



# Flood Risk Management (Scotland) Act 2009

2009 asp 6

## PART 3

### FLOOD RISK ASSESSMENT, MAPS AND PLANS

#### *Purpose of Part*

#### **7 General purpose of Part 3**

The purpose of this Part is to make provision for or in connection with establishing a framework for the assessment and mapping of flood risks and the planning in relation to the management of such risks, including making provision, and enabling provision to be made, for or in connection with implementing the Directive.

#### *Flood risk management districts*

#### **8 Flood risk management districts**

- (1) A flood risk management district for the purposes of this Part is—
  - (a) an area designated as a river basin district by order under section 4(1) of the 2003 Act, or
  - (b) such other area as the Scottish Ministers may designate by order, being such area as they consider appropriate and to which they assign one or more coastal areas or river basins.
- (2) An order under subsection (1)(b) must identify the flood risk management district by reference to a map prepared for the purposes of the order and laid before the Parliament.
- (3) The Scottish Ministers must send SEPA a copy of any order under subsection (1)(b) and any map referred to in the order.
- (4) SEPA must, whether a flood risk management district is—

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- (a) an area designated as a river basin district by order under section 4(1) of the 2003 Act, or
  - (b) an area designated by order under subsection (1)(b),
- make copies of the order concerned and the map to which the order refers available for public inspection.

### *Flood risk assessment*

## **9 SEPA to prepare flood risk assessments**

- (1) SEPA must prepare a flood risk assessment for each flood risk management district providing an assessment of any flood risk for the district.
- (2) A flood risk assessment must be prepared by 22nd December 2011.
- (3) A flood risk assessment is to be based on available and readily derivable information (including in particular information on any impact of climate change on the occurrence of floods).
- (4) A flood risk assessment must include—
  - (a) maps at the appropriate scale of the flood risk management district which show—
    - (i) borders of any river basin, sub-basin and coastal area in the district,
    - (ii) topography and land use, and
    - (iii) such other information as the Scottish Ministers may specify by regulations,
  - (b) where—
    - (i) SEPA considers there is reliable information that any flood has occurred in the flood risk management district which had significant adverse consequences for human health, the environment, cultural heritage or economic activity there, and
    - (ii) a similar future flood in the district with significant adverse consequences for such matters there is still probable,
 a description of the flood which has occurred (including its extent and conveyance routes and an assessment of the adverse consequences mentioned in sub-paragraph (i) that the flood entailed),
  - (c) where—
    - (i) SEPA considers there is reliable information that a significant flood has occurred in the flood risk management district, and
    - (ii) significant adverse consequences for the district of any similar future flood there might be envisaged,
 a description of the flood which has occurred, and
  - (d) an assessment of the potential adverse consequences of any future flood for human health, the environment, cultural heritage and economic activity in the flood risk management district taking into account as far as possible issues such as—
    - (i) the topography,
    - (ii) the position, and the general hydrological and geomorphological characteristics, of any body of surface water,

- (iii) natural features and characteristics of any river basin or coastal area in the district,
  - (iv) the effectiveness of any existing artificial flood protection structure,
  - (v) the position of any populated area and area of economic activity, and
  - (vi) long-term developments, including any impact of climate change on the occurrence of floods.
- (5) A flood risk assessment, and any map included in it by virtue of subsection (4)(a), may also include such other information as SEPA considers appropriate.

## **10 Flood risk assessments: review**

- (1) SEPA must—
- (a) by 22nd December 2018 or such earlier date as the Scottish Ministers may direct (“the operative date”), review and where appropriate update each flood risk assessment prepared under section 9, and
  - (b) by the end of the period of 6 years beginning with the operative date, and of each subsequent period of 6 years, review and where appropriate update the latest flood risk assessment updated after review under this section.
- (2) Section 9(3) to (5) applies in relation to the review and updating of a flood risk assessment.

## **11 Flood risk assessments: regulations**

The Scottish Ministers may by regulations make further provision as to the preparation of a flood risk assessment under section 9, or the review or updating of such an assessment under section 10, including provision as to criteria to be applied and the methods and procedures to be followed in those matters.

## **12 Flood risk assessments: availability for public inspection**

SEPA must make available for public inspection copies of the flood risk assessment for the time being applicable to each flood risk management district.

### *Identification of potentially vulnerable areas and local plan districts*

## **13 SEPA to identify potentially vulnerable areas and local plan districts**

- (1) SEPA must prepare and submit to the Scottish Ministers a document identifying for each flood risk management district any area in the district for which it considers that significant flood risk—
- (a) exists, or
  - (b) is likely to occur.
- (2) The document must be submitted to the Scottish Ministers by such date as they may direct, and after carrying out such consultation as may be required by regulations under section 15.
- (3) The document must also identify areas (consisting of one or more river basins, sub-basins or coastal areas) around the areas in the flood risk management district

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identified under subsection (1) for the purpose of preparing local flood risk management plans (see section 34).

- (4) SEPA's identification—
  - (a) of any area under subsection (1) is to be based on the flood risk assessment prepared by it under section 9 for the district in which the area is situated,
  - (b) of any area under subsection (3) is to be based on—
    - (i) that assessment, and
    - (ii) such other information as SEPA considers appropriate, and
  - (c) of any area under subsection (1) or (3) is to identify the area by reference to a map at the appropriate scale prepared for the purposes of and included in the document.
- (5) After considering the document, the Scottish Ministers may—
  - (a) approve it (in whole or in part and with or without modifications), or
  - (b) reject it.
- (6) Before determining whether or not to approve the document, the Scottish Ministers may request such further information and carry out such further investigations and consultation as they consider appropriate.
- (7) The Scottish Ministers must advise SEPA in writing of the reasons for their determination under subsection (5).
- (8) Where the Scottish Ministers reject the document, they must return it to SEPA and direct SEPA to resubmit it by such date as the direction may specify with—
  - (a) such modifications (if any) as the direction may specify, and
  - (b) any further modification which SEPA considers appropriate.
- (9) An area referred to in subsection (1) and identified in a document approved under this section or section 14 is referred to in this Part as a “potentially vulnerable area”.
- (10) An area referred to in subsection (3) and identified in such a document is referred to in this Part and Part 4 as a “local plan district”.

#### **14 Potentially vulnerable areas and local plan districts: review**

- (1) SEPA must, after carrying out such consultation as may be required by regulations under section 15—
  - (a) by such date as the Scottish Ministers may direct, review and where appropriate update the document approved under section 13, and
  - (b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years (or, in each case, such lesser period as the Scottish Ministers may direct) review and where appropriate update the latest document approved under this section.
- (2) SEPA must submit to the Scottish Ministers each updated document.
- (3) Any review by SEPA under subsection (1) is to be based—
  - (a) on the flood risk assessment for the time being applicable to the flood risk management district concerned, and
  - (b) insofar as the review is of the identification of any local plan district, on such other information as SEPA considers appropriate.

- (4) Section 13(4)(c) and (5) to (8) applies in relation to an updated document submitted to the Scottish Ministers under this section.

