risk map and the flood risk management plan for the time being applicable to the area being assessed.
- (3) SEPA may, where it considers it appropriate, integrate any map prepared by it under subsection (1)(b) with any such flood hazard map or flood risk map.

**Commencement Information**

**I2** S. 73 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, Sch.

*Flood warning*

**74 Flood warning**

- (1) SEPA must, where it considers that a flood is occurring or likely to occur in the near future, make available warnings in relation to the flood.
- (2) Any warning under subsection (1)—
- (a) of a flood which SEPA considers is occurring must be made available as soon as practicable after SEPA considers that is the case,
  - (b) of a flood which SEPA considers is likely to occur in the near future must be made available as soon as SEPA considers appropriate,
  - (c) is to be based on information available to SEPA, and

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- (d) must be made publicly available by SEPA by such means as it considers appropriate.

**Commencement Information**

**I3** S. 74 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, Sch.

**75 Assessment of whether flood warning system should be provided or altered**

- (1) SEPA may, and must where the Scottish Ministers direct, assess whether in its opinion—
- (a) provision and operation by it of a flood warning system, or alteration of any flood warning system provided and operated by it, would assist in providing earlier or more accurate flood warning as respects an area, and
  - (b) the earlier or more accurate flood warning so provided would be likely to reduce the potential adverse consequences of flooding of the area for human health, the environment, cultural heritage and economic activity there.
- (2) Any assessment under subsection (1) is to be based on such information as SEPA possesses.
- (3) In carrying out any such assessment SEPA must consult in accordance with section 77(1).
- (4) In this section and section 76, “flood warning system” means a system by which, for the purpose of detecting, forecasting or providing warning of any flood which is occurring or likely to occur in the near future, information as respects any of the following matters is obtained and transmitted—
- (a) rainfall,
  - (b) the level or flow of any surface water (within the meaning of section 3(3) of the 2003 Act),
  - (c) such other matters as appear to SEPA to be appropriate for that purpose.

**Commencement Information**

**I4** S. 75 in force at 26.11.2009 by S.S.I. 2009/393, art. 2, Sch.

**76 Provision, alteration etc. of flood warning system**

- (1) SEPA may—
- (a) provide and operate any flood warning system,
  - (b) alter any flood warning system provided and operated by it,
  - (c) for those purposes provide, install or alter apparatus and carry out any engineering or building operations, and
  - (d) maintain any such apparatus.
- (2) Before—
- (a) providing a flood warning system in pursuance of paragraph (a) of subsection (1),

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- (b) for that purpose doing any of the things referred to in paragraph (c) of that subsection, or
- (c) for either of the purposes in paragraph (a) or (b) carrying out any engineering or building operations,

SEPA must consult in accordance with section 77(2).

(3) Where SEPA considers—

- (a) the alteration of any flood warning system in pursuance of paragraph (b) of subsection (1), or
- (b) for that purpose doing any of the things referred to in paragraph (c) of that subsection (“any related thing”),

would be material, it must consult in accordance with section 77(2) before carrying out the alteration of the system or for that purpose any related thing.

**Commencement Information**

**I5** [S. 76](#) in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

**77 Consultation required by sections 75 and 76**

(1) The consultation required by section 75 is consultation with—

- (a) every local authority whose area includes any part of the area which is the subject of the assessment, and
- (b) every category 1 responder (other than a local authority) which has functions exercisable in or in relation to the area which is the subject of the assessment.

(2) The consultation required by section 76 is consultation with—

- (a) every local authority in whose area the power is to be exercised, and
- (b) any category 1 responder (other than a local authority) which has functions exercisable in or in relation to the area in which the power is to be exercised.

**Commencement Information**

**I6** [S. 77](#) in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

*Power to obtain information about land*

**78 SEPA's power to obtain information about land**

Section 27 of the Environment Act 1995 (c. 25) (SEPA's power to obtain information about land for the purposes mentioned in that section) applies where SEPA considers that it requires information relating to any land for the purpose of the exercise of any of its functions under this Part, subject to the modification that the notice served by SEPA under subsection (1) of that section must specify the land, the function and this Act.

**Commencement Information**

**I7** [S. 78](#) in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

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**Changes to legislation:**

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