

High Speed Rail (London - West Midlands) Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 35

LORD BERKELEY
BARONESS RANDESON

17 Insert the following new Clause—

“Restrictions on lorries and road use

Within three months of the start of the scheduled works, the nominated undertaker must publish a plan setting out, for each construction site being used or to be used for the scheduled works, how the number of lorries delivering to or from the site will be limited in order to meet the following restrictions by weight of materials transported by road—

- (a) no more than 25% of excavated spoil and demolition material;
- (b) no more than 25% of concreting materials; and
- (c) no more than 50% of all other materials;

and the remainder in each case must be carried by rail.”

After Clause 38

LORD BERKELEY
LORD BRADSHAW

18 Insert the following new Clause—

“Establishment of Regional Integrated Command Centre

- (1) Within three months of the passing of this Act, the nominated undertaker must establish a Regional Integrated Command Centre to include representatives of Highways England, local highways authorities, emergency services, Transport for the West Midlands, Transport for London, transport operators and the nominated undertaker’s contractors.

After Clause 38 - continued

- (2) The role of the Regional Integrated Command Centre shall be to ensure that the works authorised by this Act are co-ordinated so as to minimise the adverse effects of the works on other rail or road operations.”

After Clause 43

LORD BERKELEY

- 19 Insert the following new Clause—
“Application of relevant provisions of Railways Act 1993 to Phase One of High Speed 2
All relevant provisions of the Railways Act 1993 including regulations made under that Act shall apply to the railway operated as Phase One of High Speed 2, including determination of access charges, safety and reporting.”
- 20 Insert the following new Clause—
“Safety and economic regulation of railway line authorised by this Act
The railway line authorised by this Act is subject to the same safety and economic regulation as the existing network operated by Network Rail.”
- 21 Insert the following new Clause—
“Control and management of infrastructure
(1) Once constructed, the operation of the infrastructure of Phase One of High Speed 2 shall be controlled by the network system operator.
(2) Once Phase One of High Speed 2 is operational, the infrastructure managers of Phase One of High Speed 2 shall have a duty to seek to work together with infrastructure managers on the rest of the UK rail network, as relevant, in relation to timetabling, temporary closures, enhancements and technical issues in order to seek to provide a reliable, cost effective and convenient structure to support passenger and freight services on the Phase One of High Speed 2 route.”
- 22 Insert the following new Clause—
“Disapplication of regulation 25 of Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016
Regulation 25 (Declaration of specialised infrastructure) of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 does not apply to new infrastructure for the use of trains on the Phase One of High Speed 2 route.”

After Clause 43 - continued

23 Insert the following new Clause—

“No financial or managerial link between rail infrastructure owner and train operating company

No owner of the rail infrastructure connected with Phase One of High Speed 2 may have any financial or managerial link with any company with a licence to operate trains on that route.”

LORD BERKELEY
BARONESS RANDESON

24 Insert the following new Clause—

“High Speed 2 trains to have flexible space

All trains procured to operate passenger services on the Phase One of High Speed 2 route must be provided with flexible space covering at least 10% of the internal floor area of the train for the use of cycles, pushchairs and small items of freight.”

LORD BERKELEY

24A Insert the following new Clause—

“Timetable for new railway and affected existing routes

Within 12 months of the passing of this Act, HS2 Ltd must publish a comprehensive and detailed working timetable for the railway approved by this Act and for all the routes of the existing railway network that will carry through trains or whose services will be affected by the new railway, in order to—

- (a) illustrate the offer of service that travellers between any relevant pair of stations can expect at its opening,
- (b) identify the paths that will be available for freight trains,
- (c) demonstrate the operational practicality and robustness of its plans,
- (d) provide data for a reworking of the business case, should the findings require that, and
- (e) enable an informed debate about the proposals and their implications.”

After Clause 52

VISCOUNT ASTOR

25 Insert the following new Clause—

“Review: Calvert Sidings

- (1) The Secretary of State must commission a review of the proposed construction and route variation required for Calvert Sidings, covering construction and noise impacts which have not hitherto been considered.
- (2) The review must also consider impacts—
 - (a) on affected communities, farms and estates;
 - (b) of the movement of farm vehicles, works traffic and other traffic;

After Clause 52 - continued

- (c) on bridle ways and footpaths crossing the railway route.
- (3) The review may recommend whether a Transport and Works Act order should be made, under the provisions of section 52, to authorise adjustments relating to Calvert Sidings.”

VISCOUNT ASTOR
LORD STEVENSON OF BALMACARA

26 Insert the following new Clause –

“Review: potential benefits of configuring Station Road with Snake Lane Quainton

- (1) The Secretary of State must commission a review of the potential benefits of configuring Station Road with Snake Lane Quainton, Buckinghamshire, as the main route to and from Waddesdon.
- (2) The review must have regard to possible –
- (a) improvements to road and traffic safety;
 - (b) improvements in travel distances, cost and time for people travelling between Quainton and Waddesdon;
 - (c) infrastructure savings.
- (3) The review may recommend whether a Transport and Works Act order should be made, under the provisions of section 52, to authorise adjustments relating to the main route to and from Waddesdon.”

VISCOUNT ASTOR

27 Insert the following new Clause –

“Review: impacts on Twyford, Steeple Claydon, Chetwode, Barton-Hartshorn and Mixbury

- (1) The Secretary of State must commission a review of the impacts on the communities of the parishes of Twyford, Steeple Claydon, Chetwode, Barton-Hartshorn, Buckinghamshire and Mixbury, Oxfordshire, of modifying the High Speed 2 route set out in this Act to follow the High Speed 2 route C alignment for the route section proposed in 2010.
- (2) The review must have regard to possible alleviation of High Speed 2 construction impacts and train operational noise, and to alternative methods for such alleviation.
- (3) The review shall include estimates of the costs of construction of each route section and all other relevant costs and impacts.
- (4) The review may recommend whether a Transport and Works Act order should be made, under the provisions of section 52, to authorise adjustments to the route set out in subsection (1).”

