

HIGH SPEED RAIL (PREPARATION) ACT 2013

EXPLANATORY NOTES

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

*These notes refer to the High Speed Rail (Preparation) Act 2013
(c.31) which received Royal Assent on 21st November 2013*

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.