

# FORTH CROSSING ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5 – Powers to Enter and Use Land**

##### *Section 37 – Temporary possession of land*

133. **Section 37** permits the Scottish Ministers to take temporary possession of specified land for the period required for specific purposes. Provision of this sort is standard in legislation authorising works.
134. Subsection (1) provides that the Scottish Ministers may enter and take temporary possession of the land specified in columns (1), (2) and (3) of **schedule 10** for either the specified purposes mentioned in column (4) or for any other purpose in connection with or in consequence of the works specified in column (5) of that schedule where the purpose is considered necessary or expedient by the Scottish Ministers.
135. Subsection (2) provides for the duration of temporary possession and subsection (3) ensures that any lease (including a sub-lease) on the land is terminated on the date Ministers first enter the land (compensation is provided for at section 54(1)).
136. As the land under **section 37** is being taken only temporarily the Scottish Ministers are obliged as a consequence of the provisions within **section 42** to remedy any damage that is caused to the land and ensure the security of the land whilst they are in occupation. They are not obliged, however, to replace any buildings or apparatus or vegetation that may be removed during the temporary possession of the land.
137. To ensure any person whose interests are affected by temporary occupation is compensated for any loss suffered the Scottish Ministers are required under **section 54** to pay compensation.