



# Forth Crossing Act 2011

## 2011 asp 2

VALID FROM 18/03/2011

### PART 2

#### ROADS

#### 11 Special roads

- (1) Ministers may designate any road or proposed road identified in schedule 3 (or any part of such a road) as a special road for the use by traffic falling within such classes set out in Schedule 3 to the 1984 Act as are specified in column (4) of schedule 3.
- (2) Ministers must—
  - (a) give notice of a designation (and of the date from which it takes effect) to—
    - (i) the local authority for each area through which the road runs, and
    - (ii) the navigation authority for any water which the road crosses, and
  - (b) take such steps as they consider reasonable to bring the designation, and the date from which it takes effect, to the attention of the public.
- (3) Ministers are to be treated for the purposes of the 1984 Act and all other enactments as having been authorised by a scheme under section 7 of the 1984 Act to provide a special road designated under this section (and are accordingly to be the “special roads authority” in relation to that road).
- (4) This section is, for the purposes of section 145 of the 1984 Act, to be treated as a scheme made under section 7 of the 1984 Act (and section 145 of the 1984 Act accordingly operates, with necessary modifications, to allow the repeal or other modification of this section).

#### 12 Trunk roads

- (1) Each proposed road identified in schedule 3 or 4 becomes a trunk road on the date this subsection comes into force.

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- (2) A road identified in schedule 5 becomes a trunk road on such date as is determined by Ministers.
- (3) A road designated under section 11 as a special road which is not already a trunk road becomes a trunk road on the day it becomes a special road.
- (4) Ministers must—
  - (a) give notice of a determination (and of the date from which it takes effect) to—
    - (i) the local authority for each area through which the road runs, and
    - (ii) the navigation authority for any water which the road crosses, and
  - (b) take such steps as they consider reasonable to bring the determination, and the date from which it takes effect, to the attention of the public.
- (5) Section 112 of the 1984 Act applies (with any necessary modifications) where a road becomes a trunk road by virtue of subsection (2) or (3).
- (6) Nothing in this section prevents Ministers from detrunking a road which becomes a trunk road under this section (or any part of such a road) by making a subsequent order to that effect under section 5 of the 1984 Act.
- (7) In the definition of “trunk road” in section 151(1) of the 1984 Act, after “Town and Country Planning (Scotland) Act 1997” insert “ or by virtue of section 12 of the Forth Crossing Act 2011 (asp 2) ”.

### **13 Roads to be transferred to local roads authorities**

- (1) Ministers must, before beginning a work specified in column (3) of schedule 6—
  - (a) consult the relevant local roads authority listed in column (4) of schedule 6, and
  - (b) consider any representations by the authority on the carrying out of that work.
- (2) Each road identified in schedule 6 is transferred to the local roads authority listed for that road in column (4) of that schedule on its transfer date.
- (3) The transfer date for a road identified in schedule 6 is the next 1st April following the date on which Ministers notify the local roads authority that the road is opened for the purposes of through traffic.
- (4) Section 112 of the 1984 Act applies (with any necessary modifications) to the transfer of such a road to the local roads authority, whether or not the road in question is a trunk road.

### **14 Stopping up of roads**

- (1) Ministers may, when carrying out the Forth Crossing works, stop up each road identified in schedule 7.
- (2) A road identified in Part 2 of schedule 7 must not be stopped up unless—
  - (a) the substitute for the road identified in column (5) of Part 2 of schedule 7 has been completed and is available for use, or
  - (b) a temporary alternative road is provided and is available for use.

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- (3) Ministers may, without making any payment, appropriate and use for the purposes of the Forth Crossing works so much of a stopped up road as is bounded on both sides by land within the limits of deviation.
- (4) Ministers must, before stopping up any road, take such steps as they consider reasonable to bring the closure date, and any alternative road, to the attention of the public.
- (5) Where Ministers open a substitute road identified in column (5) of Part 2 of schedule 7, they must—
  - (a) notify the local authority for each area through which the road runs, and
  - (b) take such steps as they consider reasonable to bring the opening, and the date from which it takes effect, to the attention of the public.

