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## EXPLANATORY NOTE

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

These Regulations amend the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010 (“the 2010 Regulations”). The amendments to the 2010 Regulations are pursuant to the implementation, in relation to flood protection schemes, of [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p.1), as amended by [Directive 2014/52/EU](#) of the European Parliament and of the Council (OJ L 124, 25.4.2014, p.1) (“the Directive”).

Section 60 of the Flood Risk Management (Scotland) Act 2009 (“the Act”) makes provision in relation to flood protection schemes. A flood protection scheme is a scheme by a local authority for the management of flood risk within the local authority’s area. A proposed flood protection scheme must, among other things, contain a description of the operations the local authority proposes to carry out. Schedule 2 of the Act makes further provision about the making of flood protection schemes, including provision in relation to the confirmation of such schemes by either the local authority or, in certain circumstances, the Scottish Ministers.

Section 57(2B) of the Town and Country Planning (Scotland) Act 1997 provides that, on the confirmation of any such scheme, the Scottish Ministers must direct that planning permission for any scheme operations which would constitute development be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

These Regulations supplement the provisions in section 60 and schedule 2 of the Act to ensure that, where any such scheme contains a description of operations which constitute a project in Annex I or II of the Directive, the requirements of the Directive are met. In particular—

- regulations 3, 5 and 6 (together with schedules 1 and 2 of these Regulations) replace the provisions in Part II of the 2010 Regulations and also schedules 1 and 2 (which all relate to environmental impact assessment), with new provisions relating to environmental impact assessment which are updated to take account of the amendments made to the Directive by [Directive 2014/52/EU](#),
- regulation 2 inserts definitions into Part I of the 2010 Regulations for certain words and expressions used in the new provisions inserted by regulation 3; and makes some other consequential revisions to the existing definitions, and
- regulation 4 amends some of the provisions in Parts III and IV of the 2010 Regulations, in consequence of the changes made to those Regulations by regulation 2 and 3.

The 2010 Regulations, as amended by these Regulations, ensure that where a flood protection scheme requires to be subject to an environmental impact assessment, that this assessment is carried out and that it is taken into account before any decision is taken to confirm any such scheme.

No business and regulatory impact assessment has been prepared for these Regulations as no additional impact upon business, charities or voluntary bodies is foreseen.