



# Forth Crossing Act 2011

## 2011 asp 2

### PART 10

#### MISCELLANEOUS

#### 72 Blighted land

Land which Ministers may acquire compulsorily under section 22 is to be treated as “blighted land” for the purposes of Chapter 2 of Part 5 of the 1997 Act.

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#### Commencement Information

**I1** [S. 72](#) in force at 3.2.2011 by [S.S.I. 2011/38](#), [art. 2](#), [Sch.](#)

#### 73 Certification of Parliamentary plans, etc.

- (1) Ministers must, as soon as practicable after this Act comes into force, submit copies of the following documents to the Clerk of the Scottish Parliament—
  - (a) the book of reference,
  - (b) the Parliamentary plans, and
  - (c) the Parliamentary sections.
- (2) The Clerk must, if satisfied as to the accuracy of the submitted documents, certify them as being true copies of the documents of those names referred to in this Act.
- (3) A certified document is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

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#### Commencement Information

**I2** [S. 73](#) in force at 3.2.2011 by [S.S.I. 2011/38](#), [art. 2](#), [Sch.](#)

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*Status: Point in time view as at 01/04/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Forth Crossing Act 2011, Part 10. (See end of Document for details)*

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## 74 Changes to Parliamentary plans or book of reference

- (1) The sheriff, if satisfied on a summary application by Ministers that the Parliamentary plans or the book of reference are inaccurate in their description of any land (or in their description and statement of the ownership or occupation of any land), must certify—
  - (a) the respect in which the description or statement is inaccurate, and
  - (b) how that inaccuracy is to be corrected.
- (2) The sheriff, if satisfied on a summary application that Ministers have entered into a binding obligation not to acquire certain land within the Act limits, must certify that the Parliamentary plans or the book of reference ought to be modified accordingly. An application may be made for the purposes of this subsection by—
  - (a) Ministers, or
  - (b) the owner of the land concerned.
- (3) Before making an application for the purposes of subsection (1) or (2), the applicant must give at least 10 days' notice of the proposed correction or modification to—
  - (a) the owner of the land or, as the case may be, Ministers, and
  - (b) any occupier of the land.
- (4) A certification must be—
  - (a) deposited in the office of the Clerk of the Parliament by the person who made the application, and
  - (b) kept by the Clerk with the Parliamentary plans or book of reference to which it relates.
- (5) After a certification is deposited, the Parliamentary plans or book of reference are to be treated as corrected or modified in accordance with it.
- (6) A summary application made under this section must be made to the sheriff for the sheriffdom in which the land concerned is situated.

### Commencement Information

**I3** S. 74 in force at 3.2.2011 by [S.S.I. 2011/38](#), art. 2, [Sch.](#)

## 75 Provision of information on the progress of the Forth Crossing works

- (1) Ministers must do everything which is reasonably practicable to ensure that those persons referred to in subsection (2) are kept informed of the progress of the carrying out of the Forth Crossing works and the implications of the works for those persons.
- (2) The persons referred to in subsection (1) are—
  - (a) local authorities for the areas in which the Forth Crossing works are situated,
  - (b) community councils in whose areas the Forth Crossing works are situated,
  - (c) councillors representing wards in which the Forth Crossing works are situated,
  - (d) members of the Scottish Parliament representing the constituencies in which the Forth Crossing works are situated, and
  - (e) any other such persons, businesses or community representatives in the areas in which the Forth Crossing works are situated as Ministers consider appropriate.

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#### Commencement Information

