



# Flood Risk Management (Scotland) Act 2009

2009 asp 6

## PART 4

### FLOOD RISK MANAGEMENT: LOCAL AUTHORITY FUNCTIONS

#### *General*

#### **67 Recovery of expenses**

A local authority may recover any expense it incurs in carrying out—

- (a) any repairs or re-instatement to flood protection work done—
  - (i) under section 56, or
  - (ii) in accordance with a flood prevention scheme confirmed under section 4 of the 1961 Act, or
- (b) any work required under section 59,

from the owner or, as the case may be, occupier of the land on which the work was carried out if such expense is as a result of the actions of that person.

#### **68 Information about ownership etc. of land**

- (1) For the purposes of enabling it to exercise any of its functions under this Part, a local authority may require any person it believes to be the owner or occupier of any land to state in writing—
  - (a) the nature of the person's interest in that land, and
  - (b) the name and address of any other person known to the person as having a interest in that land.
- (2) Any person who—
  - (a) fails to comply with a requirement of a local authority under this section, or
  - (b) in answer to any such requirement, intentionally or recklessly makes any statement which is false or misleading in a material particular,

commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **69 Damage to certain flood protection work**

- (1) Any person who intentionally or recklessly damages any—
  - (a) barrier, embankment or other work for defence against flooding constructed or otherwise created by a local authority—
    - (i) in exercise of any of its functions under this Part, or
    - (ii) in accordance with a flood prevention scheme confirmed under section 4 of the 1961 Act, or
  - (b) apparatus ancillary to such work,
 commits an offence.
- (2) For the avoidance of doubt, a person carrying out flood protection work under this Part does not commit an offence under subsection (1).
- (3) It is a defence to a charge in proceedings for an offence under subsection (1) that the person did not know and had no reasonable means of knowing that the works or apparatus were for defence against flooding.
- (4) A person who commits an offence under subsection (1) is liable on summary conviction—
  - (a) in the JP court, to imprisonment for a term not exceeding 60 days, or to a fine not exceeding level 3 on the standard scale, or to both,
  - (b) in the sheriff court—
    - (i) for a first such offence, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the prescribed sum (within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995 (c. 46)), or to both, and
    - (ii) for any subsequent such offence, to imprisonment for a term not exceeding 6 months, or to the fine mentioned in sub-paragraph (i) above, or to both.

## **70 Repeal of Flood Prevention (Scotland) Act 1961**

The 1961 Act is repealed.

## **71 Interpretation of Part 4**

In this Part—

“relevant local flood risk management plan” means, in relation to a local authority, a local flood risk management plan for a local plan district that includes all or part of the local authority’s area,

“scheme documents” means, in relation to a proposed flood protection scheme, the documents containing the material specified in, or by regulations made under, section 60(2),

“statutory undertaker” means—

- (a) the holder of a licence under section 6(1) of the Electricity Act 1989 (c. 29),
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986 (c. 44),

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

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- (c) the Civil Aviation Authority,
- (d) a holder of a licence under Chapter 1 of the Transport Act 2000 (c. 38),
- (e) the operator of an electronic communications code network within the meaning of paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c. 21), and
- (f) any other person who is a statutory undertaker within the meaning of section 214(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8),

“statutory undertaking”—

- (a) means, in relation to a person mentioned in paragraphs (a) to (e) in the definition of “statutory undertaker”, the person’s undertaking,
- (b) means, in relation to Scottish Water, its core functions within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002 (asp 3),
- (c) otherwise has the meaning given in the Town and Country Planning (Scotland) Act 1997.