After Clause 62

BARONESS YOUNG OF OLD SCONE

28 Insert the following new Clause –

“Duty on the nominated undertaker

- (1) The nominated undertaker, and their contractors and subcontractors, shall at all times have full regard to the 2016 report by Natural England, “Review of the High Speed 2 No Net Loss in Biodiversity Metric”, and shall adhere to all recommendations therein.
- (2) The nominated undertaker also has a duty of care to –
 - (a) adhere to the advice of Natural England or any other nature conservation adviser appointed by the Secretary of State; and
 - (b) ensure that its contractors and subcontractors also have full regard to advice under paragraph (a).”

Clause 65

LORD AHMAD OF WIMBLEDON

29 Page 32, line 17, at end insert “with 31 March 2018”

After Clause 65LORD BERKELEY
LORD STEVENSON OF BALMACARA
BARONESS RANDERSON

30 Insert the following new Clause –

“Complaints Commissioner

- (1) Within three months of the passing of this Act, the Secretary of State must appoint a Complaints Commissioner.
- (2) The role of the Complaints Commissioner shall be to receive and deal with complaints about any part of the works authorised by this Act.
- (3) Each year, the Complaints Commissioner must prepare and publish a report on the activities of the Commissioner during that year.
- (4) Each report must be submitted to the Secretary of State, who must lay the report before each House of Parliament.”

BARONESS PIDDING
LORD STEVENSON OF BALMACARA

31 Insert the following new Clause –

“Office of the HS2 Adjudicator

- (1) There is to be a body corporate known as the Office of the HS2 Adjudicator hereinafter referred to as “the Adjudicator”.
- (2) Schedule (*Adjudicator: status and funding*) has effect.
- (3) The Adjudicator has the functions conferred on it by or under any enactment.
- (4) Those functions include –

After Clause 65 - continued

- (a) enforcement functions,
 - (b) inspection functions, and
 - (c) information functions.
- (5) The main objective of the Adjudicator in performing its functions is to protect the natural environment and communities impacted by the construction and operation of Phase One of High Speed 2.
- (6) The Adjudicator is to perform its functions for the general purpose of securing—
- (a) the minimisation of adverse impacts on communities and the natural environment situated in locations affected by the construction or operation of Phase One of High Speed 2; and
 - (b) the provision of additional mitigation measures in the event the environmental impacts of the operation of High Speed 2 are worse than as set out in the environmental statement prepared in accordance with section 67(4).”

32 Insert the following new Clause—

“Matters to which the Adjudicator must have regard

- (1) In performing its functions, the Adjudicator must have regard to—
- (a) the views expressed by or on behalf of the members of the public or organisations about the environmental impacts of constructing Phase One of High Speed 2;
 - (b) the views expressed by people affected by the construction and operation of Phase One of High Speed 2;
 - (c) the views expressed by local authorities about the impact of constructing and operating Phase One of High Speed 2 in their areas;
 - (d) the need to protect the natural environment and minimise environmental impacts arising from the construction and operation of Phase One of High Speed 2;
 - (e) the need to ensure that any action by the Adjudicator in relation to its areas of responsibility is proportionate to the risks against which it would afford safeguards and is targeted only where it is needed;
 - (f) any developments in approaches to monitoring and mitigating environmental impacts arising from the construction or operation of Phase One of High Speed 2;
 - (g) best practice among persons performing functions comparable to those of the Adjudicator (including the principles under which regulatory action should be transparent, accountable and consistent).
- (2) In performing its functions, the Adjudicator must also have regard to such aspects of government policy as the Secretary of State may direct.”

33 Insert the following new Clause—

“Statement on stakeholder involvement

- (1) The Adjudicator must publish a statement describing how it proposes to—

After Clause 65 - continued

- (a) discharge its oversight requirements to ensure environmental outcomes reflect the forecasts set out in the environmental statement referenced in section 67(4);
 - (b) promote engagement and discussion with the nominated undertaker and impacted communities concerning adequate levels of mitigation;
 - (c) ensure that proper regard is had to views expressed by non-government organisations and local authorities concerning the environmental impacts arising from the construction and operation of Phase One of High Speed 2; and
 - (d) arrange for accurate regular reporting of environmental impacts arising from the construction of the scheduled works and operation of Phase One of High Speed 2.
- (2) The Adjudicator may from time to time revise the statement and must publish any revised statement.
 - (3) Before publishing the statement (or any revised) statement, the Adjudicator must consult such persons it considers appropriate.”

34 Insert the following new Clause—

“Compliance with requirements

- (1) The Adjudicator will keep under review compliance by HS2 Ltd, the nominated undertaker and its contractors with the standards detailed in the environmental statement, Environmental Minimum Requirements and the Code of Construction Practice and the assurances and undertakings provided by the Secretary of State on HS2 and Information Papers prepared by HS2 Ltd (collectively the “environmental documents”).
- (2) If it appears to the Adjudicator that any person has failed or is likely to fail to comply with any requirements for which he is responsible set out in the environmental documents relating to the construction or operation of Phase One of High Speed 2 (hereinafter referred to in this section as the “relevant requirements”), the Adjudicator may address to that person an enforcement notice.
- (3) An enforcement notice comes into effect 36 hours after it is published on the website of the Adjudicator.
- (4) The Adjudicator must also transmit an electronic version to HS2 Ltd, any nominated undertaker or contractor to the aforementioned, or local authority that has supplied to the Adjudicator an email address for this purpose.
- (5) An enforcement notice must also be placed on a hard-copy register maintained at such a location as the Adjudicator may determine.
- (6) An enforcement notice is a notice in writing—
 - (a) specifying the matters which appear to the Adjudicator to constitute a failure to comply with the relevant requirements set out in the environmental documents, and