## **15 Potentially vulnerable areas and local plan districts: regulations**

The Scottish Ministers may by regulations make provision as to—

- (a) the form and content of a document submitted to them under section 13 or 14,
- (b) consultation by SEPA in relation to its preparation of any such document,
- (c) SEPA making available to the public—
  - (i) any such document,
  - (ii) information relating to matters included in it,
  - (iii) a summary of any consultation carried out by SEPA in relation to the document, and
  - (iv) a document as approved by the Scottish Ministers under section 13 or 14,
- (d) SEPA publicising its making available to the public any of the things referred to in paragraph (c)(i) to (iv),
- (e) the process to be followed in connection with preparation, submission, approval or modification of a document under section 13 or 14 or review or updating of a document approved under either of those sections, and
- (f) such other matters in relation to any such document (including submission, approval, modification, review or updating) as the Scottish Ministers may consider appropriate.

### *Assessment of flood risk from sewerage systems*

## **16 Scottish Water to assess flood risk from sewerage systems**

- (1) Scottish Water must, for each potentially vulnerable area and any other area identified by SEPA, prepare an assessment—
  - (a) identifying where in the area it considers that a flood is likely to originate from a sewerage system,
  - (b) estimating the volume of sewage which is likely to be released in the event of such a flood, and
  - (c) containing such other information as the Scottish Ministers may specify in regulations.
- (2) An assessment under subsection (1) must be prepared by such date as the Scottish Ministers may direct.
- (3) Before identifying an area for the purposes of subsection (1), SEPA must consult—
  - (a) Scottish Water, and
  - (b) any other responsible authority which has functions exercisable in or in relation to the area.
- (4) An assessment prepared under subsection (1) must be in such form as SEPA may determine.

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- (5) In determining the form of an assessment under subsection (4), SEPA must seek to ensure that the assessment will integrate with information relating to flood risk held by—
  - (a) itself, and
  - (b) any responsible authority which has functions exercisable in or in relation to the area for which the assessment is prepared.
- (6) Before determining the form of an assessment in accordance with subsections (4) and (5), SEPA must consult the persons mentioned in subsection (5)(b).
- (7) Scottish Water must, if requested, provide a copy of an assessment to SEPA or a responsible authority.
- (8) Scottish Water must, for each potentially vulnerable area and each area for the time being identified by SEPA—
  - (a) by such date as the Scottish Ministers may direct, review and where appropriate update the assessment prepared under subsection (1) for that area,
  - (b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years (or, in each case, such lesser period as the Scottish Ministers may direct) review and where appropriate update the latest assessment reviewed under this subsection for that area.
- (9) Subsections (4) to (7) apply to the updating of assessments as they apply to their preparation.
- (10) Before making regulations under subsection (1)(c), the Scottish Ministers must consult—
  - (a) SEPA,
  - (b) Scottish Water, and
  - (c) such other responsible authorities as they consider appropriate.

*Bodies of water etc.: mapping and assessment*

**17 Local authorities to prepare maps of bodies of water etc.**

- (1) Every local authority must prepare a map which shows (or more than one map which, taken together, show) relevant bodies of water and sustainable urban drainage systems in its area.
- (2) Each map must—
  - (a) be prepared by such date as the Scottish Ministers may direct,
  - (b) be prepared at a scale that the authority considers most appropriate, and
  - (c) contain such information and be in such form as the Scottish Ministers may specify in regulations.
- (3) A local authority must, from time to time, review and where appropriate update the map (or maps) prepared for its area under subsection (1).
- (4) A local authority must make available for public inspection the map (or maps) prepared under this section for the time being applicable to its area.
- (5) In this section and section 18—
  - “relevant body of water”—

- (a) means—
  - (i) a body of surface water other than a stretch of coastal water, or
  - (ii) a body of underground water forming part of a watercourse (but not including a watercourse which is wholly underground), but
- (b) does not include sewers and drains which drain into sewers,  
“sustainable urban drainage system” has the meaning given in section 59(1) of the Sewerage (Scotland) Act 1968 (c. 47).

## **18 Local authorities to assess bodies of water**

- (1) Every local authority must, from time to time (or when directed to do so by the Scottish Ministers)—
  - (a) assess the relevant bodies of water (other than canals) in its area for the purpose of ascertaining whether the condition of any such body of water gives rise to a risk of flooding of land within or outwith its area, and
  - (b) where—
    - (i) a body of water gives rise to such a risk, and
    - (ii) the authority considers that clearance and repair works would substantially reduce that risk,prepare a schedule of those clearance and repair works.
- (2) In subsection (1)(b), clearance and repair works are works that consist of any or all of the following—
  - (a) removing obstructions from a body of water,
  - (b) removing things that are at significant risk of becoming such obstructions,
  - (c) repairing artificial structures which form part of the bed or banks of a body of water.
- (3) A schedule prepared under subsection (1)(b) must—
  - (a) indicate when the local authority next intends to carry out an assessment under subsection (1)(a) of the body of water in question,
  - (b) contain such other information and be in such form as the Scottish Ministers may specify in regulations.
- (4) A local authority must make available for public inspection the schedule of clearance and repair works prepared under subsection (1)(b) for the time being applicable to its area.
- (5) Where it appears to a local authority, whether or not as a result of an assessment carried out under subsection (1)(a), that any relevant body of water in its area is in a condition which is likely to cause flooding of land outwith its area, it must notify the local authority for the area in which that land is situated.
- (6) Subsection (5) does not apply where it appears to the first mentioned authority that the second mentioned authority is aware of the likelihood of the flooding.

### *Artificial structures and natural features: mapping and assessment*

## **19 SEPA to prepare maps of artificial structures and natural features**

- (1) SEPA must, for each flood risk management district, prepare a map—

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- (a) showing artificial structures and natural features in the flood risk management district the removal of which SEPA considers would significantly increase the risk of flooding from a body of surface water,
  - (b) indicating, in relation to each structure or feature, whether it was constructed or altered under section 56 of this Act or section 2 of the 1961 Act, and
  - (c) containing such other information as the Scottish Ministers may specify in regulations.
- (2) Each map must be prepared—
- (a) by such date as the Scottish Ministers may direct,
  - (b) at the appropriate scale, and
  - (c) in such form as the Scottish Ministers may specify in regulations.
- (3) SEPA must, from time to time, review and where appropriate update the map prepared under this section for each flood risk management district.
- (4) Before preparing or updating a map under this section, SEPA must consult every local authority whose area (or part of whose area) is in the flood risk management district to which the map relates.
- (5) SEPA must make available for public inspection the map prepared or updated under this section for the time being applicable to each flood risk management district.

