



Forth Crossing Act 2011

2011 asp 2

PART 6

COMPENSATION

47 Land Compensation (Scotland) Act 1963

The application of the 1963 Act to the compulsory acquisition of land under section 22 is subject to the following modifications—

- (a) this Act is to be treated as a “special enactment” for the purposes of section 13(3)(a) of the 1963 Act,
- (b) section 14 of the 1963 Act does not apply,
- (c) this Act is to be treated as a “corresponding enactment” for the purposes of section 15(1) of the 1963 Act,
- (d) references in sections 22 and 23 of the 1963 Act to the date of service of the notice to treat are, where title to the land is to be taken by general vesting declaration, to be treated as references to the date on which the declaration is made,
- (e) this Act is to be treated as an “enactment” for the purposes of section 22(4) of the 1963 Act, and
- (f) the terms of this Act.

48 Matters to be considered when assessing compensation

In assessing the compensation payable in respect of the compulsory acquisition of land under section 22, the Lands Tribunal must—

- (a) have regard to the extent to which any remaining contiguous land belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired,
- (b) where a road is widened as part of the Forth Crossing works, set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue to him by reason of the creation of a frontage to the road as widened,
- (c) take into account, and embody in its award, any undertaking given by Ministers as to the use to which the land, or any part of it, will be put.

Status: This is the original version (as it was originally enacted).

49 Matters to be ignored when assessing compensation

- (1) In assessing the compensation payable in respect of the compulsory acquisition of land under section 22, the Lands Tribunal must not take into account—
 - (a) any interest in land, or
 - (b) any land value enhancement,if it is satisfied that the interest in land was created, or that the work giving rise to the land value enhancement was carried out, for the purpose of obtaining compensation or increased compensation.
- (2) A “land value enhancement” is any enhancement of the value of an interest in land by reason of any construction, improvement, alteration or other work carried out on—
 - (a) the land acquired, or
 - (b) any other land with which the person to be compensated is, or was when the work was done, directly or indirectly concerned.

50 Compensation: partial acquisition etc.

- (1) Compensation for a partial acquisition must include compensation for any loss sustained by the owner due to the severance of the house, building, factory or other land (in addition to the value of the interest to be acquired).
- (2) Where Ministers withdraw a notice to treat under section 32(4), the owner of the land which was subject to that notice is entitled to be compensated for any loss arising as a result of the giving and withdrawing of the notice (with any dispute about entitlement to, or amount of, such compensation to be determined by the Lands Tribunal).

51 Compensation: servitudes and other rights

- (1) In assessing the compensation payable in respect of the acquisition or extinguishment of any servitude or other right in pursuance of this Act, account is to be taken of any new servitude or real burden created by Ministers for purposes connected with the Forth Crossing works.
- (2) Any person entitled to enforce a personal real burden immediately before it is extinguished in pursuance of this Act is entitled to compensation from Ministers for any loss arising as a result of the extinguishment.
- (3) Any dispute about—
 - (a) a person’s entitlement to such compensation, or
 - (b) the amount of such compensation,is to be determined by the Lands Tribunal in accordance with the 1963 Act as if it were a question of disputed compensation for the compulsory acquisition of land (and sections 8, 9, 11 and 12 of the 1963 Act accordingly have effect in relation to such a dispute so far as applicable and subject to any necessary modifications).

52 Compensation: cutting down or lopping, or cutting back roots of, trees or shrubs

- (1) A person is entitled to compensation from Ministers for any loss arising as a result of Ministers taking action under section 10(1) in relation to a tree or shrub.
- (2) Any dispute about—

- (a) a person's entitlement to compensation, or
- (b) the amount of the compensation,

is to be determined by the Lands Tribunal in accordance with the 1963 Act as if it were a question of disputed compensation for the compulsory acquisition of land (and sections 8, 9, 11 and 12 of the 1963 Act accordingly have effect in relation to such a dispute so far as applicable and subject to any necessary modifications).

53 Compensation: stopping up

(1) A person with an interest in land is entitled to compensation from Ministers for any loss, or any disturbance in that person's enjoyment of such land, arising as a result of action taken by Ministers under section 14 or 15 in relation to that land.

(2) Any dispute about—

- (a) a person's entitlement to compensation, or
- (b) the amount of the compensation,

is to be determined by the Lands Tribunal in accordance with the 1963 Act as if it were a question of disputed compensation for the compulsory acquisition of land (and sections 8, 9, 11 and 12 of the 1963 Act accordingly have effect in relation to such a dispute so far as applicable and subject to any necessary modifications).

(3) In assessing the compensation payable under this section, account must be taken of any new road or means of access which is provided as an alternative to the road or means of access which is stopped up.

54 Compensation: entering and using land temporarily

(1) A person with an interest in land is entitled to compensation from Ministers for any loss, or any disturbance in that person's enjoyment of such land, arising as a result of—

- (a) Ministers entering land under section 37 or 38,
- (b) Ministers taking action under section 41 in pursuance of such entry, or
- (c) the operation of section 37(3) or 46 in relation to that land.

(2) Any dispute about—

- (a) a person's entitlement to compensation, or
- (b) the amount of the compensation,

is to be determined by the Lands Tribunal.

(3) Such a dispute is, where temporary possession of land is taken under section 37, to be determined in accordance with the 1963 Act as if it were a question of disputed compensation for the compulsory acquisition of land (and sections 8, 9, 11 and 12 of the 1963 Act accordingly have effect in relation to such a dispute so far as applicable and subject to any necessary modifications).

(4) In assessing such compensation, account must be taken of—

- (a) the fact that entry is taken for a temporary period only, and
- (b) whether any action taken under section 41 will have a permanent or temporary effect.

(5) Any compensation payable under this section does not affect liability to pay compensation for loss arising from the Forth Crossing works under—

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(a) section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (c.33) (as incorporated by section 21), or

(b) any other enactment,

but compensation is not payable for the same matter under this section and that other enactment.

55 Compensation: advance entry

(1) Where Ministers enter and take possession of land under section 39, compensation is payable—

(a) where the land is subject to a notice to treat, as if sections 83 to 89 of the 1845 Lands Act had applied and been complied with,

(b) where the land is subject to a general vesting declaration, as if the land had already vested in Ministers.

(2) Nothing in section 39 or this section affects a person's rights to advance payment under section 48 of the Land Compensation (Scotland) Act 1973 (c.56).

56 Compensation where notice to treat becomes invalid

(1) Where a notice to treat is invalidated under section 34, any person to whom notice is to be given under subsection (3) of that section is entitled to compensation from Ministers for any loss arising as a result of the giving of the notice and its invalidation.

(2) Any dispute about—

(a) a person's entitlement to compensation, or

(b) the amount of the compensation,

is to be determined by the Lands Tribunal.

(3) Interest is payable on any compensation due under this section, at the rate prescribed under section 40 of the 1963 Act, from the date on which the notice became invalid until the date of payment.