

# FORTH CROSSING ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 10 – Miscellaneous

#### *Section 74 – Changes to Parliamentary plans or book of reference*

238. **Section 74** provides a procedure allowing changes to be made to the Parliamentary plans or book of reference after the Act has been passed. The provisions of this section have precedence in private Acts of the Scottish Parliament authorising works.
239. Subsection (1) allows the Scottish Ministers, where they need to correct an inaccurate description of land, ownership or occupation to make an application to the sheriff to correct the inaccuracy. If the sheriff is satisfied that the description is inaccurate they must certify that and how it is to be corrected.
240. Prior to making that application, under subsection (3), the Scottish Ministers must provide the owner and any occupier with at least 10 days' notice of their intention to make an application. If the sheriff decides to approve and certify the change that certification must, under subsection (6), be deposited in the office of the Clerk to the Parliament. The Parliamentary plans or book of reference shall be deemed, under subsection (7), to be corrected or amended according to the certificate.
241. Subsection (2) provides that, where a binding obligation has been entered into not to acquire the land within the limits of deviation or within **schedule 9**, the Scottish Ministers or the owner of the land may apply to have the Parliamentary plans and book of reference altered to reflect the agreement. The procedure of notification and determination is the same as that laid out in the procedure for addressing an inaccuracy.
242. This section ensures that binding obligations not to acquire land may be recorded by either party to that agreement and that implementation of the Act is not prevented by mistaken misdescriptions. The Act authorises under **section 22** the compulsory acquisition of land. That land is shown on the Parliamentary plans and described in the book of reference. A minor error in a description in one document might result in it being inconsistent with the other, which might in turn prevent proper identification of land to be acquired compulsorily. In the absence of the procedures as set out in **section 74** the compulsory purchase powers of the Act could not be used in relation to that land.
243. Subsection (8) defines sheriff as the sheriff for the area in which land is situated.