



Forth Crossing Act 2011

2011 asp 2

PART 3

LAND

21 Incorporation of enactments

- (1) The Lands Clauses Acts are incorporated with this Act, except sections 15, 16, 18, 20 to 60, 62 to 66, 83 to 88, 90, 116, 120 to 124 and 142 and 143 of the 1845 Lands Act.
- (2) Section 6, and sections 71 to 78 (as originally enacted), of the Railways Clauses Consolidation (Scotland) Act 1845 (c.33) are incorporated with this Act.
- (3) Provisions incorporated by this section apply only in so far as they are not inconsistent with, or expressly varied by, any provision of this Act.
- (4) In construing provisions incorporated by this section—
 - (a) this Act is deemed to be the special Act,
 - (b) Ministers are deemed to be the promoter of the undertaking or the company,
 - (c) the Forth Crossing works are deemed to be the works, the undertaking or the railway, and
 - (d) “land” has the same meaning as in this Act.
- (5) The Lands Clauses Acts, by virtue of subsection (4)(d), accordingly apply (subject to any necessary modifications) to the compulsory acquisition of a servitude or other right in or over land under this Act (whether by acquiring existing rights or creating new rights).

22 Compulsory acquisition of land

Ministers may acquire compulsorily any land—

- (a) within the limits of deviation, or
- (b) specified in schedule 9,

which they require for the purposes of the Forth Crossing works.

Status: This is the original version (as it was originally enacted).

23 Acquisition of land by agreement

- (1) Ministers may acquire by agreement any land—
- (a) which may be acquired compulsorily under section 22,
 - (b) which is to be used to mitigate any adverse effect arising from the carrying out or the operation of the Forth Crossing works, or
 - (c) the enjoyment of which will be seriously affected by the carrying out or the operation of the Forth Crossing works.

This subsection does not affect any other power of Ministers to acquire the land concerned, or any other land, by agreement.

- (2) In the Land Compensation (Scotland) Act 1973 (c.56)—
- (a) at the end of section 24(6), insert “or authorised by the Forth Crossing Act 2011”, and
 - (b) at the end of section 25(5), insert “or any works authorised by the Forth Crossing Act 2011”.

24 Acquisition of servitudes and other rights

- (1) Ministers may acquire servitudes or other rights in land under section 22 or 23—
- (a) by acquiring existing servitudes or other rights, or
 - (b) by creating new, permanent or temporary, servitudes or other rights.
- (2) Ministers, when compulsorily acquiring servitudes or other rights in or over land under section 22, are not required to acquire any other part of, or interest in, the land concerned.

25 Extinction of real burdens and servitudes etc.

Where Ministers acquire land compulsorily under section 22 (and section 24 does not apply)—

- (a) any servitude or real burden over that land is extinguished, and
- (b) any development management scheme applying as respects that land is disappplied,

on the registration of the relevant conveyance.

26 Persons under a disability may grant servitudes, etc.

Any person who is entitled by section 7 of the 1845 Lands Act (as incorporated with this Act) to dispose of land may, for any purpose connected with this Act, create a new servitude or other right in relation to such land.

But this section does not permit the creation of a servitude or other right in relation to water in which a person other than the creator has an interest.

27 Registration of servitudes and other rights

- (1) A servitude or other right acquired by Ministers under this Act is to be treated for all purposes as benefiting—
- (a) any land held by Ministers for the purposes of the Forth Crossing works, or
 - (b) such other land specified in the instrument creating the servitude or other right.

- (2) Despite section 75(1) of the Title Conditions (Scotland) Act 2003 (asp 9), the deed which creates a servitude so acquired is effective regardless of whether it is registered against the benefited property.

28 Minerals

Any conveyance transferring land to Ministers in pursuance of a compulsory acquisition under section 22 is deemed to except all mines of coal, ironstone, slate, or other minerals under the land other than—

- (a) any parts of the mines or minerals which need to be—
 - (i) dug,
 - (ii) carried away, or
 - (iii) used,in the carrying out of the Forth Crossing works, and
- (b) those expressly specified in the conveyance transferring the land.

29 Time limit for compulsory acquisition

Ministers' power to acquire land compulsorily under section 22 ceases to have effect 5 years after Royal Assent.

This section does not apply to any land in respect of which a notice to treat is served, or a general vesting declaration is made, in pursuance of section 22 within 5 years of Royal Assent.