After Clause 65 - continued

- (b) prohibiting the recurrence or occurrence of those matters and requiring the person to whom it is addressed to carry out any specified works or take any steps which the Adjudicator considers necessary to ensure compliance with the relevant requirements detailed in the environmental documents.
- (7) Where any person suffers loss or damage as a result of any matter specified in an enforcement notice, whether that loss or damage occurs before or after the service of the enforcement notice, he may recover damages for that loss or damage in a civil court from the person on whom the enforcement notice was served.
- (8) It shall be a defence to any claim under subsection (7) above to prove that the matters alleged to constitute non-compliance have not occurred or that they do not constitute non-compliance with the relevant requirements.
- (9) If any person fails to comply with the requirements of an enforcement notice, he shall be guilty of an offence.
- (10) A person guilty of an offence under this section shall be punishable on summary conviction by a fine not exceeding £20,000, and on conviction on indictment to a fine.
- (11) It shall be a defence to any criminal proceedings under subsection (9) claim to prove that—
 - (a) the matters alleged to constitute non-compliance have not occurred,
 - (b) that they do not constitute non-compliance with the relevant requirements or that any required works or steps were not necessary to achieve compliance with the relevant requirements, or
 - (c) that despite due diligence he was unaware of the provision of the notice.
- (12) Where an offence under any provision of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”

35

Insert the following new Clause—

“Inspections and studies

- (1) The Adjudicator may for the purposes of its regulatory functions carry out inspections of—
 - (a) the carrying on of the scheduled works, or
 - (b) the operation of any train travelling on Phase One of High Speed 2.
- (2) The Adjudicator may undertake or promote comparative or other studies designed to enable it to make recommendations—
 - (a) for improving sustainability and effectiveness in any activity mentioned in subsection (3), or

After Clause 65 - continued

- (b) for improving the management of environmental outcomes arising from the operation of Phase One of High Speed 2.
- (3) Those activities are—
 - (a) the undertaking of construction activity by HS2 Ltd or a nominated undertaker,
 - (b) the making of arrangements by HS2 Ltd or a nominated undertaker for the purpose of environmental mitigation.
- (4) The Adjudicator may also undertake or promote studies designed to enable it to prepare reports as to the impact of—
 - (a) the operation of any particular statutory provisions, or
 - (b) any directions or guidance given by a Minister of the Crown (whether pursuant to any such provisions or otherwise), on economy, efficiency and effectiveness in an activity mentioned in subsection (3)(a) or (b).
- (5) The Adjudicator must undertake or promote a study falling within subsection (2) or (4) if the Secretary of State so requests.
- (6) The Adjudicator must publish—
 - (a) any recommendations made by it under subsection (2), and
 - (b) the result of any studies undertaken or promoted under that section.
- (7) The Secretary of State may, after consulting the Adjudicator, by regulations make provisions as to the procedure to be followed in respect of the making of representations to the Adjudicator before the publication under subsection (2) of any recommendations or the result of any studies.”

36

Insert the following new Clause—

“Power to require documents, information returns etc.

- (1) The Adjudicator may require any person mentioned in subsection (2) to provide it with any information, documents, records or other items which the Adjudicator considers it necessary or expedient to have for the purposes of any of its regulatory functions.
- (2) The persons are—
 - (a) HS2 Ltd,
 - (b) a nominated undertaker, and
 - (c) any contractor appointed by HS2 Ltd or a nominated undertaker.
- (3) The power in subsection (1) to require the provision of information, documents or records includes, in relation to information, documents or records kept by means of a computer, power to require the provision of the information, documents or records in legible form.
- (4) The Adjudicator may require a nominated undertaker to make a return to the Adjudicator at such intervals as may be prescribed.
- (5) Provision may be made in such requirements as to the contents of the return and the period in respect of which and date by which it is to be made.”

After Clause 65 - continued

37 Insert the following new Clause –

“Information and advice

- (1) The Adjudicator must keep the Secretary of State informed about the following matters –
 - (a) the environmental impact of constructing Phase One of High Speed 2 and whether such impacts reflect the forecasts detailed in the environmental statement;
 - (b) the impact on communities and the natural environment arising from the construction and operation of Phase One of High Speed 2; and
 - (c) the carrying on of regulated activities.
- (2) The Adjudicator may at any time give the Secretary of State advice on anything connected with those matters.
- (3) When requested to do so by the Secretary of State, the Adjudicator must give the Secretary of State such advice or information in connection with a matter mentioned in subsection (1) as may be specified in the request.”

38 Insert the following new Clause –

“Provision of copies of registers

- (1) Subject to subsection (3), the Adjudicator must secure that copies of any register kept for the purposes of this Act are available at its offices for inspection at all reasonable times by any person.
- (2) Subject to subsections (3) and (4), any person who asks the Adjudicator for a copy of, or an extract from, a register kept for the purposes of this Chapter is entitled to have one.
- (3) Regulations may provide that subsections (1) and (2) do not apply –
 - (a) in such circumstances as may be prescribed, or
 - (b) to such parts of a register as may be prescribed.
- (4) A fee determined by the Adjudicator is payable for the copy or extract except –
 - (a) in prescribed circumstances, or
 - (b) in any case where the Adjudicator considers it appropriate to provide the copy or extract free of charge.”

Clause 67

LORD AHMAD OF WIMBLEDON

39 Page 33, line 13, at end insert –

““deposited statement” has the meaning given by subsection (5);”

40 Page 34, line 36, leave out “subsection (4)” and insert “this Act”

Schedule 1

VISCOUNT ASTOR

- 41 Page 49, line 39, after “north-westwards” insert “in tunnel to include the proposed Wendover Mined Tunnel from Chainage 51+000”
- 42 Page 49, line 39, at end insert “Chainage 55+350”
- 43 Page 49, line 40, leave out “a point 240 metres”
- 44 Page 49, line 41, leave out from “includes” to end of line 43 and insert “the proposed Wendover Mined Tunnel”
- 45 Page 51, line 14, after “termination” insert “in tunnel to include the proposed Wendover Mined Tunnel to Chainage 55+350”

Schedule 2

LORD AHMAD OF WIMBLEDON

- 46 Page 109, line 3, leave out “2010 (S.I. 2010/675)” and insert “2016 (S.I. 2016/1154)”

