

FLOOD RISK MANAGEMENT (SCOTLAND) ACT

EXPLANATORY NOTES

THE ACT – OVERVIEW

10. The Act makes provision in relation to five main areas: (i) coordination and cooperation within the domain of flood risk management; (ii) assessment of flood risk and preparation of flood risk maps and flood risk management plans, including implementing the EC Floods Directive; (iii) amendments to local authority and SEPA functions for flood risk management; (iv) a revised statutory process for flood protection schemes; and (v) amendments to the enforcement regime for the safe operation of reservoirs.
11. The Act is separated into eight Parts:
 - *PART 1* creates general duties which Scottish Ministers, SEPA, and responsible authorities must comply with when exercising their functions in relation to flood risk management. These include a duty to exercise those functions with a view to reducing flood risk and to collaborate when doing so and a duty to take account of guidance and comply with directions in relation to flood risk management.
 - *PART 2* defines some of the principal expressions used in the Act, including “flood” and “flood risk”.
 - *PART 3* provides for the preparation and review of the flood risk assessments, flood hazard and flood risk maps and flood risk management plans which are required by the Directive. It also provides for local flood risk management plans to be prepared and reviewed. It requires advisory groups to be created to advise on the preparation of these documents and it imposes a duty on public authorities, including the Scottish Ministers, to have regard to flood risk management plans and local flood risk management plans where relevant.
 - *PART 4* sets out provisions to replace the 1961 Act. These provisions give local authorities broad powers to allow them to take forward a full range of flood risk management measures.
 - *PART 5* replaces SEPA’s powers to provide flood warning systems and carry out flood risk assessments under the Agriculture Act 1970 and the Environment Act 1995. The provisions provide SEPA with a new statutory framework for exercising these flood risk management functions.
 - *PART 6* sets out new powers of entry and compensation provisions to support local authorities and SEPA in exercising their statutory responsibilities under the Act.
 - *PART 7* amends the Reservoirs Act 1975 (“the 1975 Act”) to transfer responsibility for enforcement of the 1975 Act from local authorities to SEPA. It inserts two new sections into the 1975 Act to enable provision to be made, by regulations, to introduce a new system for reporting incidents which could affect safety at reservoirs and to create new requirements to prepare flood plans for reservoirs. It also inserts a new section about the application of that Act to the Crown.

*These notes relate to the Flood Risk Management (Scotland)
Act (asp 6) which received Royal Assent on 16 June 2009*

- *PART 8* makes general provision for the making of orders and regulations under the Act. It also makes provision about the application of the Act to the Crown and commencement of the Act.