



The Flood Prevention (Scotland) Act 1961

**The Flood Prevention and Land Drainage (Scotland) Act
1997**

Report in Terms of Section 3 of the Act

Seventh Report, November 2009

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The Flood Prevention (Scotland) Act 1961

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The Flood Prevention (Scotland) Act 1961

The Flood Prevention And Land Drainage (Scotland) Act 1997

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1. Introduction

The Flood Prevention and Land Drainage (Scotland) Act 1997 amended the Flood Prevention (Scotland) Act 1961, in relation to flood prevention measures to be taken by local authorities. The 1961 Act gave permissive powers to local authorities to clean, repair and otherwise maintain any watercourse (watercourse being defined as including the bed and banks of any river, stream or burn, ditch, drain, cut, canal, culvert, sluice or passage carrying or designed to carry water, but excluding sewers or water mains). This legislation did not cover coastal flooding.

The construction of new channels or defences required the preparation of a Flood Prevention Scheme in terms of the 1961 Act. The confirmation of the First Minister was required before a Flood Prevention Scheme could proceed. No flood prevention operations other than maintenance and management works could be carried out other than by the promotion of Flood Prevention Scheme.

In summary, the 1997 Act placed the following duties on local authorities:-

Section 1 - Assessment and Maintenance of Watercourses

Every local authority shall cause the watercourses in their area to be assessed, from time to time, for the purpose of ascertaining whether any such watercourse is in a condition which is likely to cause flooding of land, not being agricultural land, within or outwith their area.

Section 2 - Maintenance of Watercourses

Where it appears to a local authority, whether or not as a result of an assessment carried out, that any watercourse in their area is in a condition which is likely to cause flooding of non-agricultural land, the local authority shall either consider the promotion of a Flood Prevention Scheme, or take appropriate maintenance and/or management measures.

Section 3 - Reports

The Act requires local authorities to prepare and publish reports specifying the measures which they consider they require to take to prevent or mitigate flooding of non-agricultural land in their area. At intervals of not more than two years, local authorities shall prepare and publish reports specifying:-

- (a) the measures that they consider that they require to take to prevent or mitigate the flooding of non-agricultural land in their area.
- (b) the measures taken since the date of publication of the previous report to prevent or mitigate such flooding and,
- (c) all occurrences of flooding of non-agricultural land since that date.

The Flood Risk Management (Scotland) Act 2009

The Scottish Government enacted the Flood Risk Management (Scotland) Act 2009 on 16th June 2009. The new Act will be commenced in stages, and, until Section 70, which repeals the Flood Prevention (Scotland) Act 1961, has been commenced, current flood legislation will remain in place. The phased commencement will allow for a smooth transition to the new legislation.

This is the Seventh Report prepared by South Ayrshire Council. The First Report was produced in November 1997. This will be the last Report produced under the 1997 Act, as subsequent Reports will fall under the remit of the new Flood Risk Management (Scotland) Act 2009.

See section 5.1 of this report.

2. Section (3a) - Measures that it is considered are required to prevent or mitigate the flooding of non-agricultural land

(i) **Craigend/Fullarton land drains, Troon**

Continue investigative, repair and clearance works to land drainage system formed by Fullarton Burn and Craigend Burn, now in culverts.

(ii) **Greenan Outfalls/Carwinshoch Outfall**

Continue to clear land drain outfalls on Greenan Shore and both main outfall and overflow channel of Carwinshoch land drain.

(iii) **Grills**

Continue to maintain list of known grills on watercourses within South Ayrshire – inspect and clear as required.

(iv) **Surveys**

Continue surveys of watercourses.

(v) **Maidens**

Replacement of two undersized road culverts, beneath Shanter Road and the A719. A Flood Risk Assessment has been undertaken, with a scheme of works to follow.

(vi) **Cunning Park, Ayr**

Continue investigations into the works carried out by developer. Survey of existing walls etc on south side of watercourse.

3. Section (3b) - Measures taken by South Ayrshire Council since the publication of the last report in November 2007, to prevent or mitigate the flooding of non-agricultural land

(i) **Struthers Burn, Troon**

Section of burn at Struthers Primary School cleared out to improve flow and reduce flood risk.

(ii) **Craigend/Fullarton land drains, Troon**

Clearance and Investigative works continued on land drainage system formed by Fullarton Burn and Craigend Burn, now in culverts.

(iii) **Crosshill**

Clearance works to various sections of burn in the village of Crosshill

(iv) **Greenan Outfalls/Carwinshoch Outfall**

Periodic inspection and clearance of land drain outfalls on Greenan Shore, and both main outfall and overflow channel of Carwinshoch land drain.

(v) **Grills**

Continued to inspect and clear grills on watercourses and culverts within South Ayrshire.

(vi) **Culzean Road, Maybole**

Repairs carried out to surface water culvert off Culzean Road, Maybole

4. Section 3(c) - Reported occurrences of flooding on non-agricultural land in the South Ayrshire Council area since November 2007 (Extracts)

Town/Village	Location	Date of occurrence	Description
GIRVAN	Coalpots Road, North Park Avenue & South Park Avenue, Girvan	09/09/08	Manhole surcharging on Coalpots Road, resulting in water running down Coalpots Road onto South Park Avenue.
TROON	38 Leven Road, Troon	17/09/08	Water from adjacent farm land had spilled into garden. Flooding of hut and rear garden.
TARBOLTON	74 – 84 Gallowhill Avenue, Tarbolton	07/10/08	Burn at rear of Gallowhill Avenue overflowed into the rear gardens of the above properties, then flowed between No's 80 & 82 and onto the road on Gallowhill Avenue. The road gulleys could not cope with the flood water resulting in the road being flooded.
AYR	Cunning Park/Doonfoot Road, Ayr	07/10/08	Slaphouse Burn very high. Area to north of burn flooded. Rear gardens of houses along Doonfoot Road inundated, and also some low lying properties in Gearholm Road threatened. Situation may have been caused by the earthworks on the new Ashleigh development. Investigations ongoing.
CROSSHILL	46 King Street, Crosshill	07/10/08	Rear of property flooded. Owner not sure if flooding was a result of surface water runoff from adjacent properties or from the adjacent burn. There was however a section of pipe inserted through the brickwork at the bottom of the garden. This could have let water from the burn run into the garden if the burn was running at this level.
MONKTON	19 Kilmarnock Road, Monkton	07/10/08	Surface water runoff from Semex Ltd.

