



Flood Risk Management (Scotland) Act 2009

2009 asp 6

PART 1

GENERAL DUTY, DIRECTIONS AND GUIDANCE

1 General duty

- (1) The Scottish Ministers, SEPA and responsible authorities must exercise their flood risk related functions with a view to reducing overall flood risk and, in particular, must exercise their functions under Part 3 so as to secure compliance with the Directive.
- (2) In exercising their functions in pursuance of subsection (1), the Scottish Ministers, SEPA and responsible authorities must—
 - (a) so far as such exercise affects a flood risk management district, act with a view to achieving the objectives set out in the flood risk management plan for that district as approved under section 32,
 - (b) have regard to the social, environmental and economic impact of such exercise of those functions,
 - (c) so far as is consistent with the purposes of the flood risk related function concerned—
 - (i) act in the way best calculated to manage flood risk in a sustainable way,
 - (ii) promote sustainable flood risk management,
 - (iii) act with a view to raising public awareness of flood risk, and
 - (iv) act in the way best calculated to contribute to the achievement of sustainable development, and
 - (d) so far as practicable, adopt an integrated approach by co-operating with each other so as to co-ordinate the exercise of their respective functions.
- (3) For the purposes of co-operating with each other under subsection (2)(d), the Scottish Ministers, SEPA and responsible authorities may enter into agreements with each other.
- (4) In this Act, “flood risk related functions” means—

Changes to legislation: There are currently no known outstanding effects for the Flood Risk Management (Scotland) Act 2009, Part 1. (See end of Document for details)

- (a) in relation to the Scottish Ministers—
 - (i) their functions under this Part (other than subsections (1) and (2) of this section), Part 2 (responsible authorities), Part 3 (flood risk assessment, maps and plans), Part 4 (flood risk management: local authority functions), and Part 5 (SEPA: other flood risk management functions), and
 - (ii) their functions under such other enactments as the Scottish Ministers may specify by order,
- (b) in relation to SEPA—
 - (i) its functions under Part 3 (flood risk assessment, maps and plans) and Part 5 (SEPA: other flood risk management functions), and
 - (ii) its functions under such other enactments as the Scottish Ministers may specify by order,
- (c) in relation to a responsible authority which is a local authority—
 - (i) its functions under Part 3 (flood risk assessment, maps and plans) and Part 4 (flood risk management: local authority functions), and
 - (ii) such of its functions relevant to flood risk management as are specified in relation to it in an order made by the Scottish Ministers, and
- (d) in relation to any other responsible authority—
 - (i) its functions under Part 3 (flood risk assessment, maps and plans), and
 - (ii) such of its functions relevant to flood risk management as are specified in relation to it in an order made by the Scottish Ministers (whether or not in an order under section 5(1)(c) designating it as a responsible authority).

Commencement Information

II S. 1 in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

2 Directions and guidance

- (1) The Scottish Ministers may give directions (whether general or specific) and guidance to—
 - (a) SEPA, in relation to the exercise of its flood risk related functions, and
 - (b) any responsible authority, in relation to the exercise of its flood risk related functions.
- (2) SEPA and the responsible authorities must comply with any such directions and have regard to any such guidance.
- (3) Directions under subsection (1) may include provision for any matter to which the directions relate to be determined, in such manner (if any) as the directions may specify, by a person other than the Scottish Ministers.
- (4) Before giving a direction under subsection (1), the Scottish Ministers must consult—
 - (a) the person to whom the direction is to be given, and
 - (b) such of the following persons as they consider appropriate—
 - (i) SEPA, and
 - (ii) responsible authorities.

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- (5) The Scottish Ministers must give guidance under subsection (1) to SEPA and all responsible authorities on their duties under—
 - (a) subsection (2)(b) of section 1, and
 - (b) subsection (2)(c)(i) of that section.
- (6) The guidance given in pursuance of subsection (5) must be given not later than 18 months after the provision to which the guidance relates is commenced.
- (7) The Scottish Ministers must review and where appropriate update the guidance given in pursuance of subsection (5) not later than 6 years after it was first given or, as the case may be, last reviewed under this subsection.
- (8) Before giving guidance in pursuance of subsection (5) or updating the guidance under subsection (7), the Scottish Ministers must consult—
 - (a) SEPA,
 - (b) every responsible authority, and
 - (c) such other persons as they consider appropriate.

Commencement Information

I2 S. 2 in force at 26.11.2009 by [S.S.I. 2009/393](#), art. 2, [Sch.](#)

Changes to legislation:

There are currently no known outstanding effects for the Flood Risk Management (Scotland) Act 2009, Part 1.