



Flood Prevention and Land Drainage (Scotland) Act 1997

CHAPTER 36

ARRANGEMENT OF SECTIONS

Flood prevention

Section

1. Duty of local authorities to assess watercourses.
2. Duty of local authorities to maintain watercourses.
3. Duty of local authorities to publish reports.
4. Increase in certain fines.
5. Minor and consequential amendments.

Land drainage

6. Termination of land drainage schemes.

Miscellaneous

7. Financial provisions.
8. Repeals.
9. Citation, commencement and extent.

SCHEDULE:

- Repeals.



Flood Prevention and Land Drainage (Scotland) Act 1997

1997 CHAPTER 36

An Act to amend the Flood Prevention (Scotland) Act 1961 in relation to flood prevention measures to be taken by local authorities; to repeal section 11(2) of the Land Drainage (Scotland) Act 1930 and section 8(2) of the Land Drainage (Scotland) Act 1941; and for connected purposes.

[21st March 1997]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Flood prevention

1. After section 4 of the Flood Prevention (Scotland) Act 1961 (“the 1961 Act”) there shall be inserted the following section—

Duty of local authorities to assess watercourses. 1961 c. 41.

“Assessment and maintenance of watercourses

Duty of local authorities to assess watercourses.

4A. Every local authority shall cause the watercourses in their area to be assessed from time to time for the purpose of ascertaining whether any such watercourse is in a condition which is likely to cause flooding of land, not being agricultural land, within or outwith their area.”.

2. After section 4A of the 1961 Act there shall be inserted the following section—

Duty of local authorities to maintain watercourses.

“Duty of local authorities to maintain watercourses.

4B.—(1) Where it appears to a local authority, whether or not as a result of an assessment carried out under section 4A of this Act—

(a) that any watercourse in their area is in a

condition which is likely to cause flooding of land, not being agricultural land, within or outwith their area; and

- (b) that their exercise of any power mentioned in section 2(1)(a) of this Act would substantially reduce the likelihood of such flooding,

they shall exercise that power accordingly.

(2) Where—

- (a) subsection (1) above would, apart from this subsection, require a local authority to exercise any power mentioned in section 2(1)(a) of this Act in relation to any watercourse, works or apparatus mentioned in that provision; and

- (b) the watercourse, works or apparatus and the land referred to in subsection (1)(a) above are owned by the same person (not being a local authority),

the duty on a local authority under subsection (1) above shall not apply.

(3) Where it appears to a local authority, whether or not as a result of an assessment carried out under section 4A of this Act, that any watercourse in their area is in a condition which is likely to cause flooding of land, not being agricultural land, outwith their area, they shall notify the local authority for the area in which that land is situated.

(4) Subsection (3) above shall not apply where it appears to the first mentioned local authority that the second mentioned local authority are aware of the likelihood of the flooding.”.

Duty of local authorities to publish reports.

3. After section 6 of the 1961 Act there shall be inserted the following section—

“Reports

Duty of local authorities to publish reports.

6A.—(1) Every local authority shall, within the period of six months commencing with the date on which this section comes into force, prepare and publish a report specifying the measures which they consider that they require to take to prevent or mitigate the flooding of land in their area.

(2) Not more than two years after a local authority have published the report referred to in subsection (1) above, and at intervals of not more than two years thereafter, they shall prepare and publish a report specifying—

- (a) the measures which they consider that they require to take to prevent or mitigate the flooding of land in their area;

(b) the measures which they have taken since the date of publication of their previous report to prevent or mitigate the flooding of such land; and

(c) all occurrences of flooding of such land since that date.

(3) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament alter the periods mentioned in subsection (2) above.

(4) In this section “land” means land other than agricultural land.”.

4. In the 1961 Act, in sections 8(4) and 9(2) and in paragraph 7 of Schedule 1 (offences of obstruction and failure to provide information), for the words from “not exceeding” to the end there shall be substituted “not exceeding level 3 on the standard scale”. Increase in certain fines.

5.—(1) In section 3(3) of the 1961 Act (supplementary provisions as to local authority powers)— Minor and consequential amendments.

(a) in paragraph (a) for the words from “section twenty-seven” to the end there shall be substituted “section 53 of the Town and Country Planning (Scotland) Act 1972 (which relates to works on listed buildings)”; and 1972 c. 52.