Schedule 14

LORD AHMAD OF WIMBLEDON

- 47 Page 316, line 7, leave out paragraph 2 and insert—
- “2 In section 7(2)(acquisition of airspace), for paragraphs (a) and (b) substitute—
- “(a) Schedule 2A to the Compulsory Purchase Act 1965 (counter-notice requiring purchase of land not in notice to treat);
 - (b) Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (corresponding provision in case of general vesting declaration);
 - (c) section 153(4A) of the Town and Country Planning Act 1990 (blighted land: proposed acquisition of part interest; material detriment test).”
- 2A In section 8(2)(acquisition of subsoil or under-surface), for paragraphs (a) and (b) substitute—
- “(a) Schedule 2A to the Compulsory Purchase Act 1965 (counter-notice requiring purchase of land not in notice to treat);
 - (b) Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (corresponding provision in case of general vesting declaration);
 - (c) section 153(4A) of the Town and Country Planning Act 1990 (blighted land: proposed acquisition of part interest; material detriment test).”
- 48 Page 316, line 18, leave out from “notice)” to end of line 21 and insert “—
- (a) in a case where the notice to treat relates only to one or more of the following—

Schedule 14 - continued

- (i) the acquisition of subsoil or undersurface of land, where the subsoil or undersurface lies more than 9 metres below the surface;
 - (ii) the acquisition of airspace over land;
 - (iii) an easement, restrictive covenant or other right over land;
- for “3 months” substitute “1 month”, and
- (b) after “11A(4)” insert “or (6) and (7).”

49 Page 316, line 23, leave out from “entry:” to end of line 29 and insert “further notices of entry)–

- (a) in subsection (1)(a), after “land” insert “under that provision”,
- (b) in subsection (2), after “land” insert “under that provision, to the extent that the newly identified person is the owner, lessee or occupier of the land,”,
- (c) in subsection (4)(a), for “14 days” substitute “7 days”, and
- (d) at the end insert –
 - “(5) Subsections (6) and (7) apply for the purposes of determining the period to be specified in the notice of entry under section 11(1) served on the newly identified person in a case where subsection (4) does not apply.
 - (6) The period specified in the notice must be –
 - (a) in a case where the notice to treat relates only to one or more of the following –
 - (i) the acquisition of subsoil or under- surface of land, where the subsoil or undersurface lies more than 9 metres below the surface;
 - (ii) the acquisition of airspace over land;
 - (iii) an easement, restrictive covenant or other right over land;
 a period that ends no earlier than the end of the period of 7 days beginning with the day on which the notice of entry is served, and
 - (b) in any other case, a period that ends no earlier than the end of the period of 28 days beginning with the day on which the notice of entry is served.
 - (7) The period specified in the notice must end no earlier than the end of the period specified in any previous notice of entry given by the acquiring authority in respect of the land.””

50 Page 316, line 32, leave out “, omit paragraphs 1(2) and 13(2)” and insert “–

- (a) omit paragraphs 1(2) and 14(2), and
- (b) at the end insert –

“PART 4
INTERPRETATION

Schedule 14 - continued

30 In this Schedule, references to entering on and taking possession of land do not include doing so under Schedule 16 to the High Speed Rail (London - West Midlands) Act 2017 (temporary possession and use of land).”

- 51 Page 317, line 14, leave out “1” and insert “A1”
- 52 Page 318, line 17, at end insert “the whole or part of”
- 53 Page 318, leave out lines 20 to 23
- 54 Page 318, leave out lines 25 to 30
- 55 Page 318, line 32, leave out “whole of the land” and insert “house, building or factory”
- 56 Page 318, line 34, leave out “whole of the land” and insert “house, building or factory”
- 57 Page 319, line 13, leave out “whole of the land” and insert “house, building or factory”
- 58 Page 319, line 37, leave out “land to which the counter-notice relates” and insert “house, building or factory”
- 59 Page 319, line 40, leave out “land” and insert “house, building or factory”
- 60 Page 319, line 42, leave out second “the” and insert “that”
- 61 Page 319, line 44, leave out “land” and insert “house, building or factory”
- 62 Page 319, line 47, leave out “the whole of the” and insert “that”
- 63 Page 320, line 12, leave out “1” and insert “A1”
- 64 Page 320, line 22, leave out “1” and insert “A1”

After Schedule 16

LORD STEVENSON OF BALMACARA

- 65 Insert the following new Schedule—

“DUTY OF CARE AND LIABILITY OF SECRETARY OF STATE

- 1 The Secretary of State and the nominated undertaker, and their contractors and sub-contractors, are, when dealing with persons whose land is subject to the exercise of powers under sections 4 to 19 or whose land is otherwise affected by the construction of the scheduled works, subject to a general duty of care to those persons.

After Schedule 16 - continued

- 2 The general duty of care includes requirements to—
- (a) act fairly and in good faith at all times;
 - (b) minimise so far as reasonably practicable the acquisition and temporary occupation of land of third parties;
 - (c) minimise so far as reasonably practicable the impact on third parties of the carrying out of the scheduled works;
 - (d) act transparently;
 - (e) for not less than five years after the completion of the scheduled works, provide an information and assistance service for those affected by the scheduled works;
 - (f) pay fair compensation promptly;
 - (g) consult affected persons before and during any process of compulsory acquisition;
 - (h) provide accommodation works during the construction of the scheduled works where reasonably required.
- 3 Notwithstanding any agreement to the contrary between the Secretary of State and the nominated undertaker or any contractor or sub-contractor, the Secretary of State is liable to third parties for the actions of the nominated undertaker and his or its contractors and sub-contractors in exercising the powers conferred by this Act and carrying out the scheduled works.
- 4 It is the duty of the Complaints Commissioner appointed by the Secretary of State under section (*Complaints Commissioner*) to determine how the Secretary of State and the nominated undertaker must observe the general duty of care created by this Schedule.”