**I4** S. 75 in force at 3.2.2011 by S.S.I. 2011/38, art. 2, Sch.

## 76 Formal communications

- (1) A “formal communication” means any notice (or counter-notice) or objection served or given under this Act.
- (2) A formal communication must be in writing (and, if sent by email, fax or other electronic means, is to be treated as being in writing only if it is legible and capable of being used for subsequent reference).
- (3) A formal communication is served or given if it is—
  - (a) hand delivered to the person concerned,
  - (b) sent, by first class post or by using a registered or recorded delivery postal service, in an envelope or package addressed—
    - (i) where sent to an individual, to the individual at the individual's principal place of business or usual or last known abode, and
    - (ii) where sent to a body, to the body at its registered or principal office,
  - (c) sent to the person concerned in any other way (including by email, fax or other electronic means) which the sender reasonably considers likely to cause it to be delivered on the same or next day, or
  - (d) served or given in accordance with subsection (5).
- (4) A formal communication may be served or given in a way described in subsection (3) (c) only if the person to whom it is sent has previously agreed to it being sent in that way (such agreement to be given by notifying the sender to that effect).
- (5) Where a person, having made reasonable inquiries, is unable to ascertain the name or address of a person in respect of whom a formal communication relating to land is to be served or given, the formal communication may be served or given by—
  - (a) addressing it to the person concerned by name or by a description of the person's interest in the land (for example: “the owner” or “the occupier”), and
  - (b) fixing to a building or object on, or to a conspicuous part of, the land to which the formal communication relates (or, where that is not practical, to a building or object near that land).
- (6) A formal communication is, unless the contrary is proved, to be treated as having been served or given—
  - (a) where hand delivered, on the day of delivery,
  - (b) where posted, on the day on which it would be delivered in the ordinary course of post,
  - (c) where sent in a way described in subsection (3)(c), on the day after it is sent, or
  - (d) where served or given in accordance with subsection (5), on the day on which it is fixed on or near the land to which it relates.

#### Commencement Information

**I5** S. 76 in force at 3.2.2011 by S.S.I. 2011/38, art. 2, Sch.

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## 77 Ancillary provision

- (1) Ministers may, by order made by statutory instrument, make any supplementary, incidental, consequential, transitional, transitory or saving provision which they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provision of this Act.
- (2) Such an order may—
  - (a) make different provision for different purposes,
  - (b) modify this or any other enactment or any other instrument or document.
- (3) A statutory instrument containing such an order which makes supplementary, incidental or consequential provision may be made only if a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.
- (4) Any other statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.

## 78 Crown application

- (1) The appropriate authority may agree to any provision of this Act applying (with or without modifications) in relation to—
  - (a) a Crown interest, or
  - (b) an interest in land which—
    - (i) is not itself a Crown interest, but
    - (ii) subsists in land in which there is a Crown interest.
- (2) In this section, “Crown interest” means an interest in land—
  - (a) belonging to Her Majesty in right of the Crown,
  - (b) belonging to an office-holder in the Scottish Administration or to a government department,
  - (c) held in trust for Her Majesty for the purposes of the Scottish Administration by such an office-holder, or
  - (d) held in trust for Her Majesty for the purposes of a government department.
- (3) In this section, “the appropriate authority”, in the case of—
  - (a) land belonging to Her Majesty in right of the Crown and forming part of the Crown estate, means the Crown Estate Commissioners,
  - (b) other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration who, or the government department which, has management of the land [<sup>F1</sup>or the relevant person],
  - (c) land belonging to an office-holder in the Scottish Administration (or held by such an office-holder in trust for Her Majesty for the purposes of the Scottish Administration), means that office-holder,
  - (d) land belonging to a government department (or held in trust for Her Majesty for the purposes of a government department), means that government department.

[<sup>F2</sup>(3A) In subsection (3), “relevant person”, in relation to any land to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that land.]

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- (4) Where Ministers are the appropriate authority, their agreement is deemed to be given for the purposes of this section when they exercise their powers under the relevant provision of this Act.
- (5) It is for Ministers to determine any question arising as to what authority is the appropriate authority in relation to any land; and their determination is final.

#### Textual Amendments

- F1** Words in s. 78(3)(b) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 43\(a\)](#)
- F2** S. 78(3A) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 43\(b\)](#)

#### Commencement Information

- I6** S. 78 in force at 3.2.2011 by [S.S.I. 2011/38](#), art. 2, [Sch.](#)

## 79 Interpretation

- (1) In this Act, except where the contrary intention appears—
- “the 1845 Lands Act” means the Lands Clauses Consolidation (Scotland) Act 1845 (c.19),
  - “the 1963 Act” means the Land Compensation (Scotland) Act 1963 (c.51),
  - “the 1984 Act” means the Roads (Scotland) Act 1984 (c.54),
  - “the 1991 Act” means the New Roads and Street Works Act 1991 (c.22),
  - “the 1997 Act” means the Town and Country Planning (Scotland) Act 1997 (c.8),
  - “Act limits” means—
    - (a) the land within the limits of deviation, and
    - (b) the land to be acquired or used,
  - “airport operator” has the same meaning as in section 82(1) of the Airports Act 1986 (c.31),
  - “ancillary works” has the meaning given by section 1(1)(b),
  - “book of reference” means the book of reference submitted to the Scottish Parliament as an accompanying document with the Bill for this Act, as may be corrected or modified by any revised book of reference submitted to the Parliament before the day on which the Bill for this Act is passed or in accordance with section 74,
  - “building” includes any structure or erection,
  - “carriageway” has the same meaning as in the 1984 Act,
  - “code of construction practice” means the document of that name which forms part of the environmental statement (as from time to time amended or replaced by any revised code submitted to the Parliament before the day on which the Bill for this Act is passed or under section 68),
  - “conveyance” includes—
    - (a) a disposition,
    - (b) a notice of title,
    - (c) a notarial instrument,

