

LEGISLATIVE CONSENT MEMORANDUM

HIGH SPEED RAIL (PREPARATION) BILL

Draft Legislative Consent Motion

1. The Draft Motion, which will be lodged by the Cabinet Secretary for Infrastructure, Investment and Cities is:

“That the Parliament agrees that the relevant provisions of the High Speed Rail (Preparation) Bill 2013, relating to preliminary investment in preparatory works for the construction of a high speed rail network, in so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Nicola Sturgeon MSP, Cabinet Secretary for Infrastructure, Investment and Cities, under Rule 9.B.1 (a) of the Parliament’s Standing Orders. The Bill was introduced to the House of Commons on 13 May 2013. The latest version of the Bill can be found at:

<http://services.parliament.uk/Bills/2013-14/highspeedrailpreparation.html>

Content of the High Speed Rail (Preparation) Bill

3. This is a small Bill which will grant the Secretary of State for Transport powers to incur expenditure in relation to preparation for a High Speed Rail network.

4. The Bill does not contain route specific or planning powers but will enable the Secretary of State to provide funding required for preparatory works in connection with the HS2 project (connecting London, Birmingham, the East Midlands and Leeds and Manchester) such as preconstruction surveying, design and other necessary enabling works.

5. A separate High Speed Rail (Hybrid) Bill will be required to give the UK Government the necessary powers to construct and operate the first phase of HS2 and it is hoped that this Bill will also be introduced to the UK Parliament by the end of 2013.

Provisions which relate to Scotland

6. The Bill as presently drafted refers to a high speed network connecting **at least** London, Birmingham, the East Midlands, Sheffield, Leeds and Manchester and that connects with the existing transport network. Its provisions do not expressly contemplate a Scottish dimension to the High Speed Rail project, although the Bill formally extends to Scotland.

7. While the definition of the high speed network to which the powers in the Bill relate does not expressly include Scotland, neither does it exclude it. Moreover, the definition is drafted in such a way as to allow for the network to be extended at some point in the future. Accordingly, the powers given to the Secretary of State could be used to incur expenditure in relation to preparing for high speed rail in Scotland.

Reasons for seeking a Legislative Consent Motion

8. In terms of Head E2 of Schedule 5 to the Scotland Act 1998, the provision and regulation of railway services is a reserved matter. However, there is an exception from this reservation for certain grants relating to railway services (“railway services” includes network services – i.e. infrastructure, station services and passenger services). These grants constitute a matter within the legislative competence of the Scottish Parliament.

9. The powers given to the Secretary of State in the Bill could be used to incur expenditure by way of grant in relation to preparing for high speed rail in Scotland. Such expenditure could (as a result of the exception to the reservation set out above) also be enabled (to some extent) by an Act of the Scottish Parliament. Therefore the Scottish and UK Governments are agreed that an LCM should be proposed in respect of this Bill.

Financial Implications

10. There are currently no financial implications arising from this Legislative Consent Memorandum.

Consultations

11. Officials in the Scottish Government have worked closely with the Department for Transport on this matter.

Conclusion

12. It is the view of the Scottish Government that it is in the best interests of the Scottish people and good governance that the relevant provisions of the Bill, in so far as they fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

SCOTTISH GOVERNMENT
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