*Assessment of possible contribution of alteration etc. of natural features and characteristics*

## **20 SEPA to assess possible contribution of alteration etc. of natural features and characteristics**

- (1) SEPA must, by 22nd December 2013 or such other date as the Scottish Ministers may direct, assess whether alteration (including enhancement) or restoration of natural features and characteristics of any river basin or coastal area in a flood risk management district could contribute to the management of flood risk for the district.
- (2) For the purposes of this Act, natural features and characteristics include such features and characteristics which can assist in the retention of flood water, whether on a permanent or temporary basis, (such as flood plains, woodlands and wetlands) or in slowing the flow of such water (such as woodlands and other vegetation), those which contribute to the transporting and depositing of sediment, and the shape of rivers and coastal areas.
- (3) SEPA must—
- (a) by such date as the Scottish Ministers may direct, review and where appropriate update its assessment under subsection (1), and
  - (b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years (or, in each case, such lesser period as the Scottish Ministers may direct) review and where appropriate update the latest assessment reviewed under this subsection.
- (4) Each assessment under subsection (1), and each assessment updated after review under subsection (3) must—
- (a) take into account the flood risk assessment, any flood hazard maps and flood risk maps and any flood risk management plan for the time being applicable to the flood risk management district, and



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- (b) refer to a map showing where alteration (including enhancement) or restoration of natural features and characteristics of any river basin or coastal area in the district could contribute to management of flood risk in the district.
- (5) The map referred to in subsection (4)(b) must be prepared at a scale which SEPA considers will assist in—
- (a) the identification of measures under section 27(4)(b), and
  - (b) the inclusion of information in local flood risk management plans under section 34(3)(b)(ii) and (4)(c)(i).
- (6) SEPA must make available for public inspection copies of—
- (a) any assessment under this section for the time being applicable to each flood risk management district, and
  - (b) the map to which the assessment refers.

#### *Flood hazard maps and flood risk maps*

### **21 SEPA to prepare flood hazard maps and flood risk maps**

- (1) SEPA must prepare flood hazard maps and flood risk maps in accordance with this section and sections 22 and 23.
- (2) Flood hazard maps and flood risk maps must be prepared—
- (a) by 22nd December 2013,
  - (b) for the potentially vulnerable areas in each flood risk management district,
  - (c) at the appropriate scale, and
  - (d) so as to secure that the maps for the district (taken together) cover all such areas.

### **22 Flood hazard maps**

- (1) A flood hazard map (or more than one such map taken together) must (except to the extent subsections (2) to (6) provide otherwise), show—
- (a) the geographical areas which could be flooded by each of the following types of flood—
    - (i) floods with a low probability (or which would be an extreme event),
    - (ii) floods with a medium probability, and
    - (iii) floods with a high probability, and
  - (b) the following elements for each of those types of flood—
    - (i) the flood extent,
    - (ii) water depths or water level, whichever is appropriate,
    - (iii) where appropriate, the flow velocity or the relevant water flow, and
    - (iv) such other elements as the Scottish Ministers may specify by regulations.
- (2) But a flood hazard map need not show information referred to in subsection (1) as respects a flood with a high probability where SEPA considers such a flood would be unlikely to have significant adverse consequences for the area which could be flooded by it.
- (3) And—

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- (a) where a geographical area shown in a flood hazard map is or includes a coastal area which SEPA considers is adequately protected from coastal floods, subsection (4) applies instead of subsection (1) as respects any coastal flood (of the coastal area) with a medium or high probability,
  - (b) where a geographical area shown in a flood hazard map is or includes an area at risk of flooding from groundwater, subsection (5) applies instead of subsection (1) as respects any flood (of the area at such risk) with a medium or high probability and which would be from groundwater, and
  - (c) subsection (6) applies instead of subsection (1) as respects any flood from a sewerage system which is not a flood solely from a sewerage system.
- (4) Where subsection (3)(a) applies, the map—
- (a) may, where SEPA considers it appropriate, and
  - (b) must, to the extent that the Scottish Ministers direct,
- show for any such coastal area information referred to in subsection (1) as respects any such flood of that area.
- (5) Where subsection (3)(b) applies, the map—
- (a) may where SEPA considers it appropriate, and
  - (b) must, to the extent that the Scottish Ministers direct,
- show for the area at such risk information referred to in subsection (1) as respects any such flood of that area.
- (6) Where subsection (3)(c) applies, the map—
- (a) may where SEPA considers it practicable, and
  - (b) must to the extent that the Scottish Ministers direct,
- show information referred to in subsection (1) as respects any flood in the area from a sewerage system which is not a flood solely from a sewerage system.
- (7) To the extent (if any) that, in pursuance of subsections (2) to (6), a flood hazard map does not show information referred to in those subsections, the map must include a statement explaining that the information is not shown in it.
- (8) Before giving a direction under subsection (4)(b), (5)(b) or (6)(b), the Scottish Ministers must consult SEPA.
- (9) In this section—
- (a) as respects a flood—
    - “low probability” (or “extreme event”) means such probability as may be specified as such by the Scottish Ministers by order,
    - “medium probability” means such probability involving a return period of 100 years or more (or an annual probability of occurrence of not more than 1%) as may be specified as such by the Scottish Ministers by order,
    - “high probability” means such probability as may be specified as such by the Scottish Ministers by order,
  - (b) “groundwater” has the same meaning as in section 3(4) of the 2003 Act.

## **23 Flood risk maps**

- (1) The potential adverse consequences associated with each type of flood for which any information referred to in section 22(1) is shown in a flood hazard map must be shown

in a flood risk map (or more than one flood risk map taken together) by reference to the matters mentioned in subsection (2).

- (2) The matters are—
- (a) the indicative number of inhabitants who potentially could be affected,
  - (b) the type of economic activity in the area which could be flooded,
  - (c) installations referred to in Annex 1 to Directive [2008/1/EC](#) of the European Parliament and of the Council concerning integrated pollution prevention and control, which might cause accidental pollution if any type of flood referred to in subsection (1) occurred,
  - (d) any of the following protected areas or bodies of water which potentially could be affected, if any type of flood referred to in subsection (1) occurred—
    - (i) areas for the abstraction of water intended for human consumption identified by order under section 6(1) of the 2003 Act,
    - (ii) areas referred to in section 7(4)(a) of that Act (areas designated for the protection of economically significant aquatic species),
    - (iii) bodies of water referred to in section 7(4)(b) of that Act (bodies of water designated as recreational waters),
    - (iv) areas referred to in section 7(4)(c) of that Act (nutrient-sensitive areas),
    - (v) areas referred to in section 7(4)(d) of that Act (areas designated for the protection of habitats or species where the maintenance or improvement of the status of the water is an important factor in such protection),
    - (vi) areas classified pursuant to Article 4 of Council Directive [79/409/EEC](#) on the conservation of wild birds,
    - (vii) special areas of conservation designated under regulation 8(1) of the [Conservation \(Natural Habitats, &c.\) Regulations 1994 \(SI 1994/2716\)](#), and
    - (viii) sites of special scientific interest which have been notified in terms of section 3 of the [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#),
  - (e) any area which is within a protected area or body of water referred to in paragraph (d)(i) to (viii) and could be affected by pollution from any installation referred to in paragraph (c), and
  - (f) such other information as the Scottish Ministers may specify by regulations.
- (3) Where SEPA considers it appropriate, a flood risk map may also show the potential adverse consequences associated with any type of flood referred to in subsection (1) by reference to any of the following—
- (a) information indicating any areas where floods with a high content of transported sediments or debris floods (or a combination of such floods) can occur,
  - (b) such other sources of pollution as SEPA consider may be significant,
  - (c) such other available and readily derivable information as SEPA considers appropriate.