(b) for paragraph (c) there shall be substituted—
 “(c) section 30F (pollution offences) or section 49 (deposits and vegetation in rivers etc.) of the Control of Pollution Act 1974;”. 1974 c. 40

(2) In section 8 of that Act (powers of entry on land)—

(a) in subsection (1)(b) after “conferred” there shall be inserted “, or performing any duty imposed;”; and

(b) in subsection (3) after “sheriff” where it first occurs there shall be inserted “or a justice of the peace”, and after “sheriff” where it second and third occurs there shall be inserted “or the justice of the peace”.

(3) In section 9(1) of that Act (provision and obtaining of information) after “powers” there shall be inserted “or perform any of their duties”.

(4) In section 15(1) of that Act (interpretation) in the definition of “water-main” for “Water (Scotland) Acts 1946 to 1967” there shall be substituted “Water (Scotland) Act 1980”. 1980 c. 45.

Land drainage

6.—(1) Notwithstanding section 1(1) of, and Part XIII of Schedule 1 to, the Statute Law (Repeals) Act 1993, section 11(2) of the Land Drainage (Scotland) Act 1930 (which preserves the effect of land drainage schemes settled under that Act and of provisions regarding such schemes) shall be taken not to have been repealed by the 1993 Act. Termination of land drainage schemes.
1993 c. 50.
1930 c. 20.

1930 c. 20.
1941 c. 13.

(2) Section 11(2) of the Land Drainage (Scotland) Act 1930 and section 8(2) of the Land Drainage (Scotland) Act 1941 (which preserves the effect of land drainage schemes settled under that Act and of provisions regarding such schemes) shall be repealed.

Miscellaneous

Financial
provisions.

7. There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under or by virtue of any other Act.

Repeals.

8. The enactments mentioned in the Schedule to this Act (which include enactments of no practical utility) shall be repealed to the extent specified in the third column of that Schedule.

Citation,
commencement
and extent.

9.—(1) This Act may be cited as the Flood Prevention and Land Drainage (Scotland) Act 1997.

(2) Sections 6(1) and 7 and this section shall come into force on the passing of this Act.

(3) Section 6(2) shall come into force on 1st April 1999.

(4) Otherwise, this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different purposes.

(5) This Act extends only to Scotland.

SCHEDULE

Section 8.

REPEALS

| Chapter | Short title | Extent of repeal |
|-------------|---|--|
| 1930 c. 20. | The Land Drainage (Scotland) Act 1930. | Section 1(5). Section 4. Section 5. Section 11(2). |
| 1941 c. 13. | The Land Drainage (Scotland) Act 1941. | The whole Act. |
| 1961 c. 41. | The Flood Prevention (Scotland) Act 1961. | In section 11(4), the words "Subject to the next following subsection,". |
| 1973 c. 65. | The Local Government (Scotland) Act 1973. | In Part II of Schedule 27, paragraph 151(c). |

© Crown copyright 1997

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Peter Macdonald, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

Published by The Stationery Office Limited
and available from:

The Publications Centre

(Mail, telephone and fax orders only)
PO Box 276, London SW8 5DT
General enquiries 0171 873 0011
Telephone orders 0171 873 9090
Fax orders 0171 873 8200

The Stationery Office Bookshops

49 High Holborn, London WC1V 6HB
(counter service and fax orders only)
Fax 0171 831 1326
68-69 Bull Street, Birmingham B4 6AD
0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
0123 223 8451 Fax 0123 223 5401
The Stationery Office Oriel Bookshop
The Friary, Cardiff CF1 4AA
01222 395548 Fax 01222 384347
71 Lothian Road, Edinburgh EH3 9AZ
(counter service only)

In addition customers in Scotland may mail,
telephone or fax their orders to:
Scottish Publication Sales,
South Gyle Crescent, Edinburgh EH12 9EB
0131 479 3141 Fax 0131 479 3142

The Parliamentary Bookshop

12 Bridge Street, Parliament Square,
London SW1A 2JX
Telephone orders 0171 219 3890
General enquiries 0171 219 3890
Fax orders 0171 219 3866

Accredited Agents

(see Yellow Pages)

and through good booksellers

LONDON: THE STATIONERY OFFICE

ISBN 0-10-543697-6



9 780105 436973