Schedule 17

LORD BERKELEY

66 Page 348, line 24, leave out paragraph (a)

Schedule 21

LORD AHMAD OF WIMBLEDON

67 Page 385, line 2, leave out “2010 (S.I. 2010/675)” and insert “2016 (S.I. 2016/1154)”

68 Page 385, line 4, leave out “23ZA” and insert “25”

After Schedule 24

LORD AHMAD OF WIMBLEDON

69 Insert the following new Schedule—

“TRAFFIC REGULATION

Consultation about proposed traffic regulation order

1 (1) This paragraph applies where—

After Schedule 24 - continued

- (a) the traffic authority for a relevant road is a person other than the Secretary of State,
 - (b) the authority proposes to make a traffic regulation order in relation to the road, and
 - (c) it appears to the authority that provision made by the order –
 - (i) could significantly interfere with the use of the road by heavy commercial vehicles for Phase One purposes, or
 - (ii) could otherwise significantly affect the free flow of traffic on the road.
- (2) Before making the order, the authority must consult the Secretary of State (in addition to any other person the authority is required to consult under or by virtue of Part 3 of Schedule 9 to RTRA 1984).
- (3) In this paragraph –
- “heavy commercial vehicle” has the same meaning as in RTRA 1984 (see section 138 of that Act);
 - “relevant road” means a road which falls within one or more of the following paragraphs –
 - (a) a road which is part of a route identified in a deposited statement as a construction traffic route;
 - (b) a road which is part of a route in relation to which approval has been given under paragraph 6 of Schedule 17 (routes for transportation by large goods vehicles);
 - (c) where a request for approval under paragraph 6 of Schedule 17 has been made but not determined, a road which is part of a route to which the request for approval relates;
 - (d) a road any part of which is within, or within one kilometre of, the Act limits.

Power of Secretary of State to direct traffic authority to make traffic regulation order

- 2 (1) The Secretary of State may give a direction to a traffic authority requiring the authority to make a traffic regulation order if the Secretary of State considers that such an order is necessary or expedient for Phase One purposes.
- (2) Before giving a direction under this paragraph to a traffic authority, the Secretary of State must consult the authority.
- (3) The purpose of consultation under sub-paragraph (2) is to ensure public safety and, so far as reasonably practicable, to reduce public inconvenience.
- (4) Paragraph 1(2) does not apply (if it otherwise would) to the making of a traffic regulation order in pursuance of a direction under this paragraph.
- (5) Where a traffic authority makes a traffic regulation order in pursuance of a direction under this paragraph (a “relevant order”), the authority may not without the Secretary of State’s consent make a further traffic regulation order which contains –
- (a) provision varying or revoking the relevant order, or
 - (b) provision as respects any length of road for any purpose where –
 - (i) an order has been made as respects that length of road for a similar purpose, and
 - (ii) that order has been varied or revoked by the relevant order.

After Schedule 24 - continued

- (6) The power to give a direction under this paragraph includes power to vary or revoke a previous direction given under this paragraph.
- 3 (1) This paragraph applies where, in pursuance of a direction under paragraph 2, a traffic authority is required to make an order under section 1, 6 or 9 of RTRA 1984.
- (2) The order is to be treated for the purposes of Part 3 and paragraph 28 of Schedule 9 to RTRA 1984, and regulations made under Part 3 of that Schedule, as if it were required to be made in pursuance of a direction under paragraph 2 of that Schedule.
- (3) The provisions mentioned in sub-paragraph (2) have effect accordingly, but as if—
- (a) paragraph 26(1) of Schedule 9 to RTRA 1984 (which requires the Secretary of State to take account of objections) were omitted,
 - (b) for the purposes of the application of paragraph 28 of Schedule 9 to RTRA 1984 (provision about the variation or revocation of certain orders)—
 - (i) the reference in that paragraph to Part 2 of that Schedule included a reference to paragraph 2(5) of this Schedule, and
 - (ii) any reference in that Part to paragraph 13(1)(e) and (f) of that Schedule were read instead as a reference to paragraph 2(5) of this Schedule, and
 - (c) any provision in regulations made under Part 3 of Schedule 9 to RTRA 1984 relating to the holding of a public inquiry were omitted.
- (4) Paragraph 35 of Schedule 9 to RTRA 1984 (provision for questioning validity of orders) has effect, in its application to the order, as if—
- (a) the reference in sub-paragraph (a) to the relevant powers were to those powers as they apply in the case of an order made in pursuance of a direction under paragraph 2 above, and
 - (b) the reference in sub-paragraph (b) to the relevant requirements were to those requirements as modified by sub-paragraph (3) above.
- 4 (1) This paragraph applies where, in pursuance of a direction under paragraph 2, a traffic authority is required to make an order under section 14 of RTRA 1984.
- (2) Section 15 of RTRA 1984 (duration of orders under section 14) does not apply to the order.
- (3) The order has effect for the period specified or described in the direction.
- Further powers of Secretary of State (including in relation to variation or revocation of orders)*
- 5 (1) The Secretary of State may direct a traffic authority to revoke a traffic regulation order made by the authority in pursuance of a direction under paragraph 2.
- (2) The Secretary of State may direct a traffic authority to vary a traffic regulation order made by the authority in pursuance of a direction under paragraph 2, where—
- (a) the variation is necessary or expedient for Phase One purposes, or

