

HIGH SPEED RAIL (PREPARATION) ACT 2013

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the High Speed Rail (Preparation) Act 2013 which received Royal Assent on 21st November 2013. They have been prepared by the Department for Transport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND

3. The 2010 Coalition Programme for Government included a commitment to establish a national high speed rail network and to do so in phases. Following a period of consultation, in January 2012 the Secretary of State for Transport presented to Parliament the Command Paper *High Speed Rail: Investing in Britain's Future - Decisions and Next Steps (Cm 8247)* ('the 2012 Command Paper'). In the 2012 Command Paper the Secretary of State announced a policy of promoting a Y-shaped high speed rail network known as "HS2" linking London, the West Midlands, Leeds and Manchester with intermediate stations in the East Midlands and Sheffield. This network would be established in phases.
4. The 2012 Command Paper specified a detailed route for the first phase, linking London and the West Midlands. These new lines will connect with the existing rail network. Subsequently, in January 2013, the Secretary of State presented a Command Paper on the second phase of HS2, setting out initial preferences for the detailed route (*Cm 8508*) (*High Speed Rail: Investing in Britain's Future - Phase Two: The route to Leeds, Manchester and beyond*).
5. The 2012 Command Paper announced an intention to introduce a hybrid Bill by the end of 2013. The hybrid Bill will provide the necessary powers to construct and operate the first phase of HS2. The Parliamentary procedure for hybrid bills will provide an opportunity for those affected by the first phase to make representations to Parliament.
6. In a judgment handed down on 15th March 2013 in the case of *R. (on the application of) Buckinghamshire County Council and others v. Secretary of State for Transport* ('the judicial review'), the High Court rejected nine out of ten grounds of legal challenge to the Government's policies announced in the 2012 Command Paper. The rejected grounds included arguments that the Secretary of State had breached European Union law on environmental assessment and that elements of the proposed railway were irrational. The Court of Appeal refused all grounds of appeal in a judgment given on 24th July 2013. The Supreme Court heard the remaining grounds of appeal at a hearing on 15th and 16th October 2013 and reserved its judgment.
7. The Secretary of State had set out in the 2012 Command Paper the Government's high level policy on compensation for property blight caused by the proposals for HS2. In

the judicial review, the High Court quashed the *Review of Property Issues* document published alongside the 2012 Command Paper. In the light of the Court's judgment the Secretary of State is consulting further on matters of compensation policy. The consultation began on 12 September 2013 and will close on 4th December 2013.

8. Some expenditure has been incurred to date in connection with the development of a new high speed rail network (including grant-in-aid to High Speed Two (HS2) Ltd and the acquisition of property blighted by proposals for HS2). The Secretary of State has relied upon section 6 of the Railways Act 2005 and common law powers. However, it is envisaged that significant expenditure will need to be incurred in preparation for HS2. Chapter 2 of HM Treasury's document *Managing Public Money* explains that Ministers must normally seek Parliamentary authority for specific legislation to empower any significant new commitment which seems likely to persist, in advance of securing powers in primary legislation.

SUMMARY

9. The High Speed Rail (Preparation) Act 2013 authorises the Secretary of State to incur expenditure in preparation for a high speed rail network. Thereby the Act is intended to ensure that the development of the proposed railway may proceed without delay. The Secretary of State's power to incur expenditure will also allow the introduction of long-term schemes for acquisition of property or the provision of compensation to owners of property blighted by HS2. The Act also imposes a duty on the Secretary of State to prepare an annual report in relation to expenditure incurred under the powers conferred by the Act.

TERRITORIAL EXTENT AND APPLICATION

10. The Act extends to England and Wales and to Scotland.

COMMENTARY ON SECTIONS

Section 1: Preparatory Expenditure

11. **Section 1** provides that the Secretary of State may, with the approval of the Treasury, incur expenditure in preparation for a high speed railway transport network. The network involves the construction of railway lines connecting at least London, Birmingham, the East Midlands, Sheffield, Leeds and Manchester and which connects with the existing railway transport network as well as with such other parts of the transport network (including roads, footpaths, cycleways, airports and light railways) as the Secretary of State considers appropriate. The section therefore authorises expenditure in preparation for the whole of the network which is proposed in the 2012 Command Paper. It also allows expenditure in preparation for potential future extensions to this network.
12. **Section 1** provides examples of the types of expenditure which may be incurred under the new power. The first example is expenditure on preparation for the construction of a railway line and any other infrastructure proposed to be included in the network. The second example is preparation for the provision of services as part of that network. In both cases expenditure may include expenditure incurred on pre-construction activity (such as surveying and design), in acquiring property and in providing compensation in respect of property likely to be affected.

Section 2: Financial Reports

13. **Section 2** imposes a duty on the Secretary of State to prepare an annual report on expenditure under the new power conferred by section 1. Each report must contain details of the expenditure incurred during the relevant financial year (with capital and resource shown separately for each head of expenditure) and the total expenditure incurred. Details must also be provided of any overspend or underspend as against the

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(c.31) which received Royal Assent on 21st November 2013*

annual budget and the likely effect on the total budget of £50.1 billion set for HS2 in 2011. Each report must also contain an account of the vocational qualifications gained by individuals employed in connection with preparation for, and construction of, the high speed rail network.

14. The Secretary of State must lay each report before Parliament. The purpose of this section is to ensure that Parliament is informed of all anticipatory expenditure and related matters in advance of the Government's securing powers, under the proposed hybrid bill, to construct and operate the high speed line.

COMMENCEMENT

15. The Act comes into force on the day on which it is passed.

HANSARD REFERENCES

16. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Presentation and First Reading	13th May 2013	Vol 563 Col 347
Second Reading	26th June 2013	Vol 565 Col 335-414
Public Bill Committee	9th July 2013	Hansard High Speed Rail (Preparation) Bill 2013 Public Bill Committee
	11th July 2013	
	16th July 2013	
	18th July 2013	
Report	31st October 2013	Vol 569 Col 1112-1171
Third Reading	31st October 2013	Vol 569 Col 1172-1190
Stage	Date	Hansard Reference
<i>House of Lords</i>		
First Reading	31st October 2013	Vol 748 Col 1777
Second Reading	19th November 2013	Vol 749 Col 906-952
Committee	19th November 2013	Vol 749 Col 952
Report	19th November 2013	Vol 749 Col 952
Third Reading	19th November 2013	Vol 749 Col 952
Royal Assent	21st November 2013	Vol 749 Col 1061
		Vol 570 Column 1440