

# FORTH CROSSING ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 7 – Statutory Undertakers**

##### *Section 61 – Apparatus in stopped up roads*

205. **Section 61** provides that statutory undertakers preserve their rights in relation to or over any apparatus that may be placed under, in, on, over, along or across a road stopped up under **section 14**. In this respect the statutory undertakers are treated in a similar manner to that which applies under section 12 of the Roads (Scotland) Act 1984. Subsection (1)(a) preserves those rights whilst subsection (1)(b) provides a power to statutory undertakers to remove and reposition that apparatus. Subsection (2) however places a duty on statutory undertakers to exercise their power to remove and relocate equipment if the owner of the land of the stopped up road so reasonably requests. **Section 17** makes provision for ownership of the solum of a stopped up road.
206. Subsection (3) ensures that the costs of relocating apparatus in consequence of subsection (2) will be shared between the statutory undertaker and the Scottish Ministers according to the regime for determining and sharing costs in section 144 of the New Roads and Street Works Act 1991 and any regulations made under that Act.