## 24 Flood hazard maps and flood risk maps: review

- (1) SEPA must—

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- (a) by 22nd December 2019, review and where appropriate update each flood hazard map and each flood risk map prepared under section 21, and
  - (b) by the end of each subsequent period of 6 years, review and where appropriate update the latest flood hazard map and flood risk map updated after review under this section.
- (2) SEPA must take into account in any review under this section the likely impact of climate change on the occurrence of floods.
- (3) Sections 21(2)(b) to (d), 22 and 23 apply in relation to the review and updating of a flood hazard map and a flood risk map.

**25 Flood hazard maps and flood risk maps: availability for public inspection**

SEPA must make available for public inspection copies of each flood hazard map and each flood risk map for the time being applicable to each flood risk management district.

**26 Flood hazard maps and flood risk maps: regulations**

The Scottish Ministers may by regulations make further provision as to the preparation of flood hazard maps and flood risk maps under section 21, or the review or updating of such maps under section 24, including provision as to criteria to be applied and the methods and procedures to be followed in those matters.

*Flood risk management plans*

**27 SEPA to prepare flood risk management plans**

- (1) SEPA must, for each flood risk management district, prepare and submit to the Scottish Ministers a flood risk management plan for the potentially vulnerable areas in the district.
- (2) A flood risk management plan must be submitted by such date as the Scottish Ministers may direct.
- (3) The date by which SEPA is directed to submit the plan must be a date that the Scottish Ministers consider allows them sufficient time to approve the plan by 22nd December 2015.
- (4) For the purposes of preparing a flood risk management plan, SEPA must—
- (a) set objectives for the management of flood risks for the potentially vulnerable areas, and
  - (b) identify measures to achieve those objectives in a way which it considers is most sustainable.
- (5) A flood risk management plan must include—
- (a) the matters specified in Part 1 of schedule 1, and
  - (b) such other matters as the Scottish Ministers may specify by regulations.
- (6) A flood risk management plan may contain or be accompanied by such other maps, diagrams, illustrations and descriptive matter as SEPA considers appropriate for the purpose of explaining or illustrating any matter in the plan.

- (7) Any such maps, diagrams, illustrations and descriptive matter are to be treated as forming part of the plan; and references to such a plan are to be construed accordingly.

## **28 Flood risk management plans: objectives and measures**

- (1) In setting objectives and identifying measures under section 27(4), SEPA—
- (a) must take account of, so far as relevant—
    - (i) any impact of climate change on the occurrence of floods within the flood risk management district to which the plan relates (“the district”),
    - (ii) the flood risk assessment prepared under section 9 for the district,
    - (iii) any assessment done under section 20 in relation to the district,
    - (iv) the flood hazard maps and the flood risk maps prepared under section 21 for the district,
    - (v) the costs of implementing proposed measures including social, environmental and economic costs,
    - (vi) the benefits that are likely to be derived from implementing proposed measures, including—
      - (A) the benefits in terms of reducing the potential adverse consequences of flooding for human health, the environment, cultural heritage and economic activity, and
      - (B) any other environmental, social, and economic benefits,
    - (vii) land and water management including the management of surface run-off water and urban drainage,
    - (viii) any development plan relating to the district and anything else done under or in pursuance of the planning Acts which affects development or the use of land within the district,
    - (ix) any plan or assessment published under section 2(1)(f) of the Civil Contingencies Act 2004 (c. 36) relating to the district,
    - (x) the environmental objectives within the meaning of section 9 of the 2003 Act,
    - (xi) the conservation of nature in the district and elsewhere, and
    - (xii) navigation and port infrastructure,
  - (b) must consider, so far as is appropriate, both structural and non-structural measures as means of achieving objectives, and
  - (c) may take into account such other matters as it considers relevant.
- (2) For the purposes of subsection (1)(b)—
- (a) a measure is structural if it involves flood protection work, and
  - (b) non-structural measures include—
    - (i) flood warning,
    - (ii) awareness raising,
    - (iii) the preparation and review of development plans, and
    - (iv) the carrying out of research, monitoring and other methods of gathering information relevant to managing flood risk.
- (3) In considering structural measures under subsection (1)(b), SEPA must consider measures that seek to reduce, slow or otherwise manage flood water by altering (including enhancing) or restoring natural features and characteristics.

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- (4) The measures considered in pursuance of subsection (3) must include measures that consist of carrying out any alteration or restoration of natural features and characteristics identified as being capable of contributing to the management of flood risk in an assessment done under section 20 in relation to the district.
- (5) In subsections (1)(a)(viii) and (2)(b)—  
     “development plan” has the meaning given in section 24 of the Town and Country Planning (Scotland) Act 1997 (c. 8),  
     “the planning Acts” has the meaning given in section 277(1) of that Act.

## **29 Flood risk management plans: guidance**

- (1) The Scottish Ministers must give guidance to SEPA on the setting of objectives and identification of measures under sections 27 and 28.
- (2) The guidance must, in particular, address the consideration of measures that consist of carrying out any alteration (including enhancement) or restoration of a natural feature or characteristic.
- (3) The guidance must be given no later than 22nd December 2012.
- (4) The Scottish Ministers must review and where appropriate update the guidance not later than—  
     (a) 6 years after it was given, or  
     (b) where the guidance has been reviewed under this subsection, 6 years after the last such review.
- (5) Before giving the guidance or updating it under subsection (4), the Scottish Ministers must consult—  
     (a) SEPA,  
     (b) every responsible authority, and  
     (c) such other persons as they consider appropriate.
- (6) SEPA must have regard to any guidance given under this section.

## **30 Flood risk management plans: publicity of drafts etc. and consultation**

- (1) Not less than 3 years before the beginning of the period to which a flood risk management plan is to relate, SEPA must publish a statement setting out—  
     (a) the steps under this section, and any other consultation measures, which it is to take in connection with the preparation of the plan, and  
     (b) the dates on or by which those steps and measures are to be taken.
- (2) Not less than one year before the beginning of the period to which a flood risk management plan is to relate, SEPA must publish a draft of the plan.
- (3) Publication of a statement under subsection (1) and a draft under subsection (2) is to be in such manner as SEPA considers appropriate.
- (4) On publishing a statement or draft plan SEPA must—  
     (a) publicise—  
         (i) that fact, and

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- (ii) the opportunity to make representations about the statement or draft plan under subsection (6),
  - (b) make copies of the statement or draft plan available for public inspection for such period, which must be at least 3 months beginning with the date of its publication, as SEPA may determine,
  - (c) consult the persons specified in subsection (5), and
  - (d) take such steps as it considers appropriate for the purpose of encouraging those persons to participate appropriately in the preparation of the plan.
- (5) The persons referred to in subsection (4)(c) are—
- (a) every responsible authority which has functions exercisable in or in relation to the flood risk management district to which the plan relates (“the district”),
  - (b) every category 1 responder (other than a responder which is a responsible authority) which has functions exercisable in or in relation to the district,
  - (c) Scottish Natural Heritage,
  - (d) where any part of the district has been designated as a National Park, the National Park authority for the National Park, and
  - (e) such other persons as SEPA considers appropriate.
- (6) Any person who wishes to make representations to SEPA about a statement or draft plan may do so before the expiry of the period determined under subsection (4)(b).
- (7) In preparing the draft flood risk management plan SEPA must take into account—
- (a) any views on the statement relating to the plan expressed by those consulted under subsection (4)(c), and
  - (b) any representations about the statement,
- which are received by SEPA before the expiry of the period determined under subsection (4)(b).
- (8) In preparing the flood risk management plan for submission to the Scottish Ministers SEPA must take into account—
- (a) any views on the draft plan expressed by those consulted under subsection (4)(c), and
  - (b) any representations about the draft plan,
- which are received by SEPA before the expiry of the period determined under subsection (4)(b).

