



Delegated Powers and Law Reform Committee

Rt Hon Grant Shapps MP
Secretary of State for Transport
By email

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Dear Secretary of State

Thank you for your letter of 26 April on the delegated powers relevant to Scotland in the [High Speed Rail \(Crewe Manchester\) Bill](#) as referred to in the [Legislative Consent Memorandum](#) (“the LCM”), lodged by the Scottish Government with the Scottish Parliament on 7 February 2022.

At its meeting on 3 May 2022, the Committee considered both your response as well as a letter from the Minister for Transport, Jenny Gilruth MSP, who you will recall the Committee wrote to in similar terms. You can view the Committee’s published report from that meeting here—

- [Legislative Consent Memorandum: delegated powers relevant to Scotland in the High Speed Rail \(Crewe – Manchester\) Bill](#)

As you will see from the report, the Committee found all powers and proposed procedures to be acceptable in principle, apart from ‘Schedule 5 Paragraph 15 (as modified by Schedule 33) – Designation of trunk or special roads’, in relation to which the Committee agreed to seek further clarification from you.

As explained in paragraph 10 of the UK Government’s delegated powers memorandum for the Bill (UK DPM), the purpose of this power is to enable suitable provision to be made if part of a trunk road network or a special road is extended or realigned as a result of Phase 2(b) (Crewe to Manchester). The level of detail will not be available before Royal Assent and so flexibility is required so that the integrity of the highway network is maintained. The Committee noted that at paragraph 11 the UK DPM states that as the trunk road network within England and Scotland is within the remit of National Highways and Transport Scotland respectively, it is not considered that parliamentary scrutiny is required for any decisions to alter aspects of their networks.

Paragraphs 44 and 45 of the LCM consider roads matters, however this particular provision and power is not specifically mentioned in the LCM. In relation to other roads related provisions considered in the LCM, the Scottish Government has said that it considers it unlikely that any works will be required on the trunk road network in connection with this Bill.

Section 2 of the Roads (Scotland) Act 1984 imposes a duty upon the Scottish Ministers to manage and maintain trunk roads and special roads in Scotland. Section 5 of the 1984 Act confers power on Scottish Ministers, after consideration of specified requirements, to direct that any existing road, or any road proposed to be constructed by Scottish Ministers, should become a trunk road. Section 7 of the Act empowers a roads authority to obtain authorisation of a scheme to provide a special road by means either of construction or appropriating an existing road as a special road. Where the roads authority for the special road are the Scottish Ministers, they must, before making such a scheme, give due consideration to specified requirements. The Committee noted that it appears that the powers under section 5 and 7 of the 1984 Act may be exercised generally by way of ministerial orders or schemes that are not subject to parliamentary scrutiny.

The Committee also noted that whilst the LCM refers to it being unlikely that works will be required on trunk roads in Scotland, this commentary was understood to be in relation to carrying on works on trunk roads in respect of roads maintenance and did not specifically relate to the potential extension or realignment of trunk roads or special roads.

In its response to the Committee, the Scottish Government thanked the committee for identifying an issue in relation to the appropriate level of involvement for the Scottish Ministers in any decision to designate works in Scotland as a trunk road or special road. The Scottish Government advised in respect of this provision, as is the case for the other provisions relating to roads, that though it is considered unlikely that any works will be required on the trunk road network in connection with this Bill, the Scottish Government does not consider that the disapplication of the sections which relate to road works to be necessary.

You will recall that, in your response, you stated that the designation of trunk roads in England is purely a matter within your jurisdiction, and when applied to Scotland it was considered appropriate to provide the Scottish Government the opportunity for input into the decision via consultation, to avoid having the risk of a potentially unresolved joint decision.

The Committee therefore agreed to seek clarification from you on **why this power in the Bill is exercisable in relation to Scotland if it is anticipated that the trunk road network in Scotland will not be affected?**

I would be grateful if you were able to provide a response to this question by **Friday, 27 May 2022**.

I am copying this letter to the Scottish Parliament's Net Zero, Energy and Transport Committee.

Yours sincerely

Stuart McMillan MSP
Convener of the Delegated Powers and Law Reform Committee