

FLOOD RISK MANAGEMENT (SCOTLAND) ACT

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 8 – General

Section 91 – Crown application

253. This section makes provision for the Act to apply to the Crown in Scotland.
254. Subsections (3) and (4) provide that the Crown in Scotland will not be criminally liable for any contravention of the Act's provisions but allows the Court of Session to declare any act of the Crown in contravention of the Act's provisions unlawful, upon application by the public body or office holder responsible for enforcing the provision in question.
255. Subsection (5) provides that any provision made by or under this Act applies to persons in the service of the Crown as it applies to other persons.
256. Subsection (6) and (7) limit powers of entry to Crown land by requiring the consent of an appropriate authority to be obtained before the powers can be exercised. Subsection (7) defines "Crown land" and "appropriate authority" and subsection (9) provides for the Scottish Ministers to determine any questions about who the appropriate authority is in relation to any land.

Section 92 – Offences by bodies corporate etc.

257. This section provides that where an offence under the Act has been committed by a corporate body, Scottish partnership or other unincorporated association and the offence was committed with the consent or connivance of a "relevant individual", both the body and the individual can be prosecuted.
258. Subsection (2) defines "relevant individual" and includes directors and other officers of companies, partners and individuals who manage or control other unincorporated associations.

Section 93 – Ancillary provision

259. This section enables the Scottish Ministers by order to make incidental, supplementary, consequential, transitional, transitory or saving provision, if appropriate.

Section 94 – Orders and regulations

260. This section provides the procedure for the making of orders and regulations under the Act.
261. Subsection (2) provides that all orders and regulations, except a commencement order, made under the Act are subject to negative procedure unless they are listed in subsection (3). Orders and regulations which fall under subsection (3) are subject to affirmative procedure.

Section 95 – Interpretation: general

262. This section defines various terms used across the Act. Schedule 4 contains an index of terms used across the Act and defined in various provisions (see paragraph 309).

Section 96 – Minor and consequential modifications

263. This section introduces schedule 3, which contains amendments and repeals to other Acts.

Section 97 – Commencement and short title

264. This section makes the usual provision that all of the provisions of the Act, except those containing definitions and providing where procedure is required for orders and regulations, are to come into force on a day set by the Scottish Ministers by order. The section also provides for the short title of the Act.