### **31 Flood risk management plans: submission for approval**

- (1) As soon as a flood risk management plan is submitted to the Scottish Ministers under section 27 or 33, SEPA must—
- (a) publicise that fact, and
  - (b) make copies of the plan available for public inspection.
- (2) A flood risk management plan submitted to the Scottish Ministers by SEPA must be accompanied by a statement—
- (a) of the action taken by SEPA to comply with subsections (2) and (so far as relating to the draft plan) (3) to (5) of section 30,
  - (b) containing a summary of the views and representations referred to in subsection (8) of that section and of any adjustments made to the plan in light of those views and representations.

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- (3) If the Scottish Ministers, having considered the statement, are of the opinion that further consultation should be undertaken or other action taken by SEPA in relation to the plan under subsections (2) to (5) of section 30, they may return the plan to SEPA and direct it—
  - (a) to undertake such further consultation and take such further action under those subsections as they may specify, and
  - (b) to resubmit the plan with such modifications, if any, as SEPA considers appropriate by such date as the direction may specify.
- (4) Where the Scottish Ministers return the plan to SEPA under subsection (3), they must state their reasons for doing so.
- (5) This section applies, with the necessary modifications, in relation to a flood risk management plan resubmitted to the Scottish Ministers in pursuance of subsection (3)
  - (b) as it applies to the plan as originally submitted.

### **32 Flood risk management plans: approval and publication**

- (1) After considering a flood risk management plan submitted to them under section 27(1) or in pursuance of section 31(3)(b) or subsection (4) of this section, the Scottish Ministers may—
  - (a) approve it (in whole or in part and with or without modifications), or
  - (b) reject it.
- (2) Before determining whether or not to approve a plan, the Scottish Ministers may request such further information and carry out such further investigations and consultation as they consider appropriate.
- (3) The Scottish Ministers must advise SEPA in writing of their reasons for their determination under subsection (1) in relation to a plan.
- (4) Where the Scottish Ministers reject a plan, they must return the plan to SEPA and direct it to resubmit the plan with—
  - (a) such modifications as the direction may specify, and
  - (b) any further modifications which SEPA considers appropriate, by such date as the direction may specify.
- (5) Where the Scottish Ministers approve a plan, SEPA must—
  - (a) publish the approved plan in such manner as it considers appropriate,
  - (b) make copies of it available for public inspection,
  - (c) make copies of it available to the public, and
  - (d) publicise the publication of the approved plan.
- (6) In making copies of the plan available to the public under subsection (5)(c), SEPA may charge a reasonable price for each copy.

### **33 Flood risk management plans: review**

- (1) SEPA must—
  - (a) by such date as the Scottish Ministers may direct—
    - (i) review and update each flood risk management plan, and
    - (ii) submit each updated plan to the Scottish Ministers,



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- (b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years (or, in each case, such lesser period as the Scottish Ministers may direct)—
  - (i) review and update each flood risk management plan updated under this section, and
  - (ii) submit each updated plan to the Scottish Ministers.
- (2) The date by which SEPA is directed under subsection (1)(a) to submit each updated plan must be a date that the Scottish Ministers consider allows them sufficient time to approve the updated plan before 22nd December 2021.
- (3) An updated plan must include (in addition to the matters required to be included by section 27(5)) the matters specified in Part 2 of schedule 1.
- (4) Sections 27(4) to (7) and 28 to 32 apply in relation to the preparation, submission and approval of an updated flood risk management plan.

#### *Local flood risk management plans*

### **34 Local authorities to prepare local flood risk management plans**

- (1) The lead authority for each local plan district must prepare a local flood risk management plan to supplement the relevant flood risk management plan.
- (2) A local flood risk management plan is to consist of—
  - (a) a supplementary part, and
  - (b) an implementation part.
- (3) The supplementary part must include—
  - (a) a summary of the objectives, measures and other information included in the relevant flood risk management plan under paragraphs 1 to 3 of schedule 1 so far as relevant to the local plan district,
  - (b) such information supplemental to that plan including such—
    - (i) maps,
    - (ii) information about how implementing the measures summarised under paragraph (a) may alter (including enhance) or restore natural features and characteristics, and
    - (iii) further information about those measures,as the lead authority considers relevant to flood risk management within the local plan district, and
  - (c) a summary of—
    - (i) the steps taken under subsections (1) to (6) of section 35 in relation to the local flood risk management plan,
    - (ii) any other consultation measures taken in connection with the preparation of the plan, and
    - (iii) changes made to the plan in light of the views and representations received on it.
- (4) The implementation part must include a description of how the current measures are to be implemented including—
  - (a) a detailed timetable for—

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- (i) the completion of measures currently being implemented, and
  - (ii) the implementation of measures yet to be commenced,
  - (b) in relation to each measure, a description of—
    - (i) who is, or is to be, responsible for implementing the measure, and
    - (ii) the arrangements for funding the measure,
  - (c) a description of how the functions of the persons identified under paragraph (b)(i) will be coordinated to implement the measures and, in particular, a description of how those functions will be coordinated insofar as the measures relate to—
    - (i) the alteration (including enhancement) or restoration of natural features and characteristics, and
    - (ii) surface run-off water or urban drainage, and
  - (d) such other information as the lead authority considers relevant to the implementation of the measures.
- (5) The implementation part may also include a description of how other measures summarised in the supplementary part under subsection (3)(a) are to be implemented.
- (6) A local flood risk management plan must also include such other matters as the Scottish Ministers may specify by regulations.
- (7) Before making regulations under subsection (6), the Scottish Ministers must consult—
- (a) SEPA,
  - (b) every responsible authority, and
  - (c) such other persons as they consider appropriate.
- (8) A local flood risk management plan must not be inconsistent with anything in the relevant flood risk management plan.
- (9) For the purposes of this Part, the lead authority—
- (a) for a local plan district is—
    - (i) where a local authority’s area includes all of the local plan district, that authority,
    - (ii) in any other case, one of the local authorities whose area includes part of the local plan district as may be agreed between those authorities or, in default of agreement, as may be determined by the Scottish Ministers, and
  - (b) in relation to a local flood risk management plan, is the local authority responsible for preparing the plan by virtue of subsection (1) and paragraph (a) of this subsection.
- (10) In this Act, the “current measures”, in relation to a local flood risk management plan, are those of the measures summarised in the plan under subsection (3)(a) which are identified in the relevant flood risk management plan as to be implemented before the plan is next reviewed under section 33.
- (11) In this section, “relevant flood risk management plan”, in relation to a local plan district (or the local flood risk management plan for that district), means the flood risk management plan prepared under section 27 or updated under section 33 for the flood risk management district which includes the local plan district.

