

HIGH SPEED TWO PHASE 2a 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 High Speed Rail (West Midlands-Crewe) Bill which is now enacted. It was finalised at Royal Assent and no further changes will be made.

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.

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C10: SMALL CLAIMS SCHEME

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 phases: Phase One will connect London with Birmingham and the West Midlands. Phase 2a will extend the route to Crewe. Phase 2b will extend the route to Manchester, Leeds and beyond. The construction and operation of Phase One of HS2 is authorised by the High Speed Rail (London – West Midlands) Act 2017.
- 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 July 2017, the Government introduced a hybrid Bill¹ to Parliament to seek powers for the construction and operation of Phase 2a of HS2 (the Proposed Scheme). The Proposed Scheme is a railway starting at Fradley at its southern end. At the northern end it connects with the West Coast Main Line (WCML) south of Crewe to allow HS2 services to join the WCML and call at Crewe Station. North of this junction with the WCML, the Proposed Scheme continues to a tunnel portal south of Crewe.
- 1.4. The work to produce the Bill includes an Environmental Impact Assessment (EIA), the results of which are reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs)², which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.5. The Secretary of State for Transport is the Promoter of the Bill through Parliament. The Promoter will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill. This body is known as the 'nominated undertaker'. The nominated undertaker will be bound by the obligations contained in the Bill and the policies established in the EMRs. There may be more than one nominated undertaker.
- 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 Proposed Scheme have been reached.

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

² For more information on the EMRs, please see Information Paper E1: Control of Environmental Impacts.

2. Overview

- 2.1. This paper sets out the proposals for establishing a small claims scheme by the nominated undertaker, to be operated during construction of the Proposed Scheme.

3. Description of Small Claims Scheme

- 3.1. The nominated undertaker will establish a small claims scheme, modelled on those operated for the construction of the Crossrail and the Channel Tunnel Rail Link, to provide a mechanism for settling minor construction related residential, business or agricultural claims, using a speedy process and without the need for a formal Tribunal hearing.
- 3.2. The scheme offers an informal approach to handling small claims that is designed to give a prompt response at minimum cost and inconvenience to the claimant. It is a voluntary arrangement that does not affect the claimant's statutory rights of redress.
- 3.3. The nominated undertaker will be required by the Secretary of State to appoint an administrator to deal with small claims upon start of construction.

4. Procedure

- 4.1. If a member of the public considers he or she has a claim for physical damage or other effects on the property arising from construction of the Proposed Scheme, 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.
- 4.2. 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.
- 4.3. 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.
- 4.4. 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.
- 4.5. 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 thereby to relieve the claimant of the costs, time delays and the formality of a Tribunal.

5. Scope of Claims

- 5.1. The scheme will deal with claims up to a value to be determined at the time of the start of construction.
- 5.2. It is expected this value would be up to an initial figure of £10,000 and periodically subject to review.
- 5.3. 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 payment for any potential loss in the value of property due to restricted access, or liability for any personal injury.
- 5.4. The scheme will not apply to local authorities, Government departments or their agencies.

6. Remedies

- 6.1. The operation of the scheme will be monitored by the 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.
- 6.2. The Construction Commissioner will determine claims under the small claims scheme in the event that a dispute cannot be resolved through the normal process.

7. More information

- 7.1. More detail on the Bill and related documents can be found at: www.gov.uk/HS2