



HIGH SPEED TWO PHASE ONE INFORMATION PAPER

C10: SMALL CLAIMS SCHEME

This paper outlines sets out the proposals for establishing a small claims scheme for HS2 Ltd

It will be of particular interest to those potentially affected by the Government's proposals for high speed rail.

This paper was prepared in relation to the promotion of the Bill for Phase One of the scheme which is now enacted. Although the contents were maintained and updated as considered appropriate during the passage of the Bill (including shortly prior to the enactment of the Bill in February 2017) the contents are now historic and are no longer maintained.

If you have any queries about this paper or about how it might apply to you, please contact the HS2 Helpdesk in the first instance.

The Helpdesk can be reached at:

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1. Introduction

- 1.1. High Speed Two (HS2) is the Government's proposal for a new, high speed north-south railway. The proposal is being taken forward in two phases: Phase One will connect London with Birmingham and the West Midlands and Phase Two will extend the route to Manchester, Leeds and beyond.
- 1.2. HS2 Ltd is the non-departmental public body responsible for developing and promoting these proposals. The company works to a Development Agreement made with the Secretary of State for Transport.
- 1.3. In November 2013, HS2 Ltd deposited a hybrid Bill¹ with Parliament to seek powers for the construction and operation of Phase One of HS2 (sometimes referred to as 'the Proposed Scheme'). The Bill is the culmination of nearly six years of work, including an Environmental Impact Assessment (EIA), the results of which were reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs), which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.4. The Bill is being promoted through Parliament by the Secretary of State for Transport (the 'Promoter'). The Secretary of State will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill.
- 1.5. This body is known as the 'nominated undertaker'. There may well be more than one nominated undertaker – for example, HS2 Ltd could become the nominated undertaker for the main railway works, while Network Rail could become the nominated undertaker for works to an existing station such as Euston. But whoever they are, all nominated undertakers will be bound by the obligations contained in the Bill and the policies established in the EMRs.
- 1.6. These information papers have been produced to explain the commitments made in the Bill and the EMRs and how they will be applied to the design and construction of the Proposed Scheme. They also provide information about the Proposed Scheme itself, the powers contained in the Bill and how particular decisions about the project have been reached.

2. Description of Small Claims Scheme

- 2.1. The Secretary of State or his nominated undertaker will establish a small claims scheme, modelled on those operated for the construction of the Crossrail and

¹The High Speed Rail (London – West Midlands) Bill, hereafter 'the Bill'.

the Channel Tunnel Rail Link, to provide a positive and clear mechanism to the public for settling minor construction related residential, business or agricultural claims, using a speedy process and without the need for a formal Tribunal hearing.

- 2.2. The scheme offers an informal approach to handling small claims that is designed to give a prompt response at minimum cost and inconvenience to claimants. It is a voluntary arrangement that does not affect the claimant's statutory rights of redress.
- 2.3. The nominated undertaker will be required by the Secretary of State to appoint an administrator to deal with small claims upon start of construction.

3. Procedure

- 3.1. If a member of the public considers he or she has a claim for physical damage or other effects on the property arising from HS2 construction related activity, the claimant must first address the claim to the person identified as the small claims point of contact by the nominated undertaker, as provided for in the draft Code of Construction Practice.
- 3.2. The point of contact will be responsible for receiving any complaint. If immediate action cannot be taken to resolve or settle the small claim, it will be passed to the small claims administrator for resolution and settlement.
- 3.3. The small claims administrator will be responsible for investigating the claim, setting up a meeting with the claimant to discuss the claim, deciding whether the claim is warranted, assessing the damage or other effects on the property, making arrangements for the necessary works to be done, or, as the case may be, arranging payment to the claimant.
- 3.4. It will be possible for claims to be referred to the small claims administrator by the Construction Commissioner, although the normal procedure is likely to be as described above.
- 3.5. If a claimant considers that the award of the small claims administrator is inadequate then he will be able to write to the Construction Commissioner seeking ultimate determination of the claim. This process is intended to provide a speedy resolution to the complaint and therefore offers to relieve the claimant of the costs, time delays and the formality of a Tribunal.

4. Scope of Claims

- 4.1. The scheme will deal with claims up to a value to be determined at the time of the start of construction.
- 4.2. It is expected this value would be up to an initial figure of £10,000 and periodically subject to review.

- 4.3. The scheme will cater for claims relating to damage to property arising from the construction of the Proposed Scheme. Examples might include damage to a fence or a broken window caused by the contractor; or damage to personal property, such as farm equipment or crops, due to the construction process. It may also cover claims relating to other effects on property caused by the construction process which give rise to additional expense, such as removing dust from windows or costs arising from vermin and pest control. It does not include for any potential loss in the value of property due to restricted access, or liability for any personal injury.
- 4.4. The scheme will not apply to local authorities, government departments or their agencies.

5. Remedies

- 5.1. The operation of the scheme will be monitored by the HS2 Construction Commissioner who will report performance to the Secretary of State and the appointed independent body and at other times as he / she considers necessary.
- 5.2. The Construction Commissioner will determine claims under the small claims scheme in the event that a dispute cannot be resolved through the normal process.

6. More information

- 6.1. More detail on the Bill and related documents can be found at: www.gov.uk/HS2
- 6.2. The draft Code of Construction Practice can be viewed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509291/Annex_1_-_Draft_Code_of_Construction_Practice.pdf