### **35 Local flood risk management plans: publicity and consultation**

- (1) Not less than one year before the beginning of the period to which the relevant flood risk management plan is to relate or by such date as the Scottish Ministers may direct, the lead authority must publish a draft of the supplementary part of the local flood risk management plan (“the draft supplementary part”).
- (2) Publication of a draft under subsection (1) is to be in such manner as the lead authority considers appropriate.
- (3) On publishing the draft supplementary part, the lead authority must—
  - (a) publicise—
    - (i) that fact, and
    - (ii) the opportunity to make representations about the draft supplementary part under subsection (4), and
  - (b) make copies of the draft supplementary part available for public inspection for such period, which must be at least 3 months beginning with the date of its publication, as the lead authority may determine.
- (4) Any person who wishes to make representations to a lead authority about the draft supplementary part may do so before the expiry of the period determined under subsection (3)(b).
- (5) On publishing the draft supplementary part, the lead authority must also—
  - (a) consult the persons specified in subsection (6) on—
    - (i) the draft supplementary part, and
    - (ii) a draft of the implementation part of the plan, and
  - (b) take such steps as it considers appropriate for the purpose of encouraging those persons to participate appropriately in the preparation of the plan.
- (6) The persons referred to in subsection (5)(a) are—
  - (a) any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district to which the plan relates (“the district”),
  - (b) any category 1 responder (other than a responder which is a responsible authority) which has functions exercisable in or in relation to the district,
  - (c) SEPA,
  - (d) Scottish Natural Heritage,
  - (e) where any part of the district has been designated as a National Park, the National Park authority for the National Park, and
  - (f) such other persons as the lead authority considers appropriate.
- (7) The lead authority must co-ordinate the steps it takes under subsections (1) to (6) with those taken by SEPA in relation to the relevant flood risk management plan under section 30(2) to (4).
- (8) Before finalising the local flood risk management plan, the lead authority must take into account—
  - (a) any representations about the draft supplementary part made under subsection (4), and
  - (b) any views on the draft local flood risk management plan expressed by those consulted under subsection (5)(a),which are received by the lead authority before the expiry of the period determined under subsection (3)(b).

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- (9) Not later than 2 months after receiving them, the lead authority must inform SEPA of any views expressed by those consulted under subsection (5)(a) which the lead authority considers relevant to the relevant flood risk management plan.
- (10) In subsections (7) and (9), “relevant flood risk management plan” means the flood risk management plan prepared under section 27 or updated under section 33 for the flood risk management district which includes the local plan district.

### **36 Local flood risk management plans: completion and publication**

- (1) A local flood risk management plan for a local plan district is finalised when—
- (a) the flood risk management plan which it supplements is approved under section 32, and
  - (b) either—
    - (i) the lead authority, every other responsible authority which has flood risk related functions exercisable in or in relation to the local plan district and SEPA agrees to its content, or
    - (ii) the Scottish Ministers determine its content under subsection (3).
- (2) If—
- (a) the lead authority considers that the local flood risk management plan will not be finalised by the local plan deadline, or
  - (b) the plan is not finalised by that deadline,
- the lead authority must notify the Scottish Ministers of that fact.
- (3) Where the Scottish Ministers receive notice under subsection (2), they must determine the content of the local flood risk management plan.
- (4) Before determining the content of a plan under subsection (3), the Scottish Ministers must take into account any representations made by SEPA and any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district.
- (5) When a local flood risk management plan is finalised, the lead authority must—
- (a) publish the final plan in such manner as it considers appropriate,
  - (b) make copies of it available for public inspection,
  - (c) provide a copy of it to SEPA and the Scottish Ministers,
  - (d) make copies of it available to the public, and
  - (e) publicise the publication of the final plan.
- (6) In making copies of the plan available to the public under subsection (5)(d), the lead authority may charge a reasonable price for each copy.
- (7) In subsection (2), the “local plan deadline” is the date 6 months after the date the flood risk management plan mentioned in subsection (1)(a) is approved or such other date as the Scottish Ministers may direct.

### **37 Local flood risk management plans: interim report**

- (1) Not earlier than 2 years and not later than 3 years after a local flood risk management plan is finalised, the lead authority must—
- (a) review the plan, and

- (b) publish a report on the conclusions of the review including information on the progress that has been made towards implementing the measures identified in the implementation part of the plan.

(2) The lead authority must make copies of the report available for public inspection.

### **38 Local flood risk management plans: final report**

(1) Not earlier than 5 years, and not later than 6 years, after a local flood risk management plan is finalised, or by such other date as the Scottish Ministers may direct, the lead authority must publish a report on the plan containing—

- (a) an assessment of the progress made towards implementing the current measures,
- (b) a summary of the current measures which were not implemented, with reasons for their non-implementation, and
- (c) a description of any other measures implemented since the plan was finalised which the lead authority considers have contributed to the achievement of the objectives summarised in the supplementary part of the plan.

(2) The lead authority must make copies of the report available for public inspection.

### **39 Local flood risk management plans: joint working**

Where a local plan district covers more than one local authority's area, the lead authority and the other authorities must, so far as practicable, co-operate with each other with a view to assisting in—

- (a) the preparation of the local flood risk management plan for the district,
- (b) the review of that plan under section 37,
- (c) the preparation of the report published under that section, and
- (d) the preparation of the report published under section 38.

### *Regulations about plans*

### **40 Regulations relating to flood risk management plans and local flood risk management plans**

(1) The Scottish Ministers may by regulations make further provision as to—

- (a) the form of flood risk management plans and local flood risk management plans,
- (b) the matters to be taken into account in preparing such plans,
- (c) the procedures to be followed in connection with the preparation, submission, approval, review and modification of such plans,
- (d) consultation by SEPA in relation to its preparation of flood risk management plans,
- (e) consultation by lead authorities in relation to their preparation of local flood risk management plans, and
- (f) the form, content, preparation and publication of reports under sections 37 and 38.

(2) Such regulations may, in particular, do any of the following—

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- (a) provide for the notice to be given of, or the publicity to be given to—
  - (i) matters to be included or proposed to be included in any such plan,
  - (ii) the approval of any such plan, and
  - (iii) any other procedural step,
- (b) provide for the publicity to be given to the procedures referred to in subsection (1)(c),
- (c) make provision for documents and information relating to matters included in the plan to be made available to the public,
- (d) make provision as to the making and consideration of representations with respect to any such plan,
- (e) require or authorise—
  - (i) in relation to a flood risk management plan, SEPA,
  - (ii) in relation to a local flood risk management plan, the lead authority,
 to consult, or consider the views of, other persons before taking any particular procedural step.

