

FORTH CROSSING ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Statutory Undertakers

Section 57 – Apparatus affected by works

190. **Section 57** concerns the rights of providers of certain utilities, including water, gas, electricity, sewerage and telecommunications services to maintain their supplies through apparatus that will or may be affected by the Forth Crossing works. These providers are frequently referred to as “statutory undertakers” and that is the expression used in sections 224 to 227 of the [Town and Country Planning \(Scotland\) Act 1997 \(c.8\)](#). Those sections provide a statutory code that applies in certain cases where the use of land for planning purposes makes it necessary to extinguish statutory undertakers’ rights in relation to apparatus.
191. The code provides for the acquiring authority to require the relocation of apparatus of the statutory undertakers and for the statutory undertaker to object to the proposal with disputes being determined by the Scottish Ministers. Compensation for relocation is payable by the acquiring authority under section 232, 233 and 235 of the 1997 Act.
192. The extinguishment of statutory undertakers’ rights has precedence when constructing roads¹ or the construction of other works authorised by Acts of the Scottish Parliament².
193. **Section 57(1)** provides that provisions in respect of the 1997 Act may apply in respect of land that is to be acquired (whether compulsorily or voluntarily), appropriated or used or about to be used for the purposes of the Act. Such land may include land that is already owned by the Scottish Ministers. Subsection (1)(a) specifically applies sections 224 to 227 and subsection (1)(b) applies all other provisions of sections of the 1997 Act that are needed to ensure the effective operation of sections 224 to 227, including provisions in respect of compensation.
194. Subsection (2) limits the purpose for which sections 224 to 227 apply to the carrying out of the Forth Crossing works.
195. Subsection (3) ensures that Scottish Water as suppliers of sewers and sewage disposal works are included within the term of statutory undertakers for the purpose of the Act. Under the 1997 Act Scottish Water would only be caught as being a statutory undertaker for the supply of water.
196. Section 142 and 143 of the [New Roads and Street Works Act 1991 \(c.22\)](#) provide for a separate code governing works in roads and which will apply to certain of the Forth Crossing works. Accordingly, subsection (4) provides that **section 57** of the Act and therefore the provisions of the 1997 Act have no effect in relation to apparatus affected by such works.

¹ Section 134 of the [Roads \(Scotland\) Act 1984 \(c.54\)](#), which applies and extends the relevant sections within the 1997 Act.

² Section 34 of the [Glasgow Airport Rail Link Act 2007 \(asp 1\)](#).