

# FORTH CROSSING ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 3 – Land

#### *Section 21 – Incorporation of enactments*

73. Compulsory purchase under the Act will be on the same standardised basis as any other compulsory purchase in Scotland. This means that in the Act compulsory purchase will be subject to all the same procedural rules, safeguards and requirements regarding compensation as apply generally. However, the legislation covering compulsory purchase is both large and complex and is contained in a number of Public Acts some of which were authorised in the 1840s. Two options presented themselves on how to incorporate the provisions of these Public Acts within the Act, the first being to write out the relevant provisions from each of the Public Acts at length in the Act and the second to apply the existing Public Acts as if they had been included within the Act. The Act proposes the latter and in that respect the Act follows precedent set both in legislation authorising infrastructure works throughout Great Britain since the mid 19<sup>th</sup> century and in recent Private Acts for infrastructure purposes authorised by the Scottish Parliament.
74. The Act accordingly within [section 21](#) incorporates provisions of the [Lands Clauses Consolidation \(Scotland\) Act 1845 \(c.19\)](#) (in the remainder of these Notes, “the 1845 Lands Act”), the [Lands Clauses Consolidation Acts Amendment Act 1860 \(c.106\)](#) and Acts for the time being in force amending those Acts<sup>1</sup> and the [Railway Clauses Consolidation \(Scotland\) Act 1845 \(c.33\)](#) (in the remainder of these Notes, “the 1845 Railways Act”).
75. Subsection (1) specifies which sections of the 1845 Lands Act are excluded from incorporation. Subsection (2) provides for the incorporation of section 6 (which addresses compensation) and sections 71 to 78 (which cover mines) of the 1845 Railways Act<sup>2</sup>.
76. Subsection (3) provides that the incorporated sections of these Acts apply for the purposes of the Act except where the Act makes inconsistent provision or expressly varies the incorporated provision. Subsections (4) and (5) ensure that the provisions of the 1845 Lands Act and the 1845 Railways Act can be appropriately incorporated within the Act by specifying how certain terms used in those Acts are to be interpreted in applying the provisions for the purposes of the Act.

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<sup>1</sup> These are the Acts collectively known as “the Lands Clauses Acts” and incorporated by section 21(1).

<sup>2</sup> See notes on section 28 (minerals) of the Act.