## **15 Stopping up of means of access**

- (1) Ministers may, when carrying out the Forth Crossing works, stop up each means of access to land identified in schedule 8.
- (2) A means of access identified in Part 2 of schedule 8 must not be stopped up unless—
  - (a) the substitute for the means of access identified in column (5) of Part 2 of schedule 8 has been completed and is available for use, or
  - (b) a temporary alternative means of access is provided and is available for use.
- (3) Ministers must, before stopping up a means of access, take such steps as they consider reasonable to bring the closure date, and any alternative means of access, to the attention of the owner and occupier of the land.
- (4) Where subsection (2)(a) applies, Ministers must give the owner of the land containing the stopped up means of access notice when the substitute means of access is complete (a “completion notice”).
- (5) An owner may, within 28 days of a completion notice being given, object to Ministers on the ground that the substitute means of access is not completed.
- (6) On receipt of an objection, Ministers may—
  - (a) withdraw a completion notice and carry out further works on the substitute means of access, or
  - (b) refer the dispute to the Lands Tribunal for determination (and notify the objector that it has been so referred).
- (7) Ministers must carry out reasonable maintenance of a substitute means of access for the 12 months after—
  - (a) the date of the original or any re-issued completion notice, or
  - (b) in the case of a dispute referred to the Lands Tribunal, the earlier of—
    - (i) the date of final Lands Tribunal decision, or
    - (ii) the date of final settlement of the matter.

## **16 Extinction of rights of way**

All rights of way over any part of a road or means of access stopped up under section 14 or 15 are extinguished.

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## **17 Solum of stopped up road**

- (1) The solum of a stopped up road is to vest—
  - (a) in the owner of the land adjoining the stopped up road unless—
    - (i) paragraph (b) applies, or
    - (ii) it is subject to a prior claim of any person by reason of title,
  - (b) in Ministers where they own, have served a notice to treat in relation to, or have made a general vesting declaration in relation to, any land adjoining the stopped up road.
- (2) Any dispute arising under this section as to the vesting of the solum may be referred on summary application by any interested party to the sheriff in whose sheriffdom the land is located; and the decision of the sheriff on the matter is final.

## **18 Works in roads where Ministers are not the roads authority**

- (1) This section applies to Forth Crossing works in a road for which Ministers are not the roads authority.
- (2) Ministers must—
  - (a) before commencing the works—
    - (i) consult the roads authority for that road,
    - (ii) consider any representations by the authority on the carrying out of the works, and
  - (b) enter in the Scottish Road Works Register such information relating to the works and to their completion as would have been required under section 112B(5) and (6) of the 1991 Act had the works been carried out under section 2 of the 1984 Act.
- (3) The roads authority—
  - (a) does not acquire any right or liability in respect of the carrying out of the works, including rights or liabilities in respect of—
    - (i) work done, services rendered, goods delivered, or money due for payment, before the date of completion of the works,
    - (ii) damages or compensation for any act or omission before that date, or
    - (iii) the price of, or compensation for, any land purchased, or for which a contract to purchase has been made, before that date,
  - (b) must produce to Ministers such documents and other information as Ministers may require relating to those rights and liabilities.
- (4) Any dispute between Ministers and the roads authority as to the rights and liabilities in respect of the carrying out of the works is to be resolved by arbitration.

## **19 Access to public roads**

- (1) Roads authority consent is not required for Forth Crossing works consisting of works to provide new, or to improve an existing, means of access to or from a public road.
- (2) Ministers must, before beginning any such works—
  - (a) consult the local roads authority for the public road, and
  - (b) consider any representations by the authority on the carrying out of those works.

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## **20 Application of the Roads (Scotland) Act 1984**

- (1) Section 10 (certain special roads to be trunk roads) of the 1984 Act does not apply to the creation of a special road under this Act.
- (2) Part 3 (new roads) of the 1984 Act does not apply to the construction of roads as part of the Forth Crossing works.
- (3) Section 56 to 61A (control of works and excavations) of the 1984 Act do not apply to the Forth Crossing works.
- (4) Sections 103 to 111 (acquisition of land) of the 1984 Act do not apply to the acquisition of land for the Forth Crossing works.

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