*Duty to have regard to plans*

**41 Duty to have regard to flood risk management plans and local flood risk management plans**

- (1) The Scottish Ministers and every public body and office-holder must, in exercising any functions so far as affecting a flood risk management district, have regard to—
  - (a) the flood risk management plan for that district as approved under section 32,
  - (b) so far as the exercise of the functions affects a local plan district, the local flood risk management plan for that district as finalised under section 36.
- (2) The Scottish Ministers must, in determining any funding to be allocated to SEPA or any responsible authority for the purpose of flood risk management for any period, have regard to flood risk management plans (as approved under section 32) and local flood risk management plans (as finalised under section 36).

**42 Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008**

In regulation 24 (further information) of the [Town and Country Planning \(Development Management Procedure\) \(Scotland\) Regulations 2008 \(SSI 2008/432\)](#)—

- (a) the words from “may” to the end become paragraph (a), and
- (b) at the end there is inserted—
  - “(b) must, where the application relates to a development that is likely to result in a material increase in the number of buildings at risk of being damaged by flooding, require from the applicant an assessment of flood risk in respect of the development.”.

### *Provision of information and assistance*

#### **43 Power of SEPA to obtain information, documents and assistance**

- (1) The Scottish Ministers and any responsible authority must, on being requested by SEPA, provide SEPA with—
  - (a) such information in their or, as the case may be, its possession or under their or its control, and
  - (b) such assistance,as SEPA may reasonably seek in connection with the exercise of any of SEPA's functions under sections 9, 10, 19, 20, 21, 24, 27, 28 and 33.
- (2) Any responsible authority must, on being requested by SEPA—
  - (a) gather and provide SEPA with such information—
    - (i) as respects flood risk, and
    - (ii) which SEPA considers could contribute to improving understanding of flood risk, and
  - (b) prepare and provide SEPA with such assessments or maps which SEPA considers could contribute to such understanding,as SEPA may reasonably seek in connection with the exercise of any of those functions.
- (3) Information requested by SEPA in pursuance of subsection (2) may include in particular information about, or as the case may be assessments or maps relating to—
  - (a) the contribution that altering (including enhancing) or restoring natural features and characteristics could make to managing flood risk, and
  - (b) urban drainage and flooding caused by surface run-off water or a sewerage system.
- (4) Information and assistance which a responsible authority is required to provide to SEPA in pursuance of subsection (1) or (2) must be provided in such form and manner as SEPA may reasonably seek.
- (5) SEPA may serve a notice on any person (but not the Scottish Ministers or a responsible authority) requiring the person to—
  - (a) provide SEPA, or a person authorised by it, in the form and manner specified in the notice, with such information, or
  - (b) produce to SEPA, or to a person authorised by it, such documents,as it may reasonably require in connection with the exercise of any of the functions referred to in subsection (1).
- (6) Where a responsible authority or, as the case may be, a person on whom a notice is served under subsection (5) cannot agree with SEPA on whether information or assistance is, or assessments, maps or documents are, being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

#### **44 Power of lead authorities to obtain information, documents and assistance**

- (1) A person mentioned in subsection (2) must, on being requested by a lead authority, provide the authority with—
  - (a) such information in its possession or under its control, and

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- (b) such assistance,  
as the authority may reasonably seek in connection with its functions under sections 34 to 38.
- (2) Those persons are—
  - (a) SEPA, and
  - (b) any responsible authority which has flood risk related functions exercisable in or in relation to the local plan district.
- (3) A lead authority may serve a notice on any person (but not SEPA, a responsible authority or the Scottish Ministers) requiring the person to—
  - (a) provide the authority, or a person authorised by it, in the form and manner specified in the notice, with such information, or
  - (b) produce to the authority, or to a person authorised by it, such documents,  
as it may reasonably require in connection with the exercise of any of the functions under sections 34 to 38.
- (4) Where a responsible authority, SEPA or, as the case may be, a person on whom a notice is served under subsection (3) cannot agree with the lead authority on whether information or assistance is, or documents are, being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

#### **45 Power of local authorities to obtain information**

- (1) A person mentioned in subsection (2) must, on being requested by a local authority, provide the authority with such information in its possession or under its control as the authority may reasonably seek in connection with its functions under sections 17 and 18.
- (2) Those persons are—
  - (a) SEPA, and
  - (b) any other responsible authority which has flood risk related functions exercisable in or in relation to the local authority's area.
- (3) Where SEPA or, as the case may be, a responsible authority cannot agree with the local authority on whether information is being sought reasonably under this section, either of them may refer the matter to the Scottish Ministers, whose decision is final.

#### **46 Power to obtain information, documents and assistance: supplementary**

- (1) The information or documents required to be provided or produced in pursuance of a notice under section 43(5) or section 44(3) (an “information notice”) must be specified or described in the notice.
- (2) An information notice may require information to be provided or documents to be produced—
  - (a) at or by a time and at a place specified in the notice,
  - (b) in circumstances specified in the notice, or
  - (c) from time to time, in accordance with criteria specified in the notice.
- (3) Nothing in this section or section 43 or 44 authorises SEPA or, as the case may be, a lead authority to require disclosure of anything which a person would be entitled to



refuse to disclose in proceedings in the Court of Session on grounds of confidentiality in proceedings in that court.

- (4) Where by virtue of an information notice documents are produced to any person, that person may take copies of or make extracts from them.
- (5) References in this section or section 43 or 44 to documents are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.

#### **47 Power to obtain information, documents and assistance: offence**

- (1) A person who—
  - (a) refuses or fails, without reasonable excuse, to do anything required of that person by a notice under section 43(5) or 44(3), or
  - (b) intentionally alters, suppresses or destroys a document which that person has been required by such notice to produce,commits an offence.
- (2) A person who commits an offence under subsection (1) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.

*Consistency and co-ordination with river basin management planning under the 2003 Act*

#### **48 Consistency and co-ordination with characterisations and plans under the 2003 Act**

- (1) SEPA—
  - (a) must secure appropriate consistency in the information in flood risk assessments, flood hazard maps, flood risk maps and flood risk management plans prepared under this Part with information contained in characterisations of river basin districts and river basin management plans prepared under Chapter 2 of Part 1 of the 2003 Act,
  - (b) must co-ordinate—
    - (i) preparation and review of flood hazard maps, flood risk maps and flood risk management plans under this Part with preparation and review of information mentioned in subsection (2), and
    - (ii) making available such maps and plans for public inspection with making available such information for such inspection, and
  - (c) may, where it considers it appropriate, integrate any such flood hazard map, flood risk map or flood risk management plan with the information mentioned in subsection (2).
- (2) The information referred to in subsection (1)(b)(i) and (c) is—
  - (a) as respects flood risk maps and flood hazard maps, characterisations of river basin districts prepared under Chapter 2 of Part 1 of the 2003 Act, and
  - (b) as respects flood risk management plans, river basin management plans prepared under that Chapter.

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- (3) A lead authority responsible for preparing a local flood risk management plan must secure appropriate consistency in the information contained in the plan with information contained in characterisations of river basin districts and river basin management plans prepared under Chapter 2 of Part 1 of the 2003 Act.

