
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings Part 4 (flood risk management: local authority functions) of the Flood Risk Management (Scotland) Act 2009 (“the Act”) into force (except sections 62 to 64, which concern registers of flood protection schemes) together with certain related sections.

Article 5 makes savings provisions in relation to flood prevention schemes under the Flood Prevention (Scotland) Act 1961 (“the 1961 Act”). It provides that, despite the repeal of the 1961 Act, sections 4 (flood prevention schemes), 8 (powers of entry on land), 11 (compensation), 14 (Crown rights), 15 (interpretation), the First Schedule, and paragraphs 1 and 5 to 10 of the Second Schedule shall continue to have effect in relation to such schemes where notice of the scheme has been first published before the day appointed for the coming into force of section 70 of the Act. These savings provisions are intended to preserve the existing procedure for the confirmation of such flood prevention schemes and to enable local authorities to obtain a warrant from a sheriff or justice of the peace authorising them to enter land if access is refused. They are also intended to preserve claims for compensation that may arise in respect of flood prevention operations carried out under the 1961 Act.

The Act received Royal Assent on 16th June 2009 and Part 2 (sections 3 to 6) and sections 55, 71, 94, 95 and 97 came into force on that day. Most of Parts 1, 3, 5, 6 and 8 came into force on 26th November 2009 in accordance with the Flood Risk Management (Scotland) Act 2009 (Commencement No. 1 and Transitional and Savings Provisions) Order 2009 ([S.S.I. 2009/393](#)).