

FLOOD RISK MANAGEMENT (SCOTLAND) ACT

EXPLANATORY NOTES

BACKGROUND – THE FLOOD PREVENTION (SCOTLAND) ACT 1961

7. [Part 4](#) of the Act replaces the Flood Prevention (Scotland) Act 1961 (“the 1961 Act”) and makes provision for a revised statutory process for flood protection schemes (known as flood prevention schemes under the 1961 Act). The 1961 Act gave local authorities the power to carry out measures for the prevention or mitigation of flooding of non-agricultural land including:
 - cleansing any watercourse or embankment;
 - repairing any watercourse or embankment;
 - maintenance of any watercourse or embankment;
 - improvement, alteration or reinstatement of a watercourse, work or apparatus;
 - construction of a new watercourse, work or apparatus.
8. These powers were permissive and discretionary only, i.e. the authority could exercise the powers but did not have to. Additionally, no work other than maintenance could be carried out under the 1961 Act without the promotion of a flood prevention scheme by the local authority. Flood prevention schemes were confirmed under the 1961 Act by the Secretary of State and then since devolution by the Scottish Ministers and financially supported by the Scottish Government if they complied with the approved cost/benefit ratio.
9. The Flood Prevention and Land Drainage (Scotland) Act 1997 amended the 1961 Act by placing statutory duties on local authorities including:
 - requiring the local authority to assess all watercourses from time to time to ascertain whether or not they are likely to cause flooding of non-agricultural land;
 - requiring the local authority to carry out works to reduce the likelihood of flooding of non-agricultural land caused by the condition of a watercourse;
 - requiring local authorities to liaise with adjacent authorities in order to warn them of flood risk from watercourses;
 - requiring local authorities to prepare biennial reports.