



# Flood Risk Management (Scotland) Act 2009

2009 asp 6

## PART 6

### POWERS OF ENTRY AND COMPENSATION

#### *Compensation*

#### **83 Compensation: supplementary**

- (1) In section 82, a person sustains damage if—
  - (a) the value of the person's interest in land has been depreciated, or
  - (b) the person has been disturbed in the person's enjoyment of land.
- (2) SEPA or, as the case may be, a local authority must pay compensation under section 82 to a person only if—
  - (a) the damage is not attributable to an act or omission of the person,
  - (b) the act or omission causing the damage would have been actionable at the person's instance if it had been done or omitted otherwise than in exercise of statutory powers,
  - (c) the person gives notice to SEPA or, as the case may be, the local authority of the person's claim stating the grounds of the claim and the amount claimed, and
  - (d) the notice is given no later than the earlier of—
    - (i) 2 years after the depreciation first becomes apparent or, as the case may be, the first occurrence of the disturbance, and
    - (ii) 10 years from the completion of the scheme operations, maintenance, exercise of a right of entry or, as the case may be, exercise of another function mentioned in section 82.
- (3) Subsection (2)(b) does not apply where the damage has been sustained in consequence of circumstances falling within section 82(2)(e).

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*Status: This is the original version (as it was originally enacted).*

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- (4) Any question of disputed compensation under section 82 is to be determined by the Lands Tribunal for Scotland.