

EXPLANATORY MEMORANDUM TO
THE HIGH SPEED RAIL (LONDON – WEST MIDLANDS) (FEES FOR REQUESTS
FOR PLANNING APPROVAL) REGULATIONS 2017

2017 No. 223

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The High Speed Rail (London – West Midlands) (Fees For Requests For Planning Approval) Regulations 2017 (the “Regulations”) specify fees for requests for planning approval submitted by the nominated undertaker (HS2 Ltd) for the purposes of the High Speed Rail (London – West Midlands) Act 2017 (the “Act”).

2.2 Paragraph 17(4) of Schedule 17 to the Act disapplies (for the purposes of HS2 Phase One) the existing planning fees regime used by planning authorities for planning applications. In its place, paragraph 17(1) of Schedule 17 allows the Secretary of State for Transport and the Secretary of State for Communities and Local Government (the “appropriate Ministers”) to make provision about fees for requests for planning approval in relation to HS2 Phase One. These Regulations make provision to introduce a fee regime for such requests.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 These Regulations are based on the Crossrail (Fees for Requests for Planning Approval) Regulations 2008 (2008 No. 2175) and the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (2012 No. 2920) (the “2012 Regulations”).

5. Extent and Territorial Application

5.1 The extent of this instrument is England only.

5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 These Regulations make provision for planning authorities to charge fees for processing requests for planning approval made by the nominated undertaker under Part 1 of Schedule 17 to the Act.
- 7.2 Although section 20 of the Act grants planning permission for HS2 Phase One, the nominated undertaker will need to apply for approval of the detailed design of a range of elements of the scheme from planning authorities along the route. This will enable planning authorities to ensure that the design of permanent structures fits into the local environment. Planning authorities will also be able to approve certain construction matters and have a level of control over their enforcement.
- 7.3 Paragraph 17(4) of Schedule 17 to the Act disapplies regulations issued under section 303 of the Town and Country Planning Act 1990, which set out the fees normally charged for planning applications. In its place, Schedule 17 to the Act allows the appropriate Ministers to introduce a fee regime that allows planning authorities to charge fees for requests for planning approval made by the nominated undertaker.
- 7.4 The intended objective of these Regulations is, therefore, to provide planning authorities with a fee regime that enables them to meet the costs of processing requests for planning approval under Schedule 17 to the Act.
- 7.5 These Regulations are based on the 2012 Regulations rather than introducing a new and different fee charging regime.

8. Consultation outcome

- 8.1 The content of the provisions contained in these Regulations were the subject of an informal consultation with the HS2 Phase One Routewide Planning Forum.

9. Guidance

- 9.1 The fee regime contained within these Regulations is self-explanatory and is based on the regime contained in the 2012 Regulations with which planning authorities will be familiar. It is not therefore considered necessary for guidance to be provided.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector. These Regulations negate a potential impact on planning authorities by providing them with a means to charge fees for processing requests for planning approval in relation to HS2 Phase One.
- 10.3 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 These Regulations do not contain a review provision and section 28 of the Small Business, Enterprise and Employment Act 2015 (duty to review regulatory provisions

in secondary legislation) does not apply as these Regulations do not make regulatory provision in relation to any qualifying activity or amend regulatory provision made in relation to any qualifying activity.

- 12.2 These Regulations make provision for bespoke planning arrangements for HS2 Phase One concerning fees for requests for planning approval to a planning authority under Part 1 of Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017. The nominated undertaker will submit requests for planning approval to planning authorities as part of its function in delivering HS2 Phase One on behalf of the Department.

13. Contact

- 13.1 Merida Mathen at the Department for Transport (telephone: 020 7944 3732 or email: merida.mathen@dft.gsi.gov.uk) can answer any queries regarding the instrument.