

SL(5)433 – The Cardiff and Valleys Railways (Transfer) Order 2019

Background and Purpose

This Order provides for Transport for Wales and Network Rail Infrastructure Limited to enter into schemes for the transfer from Network Rail Infrastructure Limited to Transport for Wales of certain statutory provisions and other rights and liabilities relating to the existing core Valleys railways described in Schedule 1 to the Cardiff and Valleys Railways (Transfer) Order 2019 (“the Order”).

Procedure

No procedure.

Scrutiny under Standing Order 21.7

Three points are identified for reporting under Standing Order 21.7 in respect of this Order.

1. Standing Order 21.7(v) – A responsible Committee may consider and report on any legislative matter of a general nature within or relating to the competence of the Assembly or Welsh Ministers.

This Order is not subject to any Assembly procedure. It deals with significant issues and demonstrates how a no procedure instrument can do significant things like provide for schemes transferring property, rights and liabilities from one company to another.

2. Standing Order 21.7(v) – A responsible Committee may consider and report on any legislative matter of a general nature within or relating to the competence of the Assembly or Welsh Ministers.

Schedule 1 to the Order makes reference to various enactments which are not easily available online. We have struggled to locate these using both publicly available resources, and resources which require subscription (LexisNexis and Westlaw). It appears that some of the enactments may be stored in the National Archives, Kew however it is difficult to confirm this as the stored documents are described in general terms. There is a concern as regards accessibility of the law, which has limited our ability to fully scrutinise the Order.

3. Standing Order 21.7(v) – A responsible Committee may consider and report on any legislative matter of a general nature within or relating to the competence of the Assembly or Welsh Ministers.

There is inconsistency between the English and Welsh texts of Schedule 1, which lists the enactments for the railways to which the Order relates. The Cardiff Railway Act 1897 is missing in the English text. We have been unable to locate the Cardiff Railway Act 1897 and so are not clear whether the English or Welsh text is correct.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.7 in respect of this Order.



Government Response

Point two: The government notes the issue of accessibility. However, the Order was drafted this way due to the nature of the authorisation of the relevant railways, and the need to refer to the individual Acts to permit the transfer of the railways authorised by such Acts. This ensures all elements of the railways in question are captured.

As you have stated, the legislation is held in the National Archives, which would be available on request for a fee. The legislation is also available in full on the JustisOne database, which is a subscription service. We understand from recent correspondence that the Assembly has access to this database.

Point three: The reporting point is noted and accepted. The government is already aware of this typographical error and is in contact with the SI registrar to correct this by way of correction slip.

Legal Advisers

Constitutional and Legislative Affairs Committee

6 August 2018