After Schedule 24 - continued

- (b) the effect of the variation is to remove or relax a restriction imposed by the order on the use of any road.
- 6 (1) Where a traffic authority fails to comply with a direction under paragraph 2, the Secretary of State may make the traffic regulation order required by the direction.
- (2) Where a traffic authority fails to comply with a direction under paragraph 5, the Secretary of State may by order vary or revoke the traffic regulation order (as required by the direction).
- 7 (1) The Secretary of State may by order made by statutory instrument vary or revoke a traffic regulation order (whenever made) if the Secretary of State considers it necessary or expedient to do so for Phase One purposes.
- (2) This paragraph has effect without prejudice to the powers conferred on the Secretary of State by paragraphs 5 and 6.
- 8 (1) This paragraph applies to an order under paragraph 6 or 7.
- (2) Before making the order, the Secretary of State must give notice to the traffic authority in question.
- (3) Paragraph 4 of Schedule 9 to RTRA 1984 (reserve powers of Secretary of State, including power to recover expenses) applies to the order as it applies to an order made by virtue of paragraph 3 of that Schedule.
- (4) Parts 3 and 4 of Schedule 9 to RTRA 1984, and regulations made under paragraph 24 of that Schedule, apply to the order as they apply to an order made by virtue of the relevant paragraph of that Schedule, but as if—
- (a) any provision in the regulations relating to the holding of a public inquiry were omitted, and
 - (b) for the purposes of the application of paragraph 28 of that Schedule (provision about the variation or revocation of certain orders)—
 - (i) the reference in that paragraph to Part 2 of that Schedule included a reference to paragraph 8(6) of this Schedule, and
 - (ii) any reference in that Part to paragraph 13(1)(e) and (f) of that Schedule were read instead as a reference to paragraph 8(6) of this Schedule.
- (5) For the purposes of sub-paragraph (4), “the relevant paragraph” of Schedule 9 to RTRA 1984 is—
- (a) in the case of an order under paragraph 6 of this Schedule, paragraph 3 of that Schedule, and
 - (b) in the case of an order under paragraph 7 of this Schedule, paragraph 7 of that Schedule.
- (6) Where the Secretary of State makes an order to which this paragraph applies, the relevant authority may not without the Secretary of State’s consent make a further traffic regulation order which contains—
- (a) provision varying or revoking the Secretary of State’s order, or
 - (b) provision as respects any length of road for any purpose where—
 - (i) an order has been made as respects that length of road for a similar purpose, and

After Schedule 24 - continued

- (ii) that order has been varied or revoked by the Secretary of State's order.
- (7) Paragraph 16 of Schedule 9 to RTRA 1984 (powers of Secretary of State where an order is submitted for consent) applies for the purposes of sub-paragraph (5) as if the further traffic regulation order had been submitted for consent under Part 2 of that Schedule.

Power to restrict traffic authority from making or implementing traffic regulation order

- 9 (1) The Secretary of State may give a direction to a traffic authority prohibiting the authority - either generally, or without the Secretary of State's consent, or for a specified period - from making or bringing into operation a traffic regulation order (whenever made) if the Secretary of State considers that such an order could significantly interfere with the use of any road for Phase One purposes.
- (2) Before giving a direction under this paragraph to a traffic authority, the Secretary of State must consult the authority.
- (3) The purpose of consultation under sub-paragraph (2) is to ensure public safety and, so far as reasonably practicable, to reduce public inconvenience.
- (4) The power to give a direction under this paragraph includes power to vary or revoke a previous direction given under this paragraph.

Removal of vehicles

- 10 (1) An authorised person may remove a vehicle, or arrange for its removal, where conditions 1 and 2 are met.
- (2) Condition 1 is that the vehicle has been permitted to remain at rest, or has broken down and remained at rest—
- (a) on any road in contravention of a prohibition or restriction imposed by a traffic regulation order, or
 - (b) on any road which is stopped up under paragraph 2 or 6 of Schedule 4.
- (3) Condition 2 is that it appears to the authorised person that the vehicle is likely, if it is not removed—
- (a) to obstruct the carrying out of any of the works authorised by this Act, or
 - (b) to be at risk of being damaged in consequence of the doing of anything for Phase One purposes.
- (4) References in sub-paragraphs (1) and (3) to the removal of a vehicle are to its removal to another position on the road in question or to another road.
- (5) Before exercising the power under sub-paragraph (1), an authorised person must give notice to—
- (a) the local authority (as defined by section 100(5) of RTRA 1984) in whose area the vehicle is situated, and
 - (b) the chief officer of the police force in whose area the vehicle is situated.
- (6) A person removing a vehicle under or by virtue of sub-paragraph (1) may do so—
- (a) by towing or driving the vehicle, or
 - (b) in such other manner as the person thinks necessary,

After Schedule 24 - continued

and may take such measures in relation to the vehicle as the person thinks necessary to enable its removal.

- (7) This paragraph is without prejudice to provision made by regulations under section 99 of RTRA 1984.
- (8) In this paragraph—
 “authorised person” means a person authorised by the nominated undertaker for the purposes of this paragraph;
 “vehicle” has the same meaning as in section 99 of RTRA 1984.

Interpretation

- 11 In this Schedule—
 “road” has the same meaning as in RTRA 1984 (see section 142(1) of that Act);
 “RTRA 1984” means the Road Traffic Regulation Act 1984;
 “traffic authority” has the same meaning as in RTRA 1984 (see section 121A of that Act);
 “traffic regulation order” means an order section 1, 6, 9 or 14 of RTRA 1984.”

Schedule 25

LORD AHMAD OF WIMBLEDON

- 70 Page 394, line 7, leave out “or 6” and insert “6, 9 or 14”

Schedule 32

LORD AHMAD OF WIMBLEDON

- 71 Page 419, line 34, leave out “Energy and Climate Change” and insert “Business, Energy and Industrial Strategy”
- 72 Page 422, line 20, leave out “Energy and Climate Change” and insert “Business, Energy and Industrial Strategy”

After Schedule 32

BARONESS PIDDING
 LORD STEVENSON OF BALMACARA

- 73 Insert the following new Schedule—

“ADJUDICATOR: STATUS AND FUNDING

- 1 The Adjudicator shall be a body corporate.
- 2 (1) Subject to sub-paragraph (3), the Adjudicator shall not be regarded as the servant or agent of the Crown or any enjoying any status immunity or privilege of the Crown.

