Forth Crossing Act 2011

2011 asp 2

VALID FROM 18/03/2011

PART 9

ENVIRONMENTAL MATTERS

66 Mitigation of environmental impact

Ministers must do everything which is reasonably practicable in order to ensure that the environmental impact of the construction and operation of the Forth Crossing works is not worse than the residual impact identified in the environmental statement.

67 Compliance with code of construction practice and noise and vibration policy

Ministers must do everything which is reasonably practicable in order to ensure that the Forth Crossing works—

(a) are carried out in accordance with the code of construction practice, and

(b) operate in accordance with the noise and vibration policy.

68 Amendment of code of construction practice and noise and vibration policy

(1) Ministers may amend or replace—

(a) the code of construction practice, or

(b) the noise and vibration policy,

but an amended or replacement document must not reduce the standards of mitigation and protection provided for in the document being amended or replaced.

(2) Ministers must—

(a) before amending or replacing either document, consult the bodies set out in subsection (3) and have regard to any views expressed by them, and

(b) after amending or replacing either document—

Status: *Point in time view as at 20/01/2011. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Forth Crossing Act 2011, Part 9. (See end of Document for details)*

(i) send those bodies a copy of the amended or replacement document, and

(ii) take such steps as they consider reasonable to bring the amendment or replacement to the attention of the public.

(3) The bodies referred to in subsection (2) are—

(a) local authorities for the areas in which the Forth Crossing works are situated,

(b) community councils in whose areas the Forth Crossing works are situated,

(c) the relevant navigation authority,

(d) the Forth Estuary Transport Authority,

(e) the Scottish Environment Protection Agency, and

(f) Scottish Natural Heritage.

69 Protection of water environment

Nothing in this Act exempts Ministers from having to carry out the Forth Crossing works in accordance with any regulations made under section 20(1) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3).

70 Control of noise: Control of Pollution Act 1974

(1) Section 60 of the Control of Pollution Act 1974 (c.40) applies to the Forth Crossing works with the following modifications—

(a) a ground for an appeal to a notice served under section 60 is that the works to which the notice relates are being, or are going to be, carried out in accordance with Ministers' duties in relation to noise in the code of construction practice, and

(b) if an appeal includes that ground—

(i) the notice is suspended (irrespective of any contrary statement included in the notice) until the appeal has been abandoned or decided by the sheriff, and

(ii) a sheriff must recall a notice served under section 60 if satisfied that the works to which the notice relates are being, or are going to be, carried out in accordance with Ministers' duties in relation to noise in the code of construction practice.

(2) Section 61(9) of that Act does not apply to a consent given under section 61 of that Act in relation to Forth Crossing works.

(3) Sections 63 to 67 of that Act do not apply to the Forth Crossing works.

71 Statutory nuisance: noise under the Environmental Protection Act 1990

(1) In this section “statutory nuisance” has the meaning given by section 79(1)(g) or (ga) of the Environmental Protection Act 1990 (c.43).

(2) Noise from the carrying out of the Forth Crossing works does not constitute a statutory nuisance if the works are carried out in accordance with a consent given under section 61 of the Control of Pollution Act 1974 (c.40).

(3) Part 3 of the Environmental Protection Act 1990 (c.43) applies to other noise from the carrying out of the Forth Crossing works which is alleged to be a statutory nuisance with the following modifications—

(a) a ground for an appeal to an abatement notice served under section 80 or 80A is that the works to which the notice relates are being, or are going to be, carried out in accordance with Ministers' duties in relation to noise in the code of construction practice,

(b) if an appeal includes that ground—

(i) the abatement notice is suspended (irrespective of any contrary statement included in the notice), and is not authority for any other action to be taken under Part 3, until the appeal has been abandoned or decided by the sheriff, and

(ii) the sheriff, if satisfied that works to which the notice relates are being or are going to be carried out in accordance with Ministers' duties in relation to noise in the code of construction practice, must recall the abatement notice insofar as it relates to an alleged statutory nuisance, and

(c) a sheriff must not make an order under section 82(2) or 82(12) on the basis of an alleged statutory nuisance if satisfied that works to which the application relates are being, or are going to be, carried out in accordance with Ministers' duties in relation to noise in the code of construction practice.

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Changes to legislation:
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