#### *Advisory groups*

### **49 District flood risk advisory groups**

- (1) Each flood risk management district is to have one or more district flood risk advisory groups (“district advisory groups”).
- (2) The function of each district advisory group is to advise SEPA on any matter which—
- (a) relates to—
    - (i) the preparation of any of the documents mentioned in subsection (3),
    - (ii) the review and updating of any such document,
    - (iii) any assessment (of possible contribution of alteration etc. of natural features and characteristics) under section 20, and
    - (iv) the review and updating of any such assessment, and
  - (b) is within the remit of the group.
- (3) The documents mentioned in subsection (2)(a)(i) are—
- (a) the flood risk assessment for the district,
  - (b) the document (under section 13) identifying—
    - (i) potentially vulnerable areas in the district, and
    - (ii) local plan districts,
  - (c) each flood hazard map and flood risk map for the district,
  - (d) the flood risk management plan for the district.
- (4) SEPA must, in preparing, reviewing and updating the documents referred to in subsection (3) and in carrying out or reviewing any assessment under section 20, have regard to any advice given by a district advisory group for the district.
- (5) The number of district advisory groups, and their remits, membership and procedure are to be such as SEPA may determine.
- (6) SEPA may determine the remit of a district advisory group for any flood risk management district by reference to one or more of the following—
- (a) a particular geographical area,
  - (b) any other particular aspect of flood risk management within the district.
- (7) In determining the number of district advisory groups for any flood risk management district and their remits and membership, SEPA must seek to ensure appropriate representation of the interests of—
- (a) the persons specified or referred to in section 30(5)(a) to (d), and
  - (b) such other persons as appear to SEPA to have an interest in flood risk management for the district.
- (8) SEPA may pay to members of a district advisory group such expenses and allowances as it may determine.

## **50 Sub-district flood risk advisory groups**

- (1) For the purpose of setting up sub-district flood risk advisory groups, SEPA must divide each flood risk management district into such geographical areas (“sub-districts”) as it considers appropriate.
- (2) Each sub-district is to have a sub-district flood risk advisory group (“sub-district advisory group”).
- (3) The function of each sub-district advisory group is to advise—
  - (a) SEPA, on any matter which relates to—
    - (i) the preparation of the documents mentioned in subsection (4),
    - (ii) the review and updating of those documents,
    - (iii) any assessment (of possible contribution of alteration etc. of natural features and characteristics) under section 20, and
    - (iv) the review and updating of any such assessment, and
  - (b) lead authorities for local plan districts, all or part of which form part of the sub-district, on any matter which relates to the preparation of—
    - (i) a local flood risk management plan,
    - (ii) a report under section 37 or 38,so far as those matters are within the remit of the group.
- (4) The documents referred to in subsection (3)(a)(i) are—
  - (a) the flood risk assessment for the flood risk management district of which the sub-district forms part,
  - (b) the document (under section 13) identifying—
    - (i) potentially vulnerable areas in the district, and
    - (ii) local plan districts in the district,
  - (c) each flood hazard map and flood risk map for the district,
  - (d) the flood risk management plan for the district.
- (5) SEPA must, in preparing, reviewing and updating the documents referred to in subsection (4) and in carrying out or reviewing any assessment under section 20, have regard to any advice given by a sub-district advisory group.
- (6) A lead authority must, in preparing a local flood risk management plan or a report under section 37 or 38, have regard to any advice given by a sub-district advisory group.
- (7) The remits, membership and procedure of sub-district advisory groups are to be such as SEPA, after consulting local authorities all or part of whose areas form part of the sub-district, may determine.
- (8) In determining the remit and membership of a sub-district advisory group, SEPA must seek to ensure appropriate representation of the interests of—
  - (a) every responsible authority which has functions exercisable in or in relation to the sub-district,
  - (b) any category 1 responder (other than a responder which is a responsible authority) which has functions exercisable in or in relation to the sub-district,
  - (c) Scottish Natural Heritage,
  - (d) where any part of the sub-district has been designated as a National Park, the National Park authority for the National Park, and

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*Status: This is the original version (as it was originally enacted).*

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- (e) such other persons as appear to SEPA to have an interest in flood risk management for the sub-district.
- (9) SEPA may pay to members of a sub-district advisory group such expenses and allowances as it may determine.

### *Supplementary*

## **51 Power to give effect to Community obligations etc.**

- (1) The Scottish Ministers may by regulations provide that the provisions of this Part are to have effect with such modifications as the regulations may specify for the purpose of giving effect to any Community obligation of the United Kingdom or of exercising any related right.
- (2) In this section “related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.

## **52 Annual report on implementation of Directive**

- (1) The Scottish Ministers must either—
  - (a) as soon as practicable after the end of each calendar year lay before the Parliament a report summarising the action referred to in subsection (2) taken during the year by—
    - (i) the Scottish Ministers,
    - (ii) SEPA, and
    - (iii) the responsible authorities, or
  - (b) incorporate into their report under section 26 of the 2003 Act for the calendar year concerned a report summarising such action.
- (2) The action is—
  - (a) action taken in accordance with this Part (including, in particular, action taken for securing compliance with the requirements of the Directive), and
  - (b) action taken to implement measures identified in a flood risk management plan approved under section 32.

## **53 Availability of documents for public inspection**

- (1) Where, under this Part, any order, assessment, map, plan, or report is to be made available for public inspection, it—
  - (a) must be made available—
    - (i) free of charge,
    - (ii) at all reasonable times, and
  - (b) may be made available by such means, or in such formats, as the person required to make it available considers appropriate for the purpose of encouraging the inspection of it by members of the public.
- (2) The person required to make available the document referred to in subsection (1) must publicise the arrangements for making it available unless the document is—
  - (a) a map prepared under section 17, or
  - (b) a schedule prepared under section 18(1)(b).

## **54 Publicity of matters**

- (1) Where, under this Part, a person (“the publisher”) is required to publicise any matter, the publisher—
  - (a) must do so by means of a notice published in the appropriate newspapers, and
  - (b) may further publicise the matter by such electronic or other means as the publisher considers appropriate.
- (2) In subsection (1), the appropriate newspapers are—
  - (a) in relation to a local flood risk management plan, such newspapers circulating in the local plan district, or any part of the district, as the publisher considers appropriate,
  - (b) in relation to any other matter—
    - (i) at least one newspaper circulating throughout Scotland, and
    - (ii) such local newspapers circulating in any part of the flood risk management district to which the matter relates as the publisher considers appropriate.

## **55 Interpretation of Part 3**

- (1) In this Part—
  - “appropriate scale” means such scale as SEPA considers most appropriate,
  - “body of surface water”, “loch”, “river basin” and “watercourse” have the same meanings as in section 28(1) of the 2003 Act,
  - “sub-basin” means an area of land from which all surface run-off water flows through a series of streams, rivers, other watercourses and, as the case may be, lochs to a particular point in a watercourse or loch,
  - “wetland” means an area of ground the ecological, chemical and hydrological characteristics of which are attributable to frequent inundation or saturation by water.
- (2) The Scottish Ministers may by order specify boundaries of any coastal area for the purposes of this Part.