After Schedule 32 - continued

- (2) The members of the Adjudicator and of their staff shall not be regarded as civil servants and the Adjudicator's property shall not be regarded as property of, or held on behalf of, the Crown.
- (3) In relation to any matter in respect of which the Adjudicator acts by virtue of a direction, the Adjudicator shall enjoy the same privileges, immunities and exemptions as those enjoyed in relation to that matter by the Secretary of State for Transport.
- (4) Subject to the provisions of any enactment, the Adjudicator shall not be exempt from any tax, duty, rate, levy or other charge whatever (whether general or local).
- (5) The Adjudicator shall receive such funds from the Secretary of State as he considers that it needs to perform its functions expeditiously and efficiently.

Membership

- 3 (1) The Adjudicator shall consist of not fewer than 8 and not more than 17 members.
- (2) The members shall be appointed by the Secretary of State, who shall appoint one of them to be chairman and may appoint another of them to be deputy chairman.
- (3) In appointing any member, the Secretary of State shall have regard to the desirability of the members as a whole having knowledge or experience of all the following, namely railway construction and operation, the preservation of cultural heritage, town and country planning, ecology, arboriculture, landscape, and air quality.
- (4) In appointing members, the Secretary of State shall have regard to the desirability of at least one of them having knowledge of local government (as well as knowledge or experience of one or more of the subjects mentioned in sub-paragraph (3)).
- (5) Subject to the following provisions of this paragraph, a chairman, deputy chairman or other member shall hold and vacate office in accordance with the terms of his appointment, but no member shall be appointed for a period of more than 5 years.
- (6) A chairman, deputy chairman or member may resign his office by notice in writing addressed to the Secretary of State.
- (7) If the Secretary of State is satisfied that a member –
 - (a) has been absent from meetings of the Adjudicator for a period longer than 3 consecutive months without the consent of the Adjudicator, or
 - (b) has become bankrupt or has made an arrangement with his creditors, or
 - (c) is incapacitated by physical or mental illness, or
 - (d) is otherwise unable or unfit to discharge the functions of a member,the Secretary of State may remove him from his office.
- (8) If a chairman or deputy chairman ceases to be a member he shall also cease to be chairman or deputy chairman; and if a chairman or deputy chairman ceases to be chairman or deputy chairman he shall also cease to be a member.

After Schedule 32 - continued

- (9) A person who ceases to be a member, otherwise than by virtue of sub-paragraph (7), or ceases to be chairman or deputy chairman, shall be eligible for re-appointment.

Staff

- 4 (1) There shall be a chief officer of the Adjudicator who shall be appointed by the Adjudicator with the approval of the Secretary of State.
- (2) The chief officer shall be responsible to the Adjudicator for the general exercise of the Adjudicator's functions and may, subject to the directions of the Adjudicator, exercise all the powers of the Adjudicator either himself or through nominated staff members.
- (3) The Adjudicator may appoint such other employees as the Adjudicator thinks fit.
- (4) The Adjudicator shall pay to their employees such remuneration and allowances as the Adjudicator may determine.
- (5) The employees shall be appointed on such other terms and conditions as the Adjudicator may determine.
- (6) The Adjudicator may pay such pensions, allowances or gratuities as they may determine to or in respect of any of their employees, make such payments as they may determine towards the provision of pensions, allowances or gratuities to or in respect of any of their employees or provide and maintain such schemes as they may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any of their employees.
- (7) The references in sub-paragraph (6) to pensions, allowances or gratuities to or in respect of any employees include references to pensions, allowances or gratuities by way of compensation to or in respect of employees who suffer loss of office or employment.
- (8) A determination under sub-paragraph (4), (5) or (6) is ineffective unless made with the approval of the Secretary of State given with the Treasury's consent.
- (9) The Adjudicator shall make, not later than such date as the Secretary of State may determine, an offer of employment by the Adjudicator to each person employed in the civil service of the State whose name is notified to the Adjudicator by the Secretary of State for the purposes of this paragraph.
- (10) The terms of the offer shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (11) In determining whether the terms of the offer are more or less favourable to that person than those enjoyed by him on the date of the offer no account shall be taken of the fact that employment with the Adjudicator is not employment in the service of the Crown.
- (12) An offer made in pursuance of this paragraph shall not be revocable during the period of 3 months beginning with the date on which it is made.

After Schedule 32 - continued

- (13) Where a person becomes an employee of the Adjudicator in consequence of this paragraph, then, for the purposes of his period of employment in the civil service of the State shall count as a period of employment by the Adjudicator and the change of employment shall not break the continuity of the period of employment.
- (14) Any dispute arising under this paragraph as to whether or not the terms of any employment offered by the Adjudicator are, taken as a whole, less favourable than those applying to a person's employment in the civil service of the State shall be referred to and determined by an employment tribunal.
- (15) An employment tribunal shall not consider a complaint whereby a dispute mentioned in sub-paragraph (6) is referred to it unless the complaint is presented to the tribunal before the end of the period of 3 months beginning with the date of the offer of employment or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of 3 months.
- (16) An appeal shall lie to the Employment Appeal Tribunal on a question of law arising from any decision of, or arising in proceedings before, an employment tribunal under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an employment tribunal under this paragraph.

Proceedings

- 5 Subject to the following provisions of this Schedule, the Adjudicator may regulate their own procedure (including quorum).
- 6 (1) A member of the Adjudicator who is in any way directly or indirectly interested in a contract made or proposed to be made by the Adjudicator or by HS2 Ltd or by any nominated undertaker appointed by the Secretary of State, or in any other matter which falls to be considered by the Adjudicator, shall disclose the nature of his interest at a meeting of the Adjudicator.
 - (2) The disclosure shall be recorded in the minutes of the meeting.
 - (3) A member shall not—
 - (a) where a contract in which the member is interested is under consideration, take part in the deliberations on or decision about the contract; and
 - (b) where any other matter in which the member is interested is under consideration, take part in the deliberations on or decision about the matter if the Adjudicator decide that the member's interest might prejudicially affect his consideration of the matter.
 - (4) For the purposes of this paragraph, a notice given by a member at a meeting of the Adjudicator to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter concerning the body corporate or firm which falls to be considered after that date, shall be a sufficient disclosure of his interest.

