
Changes to legislation: There are currently no known outstanding effects for the Flood Risk Management (Scotland) Act 2009, Paragraph 12. (See end of Document for details)

SCHEDULE 2 FLOOD PROTECTION SCHEMES: PROCEDURE ETC.

Appeals

- 12 (1) A decision to confirm a proposed scheme made by a local authority or the Scottish Ministers (other than a decision under paragraph 5(1)) may be appealed by any person affected by the confirmed scheme.
- (2) An appeal must be made before the expiry of the period of 6 weeks beginning with the day notice is published under paragraph 10(2)(d) in a newspaper circulating in the local authority's area.
- (3) An appeal under this paragraph is to be made by way of summary application to the sheriff of an appropriate sheriffdom.
- (4) An “appropriate sheriffdom” is a sheriffdom in which some or all of the proposed operations are to be carried out.
- (5) The grounds on which a decision can be appealed are—
- (a) that the confirmed scheme breaches the restriction in subsection (3) of section 61 or does not comply with the requirement in subsection (4) of that section,
 - (b) that, in reaching the decision, the local authority or, as the case may be, the Scottish Ministers erred in law, or
 - (c) that there was a failure to comply with a procedural requirement contained in this schedule or regulations made under it.
- (6) The sheriff may, on the application of the appellant, suspend the operation of the scheme, or of any part of it, either generally or insofar as it affects any interest in land which the appellant has, pending determination of the appeal.
- (7) If the sheriff is satisfied that the interests of the applicant have been substantially prejudiced by—
- (a) the confirmed scheme breaching the restriction in subsection (3) of section 61 or not complying with the requirement in subsection (4) of that section,
 - (b) an error of law, or
 - (c) a failure to comply with a procedural requirement contained in this schedule or regulations made under it,
- then the sheriff may uphold the appeal and quash the scheme, or any part of it, either generally or insofar as it affects any interest in land which the appellant has.

Commencement Information

II Sch. 2 para. 12 in force at 24.12.2010 by S.S.I. 2010/401, art. 3(g)

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