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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 401 (C. 27)**

**ENVIRONMENTAL PROTECTION  
FLOOD RISK MANAGEMENT**

**The Flood Risk Management (Scotland) Act 2009  
(Commencement No. 2 and Savings Provisions) Order 2010**

*Made - - - - 17th November 2010*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 94(1) and 97(1) of the Flood Risk Management (Scotland) Act 2009<sup>(1)</sup>.

**Citation and interpretation**

1.—(1) This Order may be cited as the Flood Risk Management (Scotland) Act 2009 (Commencement No. 2 and Savings Provisions) Order 2010.

(2) In this Order—

“the Act” means the Flood Risk Management (Scotland) Act 2009; and

“the 1961 Act” means the Flood Prevention (Scotland) Act 1961<sup>(2)</sup>.

**Provisions coming into force on 29th November 2010**

2. The following provisions of the Act come into force on 29th November 2010—

- (a) section 60; and
- (b) paragraphs 13 and 14 of Schedule 2.

**Provisions coming into force on 24th December 2010**

3. The following provisions of the Act come into force on 24th December 2010—

- (a) sections 56 to 58;
- (b) section 61;
- (c) sections 65 to 70;
- (d) section 79(2)(e) to (g) and (i);

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(1) 2009 asp 6.  
(2) 1961 c.41.

- (e) section 82(2)(a) to (e);
- (f) section 96 so far as not already in force;
- (g) schedule 2 so far as not already in force; and
- (h) schedule 3 so far as not already in force.

**Provisions coming into force on 1st June 2011**

4. The following sections of the Act come into force on 1st June 2011—
- (a) section 59; and
  - (b) section 79(2)(h).

**Savings provisions in relation to flood prevention schemes under the 1961 Act**

5.—(1) Notwithstanding the repeal of the 1961 Act by section 70 of the Act, which section is brought into force by article 3 of this Order, the provisions of the 1961 Act referred to in paragraph (3) shall continue to have effect on and after 24th December 2010, as they had effect immediately before that date, in a case to which paragraph (2) applies.

(2) This paragraph applies in the case of a flood prevention scheme (within the meaning of the 1961 Act) in respect of which notice has been first published in accordance with paragraph 2 of the Second Schedule to the 1961 Act before 24th December 2010.

- (3) The provisions of the 1961 Act are—
- (a) section 4;
  - (b) section 8;
  - (c) section 11;
  - (d) section 14;
  - (e) section 15;
  - (f) the First Schedule; and
  - (g) paragraphs 1 and 5 to 10 of the Second Schedule.

St Andrew's House,  
Edinburgh  
17th November 2010

*R CUNNINGHAM*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings Part 4 (flood risk management: local authority functions) of the Flood Risk Management (Scotland) Act 2009 (“the Act”) into force (except sections 62 to 64, which concern registers of flood protection schemes) together with certain related sections.

Article 5 makes savings provisions in relation to flood prevention schemes under the Flood Prevention (Scotland) Act 1961 (“the 1961 Act”). It provides that, despite the repeal of the 1961 Act, sections 4 (flood prevention schemes), 8 (powers of entry on land), 11 (compensation), 14 (Crown rights), 15 (interpretation), the First Schedule, and paragraphs 1 and 5 to 10 of the Second Schedule shall continue to have effect in relation to such schemes where notice of the scheme has been first published before the day appointed for the coming into force of section 70 of the Act. These savings provisions are intended to preserve the existing procedure for the confirmation of such flood prevention schemes and to enable local authorities to obtain a warrant from a sheriff or justice of the peace authorising them to enter land if access is refused. They are also intended to preserve claims for compensation that may arise in respect of flood prevention operations carried out under the 1961 Act.

The Act received Royal Assent on 16th June 2009 and Part 2 (sections 3 to 6) and sections 55, 71, 94, 95 and 97 came into force on that day. Most of Parts 1, 3, 5, 6 and 8 came into force on 26th November 2009 in accordance with the Flood Risk Management (Scotland) Act 2009 (Commencement No. 1 and Transitional and Savings Provisions) Order 2009 ([S.S.I. 2009/393](#)).

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:—

<b><i>Provision</i></b>	<b><i>Date of Commencement</i></b>	<b><i>S.S.I. Number</i></b>
Sections 1 and 2	26 November 2009	<a href="#">2009/393</a>
Sections 7 to 41		
Sections 43 to 54		
Sections 72 to 78		
Section 79(1), (2)(a) to (d) and (3)		
Sections 80 and 81		

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<b><i>Provision</i></b>	<b><i>Date of Commencement</i></b>	<b><i>S.S.I. Number</i></b>
Section 82(1) and (2)(f)		
Section 83		
Sections 91 to 93		
Section 96 (only for the purpose of giving effect to paragraphs 2, 7 and 14 of Schedule 3)		
Schedule 1		
Schedule 3, paragraphs 2, 7 and 14		