After Schedule 32 - continued

- (5) A member need not attend in person at a meeting of the Adjudicator in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at such a meeting.
- (6) The validity of any proceedings of the Adjudicator shall not be affected by any vacancy among the members, or by any defect in the appointment of any person as a member or chairman or deputy chairman, or by a failure to comply with paragraph 6.

Committees

- 7 (1) The Adjudicator shall constitute at least one committee to advise them on ecology and at least one to advise them on compliance by HS2 Ltd with its obligations under the environmental statement and at least one to advise them on the efficacy of such compensation schemes which are implemented by HS2 Ltd and the Department for Transport and may constitute other committees to advise them on those or other aspects of their functions.
- (2) The Adjudicator may include as members of committees persons who are not members of the Adjudicator.
- (3) The Adjudicator may regulate the proceedings (including quorum) of committees.
- (4) The Adjudicator may pay to the members of any committee such reasonable allowances in respect of expenses or loss of remuneration as the Secretary of State may determine with the Treasury's approval.

Instruments

- 8 (1) The fixing of the seal of the Adjudicator shall be authenticated by the signature of the chairman or some other person authorised either generally or specially by the Adjudicator to act for that purpose.
- (2) A document purporting to be duly executed under the seal of the Adjudicator, or to be signed on the Adjudicator's behalf, shall be received in evidence and, unless the contrary is proved, be deemed to be so executed or signed.

Members' remuneration

- 9 (1) The Adjudicator shall pay to members of the Adjudicator such remuneration and such allowances in respect of expenses as the Secretary of State may determine with the Treasury's approval.
- (2) In the case of any such member or past member of the Adjudicator as the Secretary of State may with the Treasury's approval determine, the Adjudicator shall pay such pension, allowance or gratuity to or in respect of him, or make such payment towards the provision of such a pension, allowance or gratuity, as the Secretary of State may so determine.
- (3) Where a person ceases to be a member of the Adjudicator, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may, with the Treasury's approval, direct the Adjudicator to make to that person a payment of such amount as the Secretary of State may determine with the Treasury's approval.

After Schedule 32 - continued*Accounts*

- 10 (1) The Adjudicator shall keep proper accounts and proper records in relation to them.
- (2) The Adjudicator shall prepare a statement of accounts in respect of each financial year.
- (3) The statement shall give a true and fair view of the state of the Adjudicator's affairs at the end of the financial year and of the Adjudicator's income and expenditure in the financial year.
- (4) The statement shall—
 - (a) be prepared within such period as the Secretary of State may direct; and
 - (b) comply with any directions given by the Secretary of State with the Treasury's consent as to the information to be contained in the statement, the manner in which the information is to be presented or the methods and principles according to which the statement is to be prepared.
- (5) The accounts in respect of each financial year ending on or before 31st March 2018 (including any statement of accounts in respect of each such financial year prepared under this paragraph) shall be audited by persons appointed in respect of each financial year by the Secretary of State.
- (6) No person shall be appointed auditor under this paragraph unless he is—
 - (a) eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006; or
 - (b) a member of the Chartered Institute of Public Finance and Accountancy; but a firm may be so appointed if each of its members is qualified to be so appointed.
- (7) Where the Adjudicator has prepared a statement of accounts in respect of a financial year ending on or after 31st March 2016, it must, as soon as reasonably practicable after the end of the financial year to which the statement relates, send a copy of the statement to the Comptroller and Auditor General.
- (8) The Comptroller and Auditor General shall examine, certify and report on any statement of accounts sent to him under sub-paragraph (7).
- (9) In this paragraph "financial year" means the period commencing with the day of the Adjudicator's establishment and ending with the second 31 March following that day, and each successive period of 12 months.

Information

- 11 (1) The Adjudicator shall make to the Secretary of State, as soon as may be practicable after the end of each financial year, a report on the exercise of their functions since the last report was made or (in the case of the first) since the Adjudicator's establishment.
- (2) Each report shall include a copy of the statement of accounts prepared and audited under paragraph 10 in respect of the financial year and, where the statement has been audited by the Comptroller and Auditor General, a copy of his report on it.

After Schedule 32 - continued

- (3) Each report of the Adjudicator shall include a statement of action taken by the Adjudicator concerning—
- (a) the compliance by HS2 Ltd with the commitments made in the Phase One environmental statement,
 - (b) the adequacy of the mitigation measures undertaken by HS2 Ltd and any nominated undertaker concerning construction of the line,
 - (c) recommendations concerning any additional mitigation measures required to ensure adequate environmental mitigation, and
 - (d) the assessment of reasonable practicability undertaken by the nominated undertaker.
- (4) The Secretary of State shall lay a copy of each report of the Adjudicator before each House of Parliament.
- (5) As soon as may be after receiving any report made by the auditors on any accounts audited under paragraph 10 or, as the case may be, made by the Comptroller and Auditor General on any statement of accounts prepared under that paragraph, the Adjudicator shall send a copy of the report to the Secretary of State.
- (6) The Adjudicator shall furnish the Secretary of State with such information relating to their property and the discharge and proposed discharge of their functions as he may require, and for that purpose they shall permit any person authorised by him to inspect and make copies of any accounts or other documents of the Adjudicator and shall give such explanation of them as that person or the Secretary of State may require.
- (7) In this paragraph “financial year” has the same meaning as in paragraph 10.

House of Commons disqualification

- 12 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), there shall be inserted at the appropriate place in alphabetical order—
- “Any member, in receipt of remuneration, of the Adjudicator.””

In the Title

BARONESS RANDESON
LORD BRADSHAW

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Line 2, after “with” insert “a spur from Old Oak Common in the London Borough of Hammersmith and Fulham to a junction with the West London Line south of North Pole Road on the boundary between the London Borough of Hammersmith and Fulham and the Royal Borough of Kensington and Chelsea; and”

High Speed Rail (London - West Midlands) Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

10 January 2017