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- (d) a conveyance in the form set out in Schedule A to the 1845 Lands Act, and
- (e) a general vesting declaration,
- “development management scheme” has the same meaning as in section 71(3) of Title Conditions (Scotland) Act 2003 (asp 9),
- “environmental statement” means the environmental statement submitted to the Scottish Parliament as an accompanying document with the Bill for this Act, as amended in accordance with this Act,
- “the Forth Crossing” has the meaning given by section 1,
- “Forth Crossing works” has the meaning given by section 1(2),
- “Forth Estuary Transport Authority” means the authority of that name constituted by order made under section 69 of the Transport (Scotland) Act 2001 (asp 2) (see article 6 of the Forth Estuary Transport Authority Order 2002),
- “general vesting declaration” has the same meaning as in paragraph 1 of Schedule 15 to the 1997 Act,
- “holder”, in relation to a real burden, has the same meaning as in the Title Conditions (Scotland) Act 2003 (asp 9),
- “improvement”, in relation to a road or means of access, has the same meaning as it has in the 1984 Act in relation to roads,
- “interest in land” includes any servitude or other right in or over land,
- “land” includes buildings, land covered with water, and any interest in land,
- “land to be acquired or used” means the land shown by that description on the Parliamentary plans,
- “Lands Tribunal” means the Lands Tribunal for Scotland,
- “limits of deviation” means the limits of deviation shown on the Parliamentary plans,
- “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),
- “Ministers” means the Scottish Ministers,
- “navigation authority” has the same meaning as in the 1984 Act,
- “noise” includes vibration,
- “noise and vibration policy” means the document of that name which forms part of the environmental statement (as from time to time amended or replaced under section 68),
- “notice to treat” has the meaning given in section 30(1),
- “occupier” includes any person entitled to occupy the land,
- “Parliamentary plans” means the plans submitted to the Scottish Parliament as accompanying documents with the Bill for this Act, as may be corrected or modified by any revised plans submitted to the Parliament before the day on which the Bill for this Act is passed or in accordance with section 74,
- “Parliamentary sections” means the sections and cross-sections submitted to the Scottish Parliament as accompanying documents with the Bill for this Act, as may be corrected or modified by any revised sections or cross-sections submitted to the Parliament before the day on which the Bill for this Act is passed,
- “partial acquisition” means an acquisition of part only of—
- (a) any house, building or factory, or
  - (b) any land consisting of a house with a park or garden,
- where a person is able to sell the whole of the house, building, factory or land,

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“personal real burden” has the same meaning as in the Title Conditions (Scotland) Act 2003 (asp 9),

“principal works” has the meaning given by section 1(1)(a),

“proposed road” has the same meaning as in the 1984 Act,

“public road” has the same meaning as in the 1984 Act,

“railway” has the same meaning as in section 23(1) of the Transport and Works (Scotland) Act 2007 (asp 8),

“real burden” has the same meaning as in the Title Conditions (Scotland) Act 2003 (asp 9),

“registration”, in relation to a conveyance or other document, has the same meaning as in Title Conditions (Scotland) Act 2003 (asp 9),

“relevant railway undertaker” means—

(a) Network Rail Infrastructure Limited (company number 2904587) and any successor to that company, or as the case may be

(b) any other person who holds a network licence (within the meaning of section 83(1) of the Railways Act 1993 (c.43)) in relation to the affected railway,

“road” has the same meaning as in the 1984 Act.

- (2) References to operation of the Forth Crossing works are references to the operation of the bridge, roads and structures constructed or improved by the Forth Crossing works (analogous expressions being construed accordingly).

## **80 Commencement**

- (1) The following provisions come into force on Royal Assent—

section 77

section 79

this section

section 81

- (2) Other provisions come into force on such day as Ministers may appoint by order made by statutory instrument.

- (3) Ministers must appoint the same day for sections 1 to 7 to come into force.

- (4) An order under subsection (2) may—

(a) make such transitional, transitory or saving provision as Ministers consider appropriate,

(b) appoint different days for different purposes.

## **81 Short title**

This Act is called the Forth Crossing Act 2011.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Forth Crossing Act 2011, Part 10.