

# FORTH CROSSING ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1 – Works

##### *Section 10 – Trees and shrubs*

38. The powers under [section 1](#) of the Act include the power to clear ground in respect of vegetation and that power also applies under [section 41](#). [Section 10](#) further enables the Scottish Ministers to cut down, lop or cut back the roots of any tree or shrub on land that is not within the Act limits or subject to the power in [section 41](#). The power being taken in this section can only be exercised if the Scottish Ministers reasonably believe it to be necessary to prevent the tree or shrub from obstructing or interfering with the works or apparatus used in connection with the works or from constituting a danger to persons carrying out or using the works.
39. Subsection (2) requires that the Scottish Ministers make reasonable efforts to avoid unnecessary damage to the tree or shrub.
40. Subsection (3) disapplies any tree preservation order made under section 160(1) of the [Town and Country Planning \(Scotland\) Act 1997 \(c.8\)](#) or any prohibition on interfering with trees in conservation areas made under section 172 of the same Act which might otherwise apply.
41. The approach taken is to ensure that as far as possible consents are authorised or disapplied under the Act in order that the Forth Crossing works are not compromised in their delivery. Compensation for cutting down, lopping or cutting back roots of trees and shrubs is covered in [section 52](#). Any dispute over compensation is to be determined by the Lands Tribunal of Scotland.