

Level Crossings

Purpose

1. The paper provides an update on developments over the laws surrounding railway level crossings in Scotland and Great Britain.

Action

2. Members are invited to note this update and discuss as necessary.

Background

3. The report on 'Level Crossings' by the Law Commission and the Scottish Law Commission was published in September 2013. The response from government to that report was still awaited at the time of the last Forum meeting on Oct 8th 2014, as noted in the minutes. That response by the Department for Transport was published on Oct 13th, and was the subject of a short debate in the House of Lords on Oct 14th. In that debate an action plan was promised on the subject before the end of 2014, and the 'Level Crossing Reform Action Plan' was subsequently issued on 31st Dec 2014.

Department for Transport Response

4. The Department for Transport had commissioned the Law Commissions to undertake the review on level crossings legislation in 2007, and the DoT response was issued on 13th Oct by Baroness Kramer, the Minister of State. The Minister noted that the Law Commissions 'have highlighted that the safety record of Great Britain's level crossings is good and that the number of accidents is low by comparison to other industrialised countries', and that the primary reason for the review is not therefore for safety reasons, but was commissioned to simplify existing legislation. (It was noted in Lord's debate that there are 10,000 Acts that apply to level crossings).

The DoT response quotes each of the report's eighty-six recommendations, and for each responds with 'accept'(44), 'modify'(17) or 'reject'(7). However, for each of the recommendations 72-83 contained in 'Chapter 5: Rights of Way and Access Issues: Scotland', the response states "this issue is a matter for the Scottish Government", and makes no further comment.

Level Crossing Reform Action Plan

5. The Action Plan sets out how the Department intends to handle those recommendations that it wished to consider in more detail, and review those that it accepted, with a view to producing a consolidated package of revisions. These will need new primary legislation in some form. The action plan notes that: "with the exception of tramways in Scotland, railway safety matters, including level crossing safety and the making of level crossing orders, are reserved to Westminster in the Scottish and Welsh devolution settlements although in Scotland many other aspects of railway policy are devolved". It also says that: "the Department notes that

responses to recommendations 72-83 are a matter for the Scottish Government and intends to discuss these provisions separately with Transport Scotland “.

The Action Plan sets out a timetable over 2015 and 2016 for stakeholder workshops, public consultation, finalising proposals, and commencing a parliamentary process. It proposes setting up an Advisory Group of organisations to help advise the Department in this further development.

6. Scottish Government has noted for this paper that -

The Department for Transport response has passed all the Part 5 recommendations to Scottish Government. These raise some complex legal issues which are being considered. In the meantime an SG meeting with ORR (Office of the Rail Regulator) is being arranged.

In its response to DfT, regarding their draft Action Plan, Scottish Government have proposed hosting a stakeholder workshop in Scotland with the intention of enabling all Scottish groups the opportunity to participate in the discussions.

RG