AYR	8 Forehill Road, Ayr	07/10/08	Flooding in rear garden.
MAIDENS	Shanter Road/Kirkoswald Road, Maidens	10/10/08	One property flooded, others threatened.
MAYBOLE	Culzean Road, Maybole	10/10/08	Some surcharging of surface water culvert in Culzean Road, which threatens Cassillis Hotel on A77. This is made worse by the fact that Scottish Water's sewer upstream surcharges and adds foul discharge into the culvert.
AYR	Cunning Park/Doonfoot Road, Ayr	10/10/08	Rear gardens of houses along Doonfoot Road inundated, and also some properties in Gearholm Road threatened.
CROSSHILL	King Street, Crosshill	10/10/08	Building Standards attended reports of flooding of rear gardens in King Street. These gardens back on to the playingfield which has a burn around its perimeter. The Water of Girvan burst its banks in a number of locations.
FISHERTON	Fisherton	10/10/08	Flood water flowing around the perimeter of the Primary School. Debris on grill at the head of the culvert, in the farmer's field, was being cleared by the farmer. Some damage to road.
AYR	10 Willow Park, Ayr	10/10/08	Blockage in burn at rear of several properties cause by sewer pipe crossing the burn.
AYR	Land adjacent to 58 Abbots Way, Ayr (Turning Circle)	10/10/08	Drainage problem on land adjacent to 58 Abbots Way, Ayr Surface water runoff from adjacent strip of land causing a flooding problem.

AYR	27 Taybank Drive, Ayr	20/10/08	Water seeping into property from 25 Taybank Drive.
STRAITON	Newton Stewart Road, Straiton	18/10/08 to 20/10/08	Culvert blocked under the road. Burn flowing over the Newton Stewart Road.
AYR	Land adjacent to 58 Abbots Way, Ayr (Turning Circle)	10/11/08 & 12/12/08	Drainage problem on land adjacent to 58 Abbots Way, Ayr Surface water runoff from adjacent strip of land causing a flooding problem.
MAIDENS	Shanter Road, Maidens	15/12/08	Flooding of 3 Shanter Road, Maidens
AYR	Cunning Park/Doonfoot Road, Ayr	07/10/08; 10/10/08	Rear gardens of houses along Doonfoot Road inundated, and also some gardens in Gearholm Road threatened.
MOSSBLOWN	8 Station Road, Mossblown	15/06/09	Surcharging of Scottish Water combined system. Sewerage coming back up the drains inside No 8. Roads section confirmed that system is under capacity and SW know about it.
MOSSBLOWN	1 Hillpark, Mossblown	11/07/09	Surcharging of Scottish Water combined system. Sewerage coming back up the drains inside No 1 Hillpark, Mossblown. Scottish Water contacted. Roads section confirmed that they have experienced problems with gully surcharging during heavy rainfall. Several other properties in the area also experienced drainage problems.
GIRVAN	92 Glendoune Street	22/09/09	Water emanating from the ground in 92 Glendoune Street caused by blockage in a land drain which drains an underground spring at 79-85 Glendoune Street. Building Standards

			arranged for blockage to be cleared.
GIRVAN	Burnside Nursery, adjacent to A77, Girvan	13/10/09	Watercourse that runs through the garden backed up and burst its banks resulting in property being inundated.
COODHAM by Symington	Woodland Cottage, Coodham Estate	02/11/09	Blockage in burn at entrance to Woodland Cottage caused by debris blocking 3 grills at the entrance to the culverts which take the watercourse under the road into Coodham Lake. Grills have been removed.
TARBOLTON	Fail Toll Cottage, Tarbolton	02/11/09	Surface water running off from section of land at rear of the cottage. Property inundated. Sand bags were provided by the Roads department. Roads investigating the cause and arranging for remedial works.

5. Other Flooding Related Matters

(i) Changes to flooding legislation in Scotland

The Flood Risk Management (Scotland) Act 2009 will eventually replace the existing flooding legislation in Scotland. The new Act will introduce a more sustainable and modern approach to flood risk management. It is also intended to create a more joined up and coordinated approach to managing flood risk at a national and local level.

Specific measures within the Flood Risk Management (Scotland) Act 2009 include:

- A Framework for coordination and cooperation between all organisations involved in flood risk management in Scotland.
- Assessment of flood risk and preparation of flood risk management plans.
- New responsibilities for SEPA, Scottish Water and local authorities in relation to flood risk management.
- A revised, streamlined process for flood prevention schemes
- New methods to enable Stakeholders and the public to contribute to managing flood risk.

Information on the new Act and the duties placed on local authorities can be found at www.scotland.gov.uk

(ii) Sustainable Urban Drainage Systems (SUDS)

Sustainable Urban Drainage Systems (SUDS) utilise drainage principles to mimic natural drainage, encouraging filtration and improving quality and amenity value. Attenuation and reduction in peak flow can also be achieved by certain SUDS facilities, thus reducing flooding.

The Scottish Government's aim is to reach a position where it is normal practice that SUDS are a feature of all developments.