



# Forth Crossing Act 2011

## 2011 asp 2

### PART 4

#### TAKING TITLE TO LAND

##### *Notice to treat procedure*

#### **30 Service of a notice to treat**

- (1) This section applies where Ministers choose to acquire any land under this Act by serving a notice under section 17 of the 1845 Lands Act as incorporated with this Act (a “notice to treat”).
- (2) The notice to treat must—
  - (a) be served in accordance with section 76,
  - (b) describe the land to which the notice relates, and
  - (c) identify itself plainly as a document of importance.

#### **31 Partial acquisitions using notice to treat procedure**

- (1) A person may, within 28 days of service of a notice to treat in respect of a partial acquisition, object to the partial acquisition.
- (2) An objection must—
  - (a) be served on Ministers,
  - (b) state that the person is willing and able to sell to Ministers the whole of the house, building, factory or other land concerned, and
  - (c) identify the land that the person is so willing and able to sell.
- (3) Ministers must deal with an objection by—
  - (a) agreeing to acquire the land identified in the objection by notifying the objector to that effect (in which case the notice to treat is deemed to cover the land identified in the objection, regardless of whether any of it is outwith the Act limits),
  - (b) withdrawing the notice to treat by notifying the objector to that effect, or

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- (c) referring the objection to the Lands Tribunal for determination under section 32 and notifying the objector that it has been so referred.
- (4) If Ministers fail to act under subsection (3) within 3 months of an objection being served, the notice to treat is to be treated as withdrawn.

### **32 Severance disputes (notice to treat procedure): Lands Tribunal**

- (1) The Lands Tribunal, on receiving a referral under section 31(3)(c), must consider—
  - (a) in the case of a partial acquisition of a house, building or factory, if some or all of the land in the notice to treat (with or without some or all of the remainder of the land identified in the objection) can be acquired without material detriment to the remainder of the land identified in the objection,
  - (b) in the case of a partial acquisition of a house with a park or garden, if some or all of the land in the notice to treat (with or without some or all of the remainder of the land identified in the objection) can be acquired without seriously affecting the amenity or convenience of the house.
- (2) If the Lands Tribunal determine—
  - (a) in the case of a partial acquisition of a house, building or factory, that all of the land in the notice to treat can be acquired without material detriment to the remainder of the land identified in the objection, or
  - (b) in the case of a partial acquisition of a house with a park or garden, that all of the land in the notice to treat can be acquired without seriously affecting the amenity or convenience of the house,
 the notice to treat is to have effect as originally served.
- (3) If the Lands Tribunal does not determine as described in subsection (2), it must determine the land which Ministers ought to acquire, being—
  - (a) some of the land in the notice to treat, or
  - (b) some or all of the land in the notice to treat with the addition of some or all of the remainder of the land identified in the objection,
 and the notice to treat is deemed to cover that land (regardless of whether any of it is outwith the Act limits).
- (4) Ministers may withdraw a notice to treat within 6 weeks of a Lands Tribunal determination under subsection (3) by notifying the objector to that effect.

### **33 Severance of agricultural land**

Nothing in sections 31 or 32 affects the application of sections 49 and 50 of the Land Compensation (Scotland) Act 1973 (c.56) in relation to agricultural land.

### **34 Notice to treat: time limit**

- (1) A notice to treat served in pursuance of this Act becomes invalid 3 years (or such longer period as may be agreed under subsection (2)) after it is served, unless—
  - (a) the compensation has been agreed, awarded, paid or paid into a bank (or the question of compensation has been referred to the Lands Tribunal),
  - (b) a general vesting declaration has been made in respect of the land concerned, or

- (c) Ministers have entered and taken possession of the land concerned under section 39.
- (2) The period of 3 years referred to in subsection (1) may be extended (and further extended) by agreement between—
  - (a) Ministers, and
  - (b) the owner of the land.
- (3) Where a notice to treat is invalidated by this section, Ministers must give notice of that fact to—
  - (a) the person on whom the notice to treat was served, and
  - (b) any other person who, since it was served, could have made an agreement to extend under this section.

#### *General vesting declarations*

### **35 General vesting declarations**

- (1) Ministers may vest in themselves by a general vesting declaration any land which they are authorised to acquire compulsorily under section 22.
- (2) Schedule 15 to the 1997 Act accordingly applies to the compulsory acquisition of land under section 22, with the following modifications—
  - (a) this Act is to be treated as a compulsory purchase order,
  - (b) Ministers are the “acquiring authority”,
  - (c) section 36 of this Act applies instead of paragraph 2, and
  - (d) in the definition of land in paragraph 39, “relevant enactments” means this Act.

### **36 Duty to publicise general vesting declarations**

- (1) Before making a general vesting declaration, Ministers must—
  - (a) publish a compulsory purchase notice in one or more local newspapers circulating in the locality in which the land comprised in the general vesting declaration is situated,
  - (b) serve a notice in the same or a similar form (together with a copy of this Act and the Parliamentary plans) on—
    - (i) the owner of the land to which the general vesting declaration relates,
    - (ii) any occupier of that land (except tenants for any period of no longer than a month),
    - (iii) the holder of any real burden which would be extinguished under section 25 on the registration of the general vesting declaration, and
    - (iv) if a development management scheme applies to the land, the owners’ association concerned.
- (2) A “compulsory purchase notice” means a notice in the form prescribed for notices under paragraph 6 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42) which—
  - (a) states that this Act has received Royal Assent,
  - (b) describes the land to which the general vesting declaration relates,

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- (c) names a place where a copy of this Act, of the Parliamentary plans and of the book of reference may be inspected at all reasonable hours,
- (d) states the effect of paragraphs 1 to 8 of Schedule 15 to the 1997 Act in the manner prescribed for the purposes of sub-paragraph (1)(a) of paragraph 2 of Schedule 15 to the 1997 Act, and
- (e) invites every person who, if the general vesting declaration were made, would be entitled to compensation to give Ministers information in the form prescribed for the purposes of sub-paragraph (1)(b) of that paragraph.