

FORTH CROSSING ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Taking Title to Land

Section 32 – Severance disputes (notice to treat procedure): Lands Tribunal

113. **Section 32** sets out the matters that the Lands Tribunal for Scotland must consider and the outcome of the objection as a consequence of their determination.
114. Subsection (1) provides that on receipt of a referral from the Scottish Ministers the Tribunal must consider whether some or all of the land within the notice to treat can be acquired without material detriment to the rest of the property and in the case of a park or garden without also seriously affecting the amenity or convenience of the house.
115. Subsection (2) provides that if the Tribunal determines that the land in the notice to treat can be taken without material detriment and in the case of a park or garden without also seriously affecting the amenity or convenience of the house then the owner is obliged to sell the land that the Scottish Ministers wish to acquire.
116. Subsection (3) provides that the Tribunal may determine that (a) only some of the land within the notice to treat can be acquired or (b) that some or all of the land within the notice to treat can be acquired together with some or all of the additional land identified in the objection. Under this subsection a notice to treat can be deemed to include other land whether or not that land is subject to compulsory purchase under the Act.
117. Under subsection (4) the Scottish Ministers have 6 weeks within which to withdraw the notice to treat and notify the owner rather than proceed with the acquisition of land as determined by the Lands Tribunal. The six week period is necessary to enable the Scottish Ministers to assess any consequential implications for the design and operation of the scheme as a result of the Lands Tribunal's determination.
118. Matters of compensation in respect of land are addressed under **Part 6**.