

Somerset Rivers Authority Joint Scrutiny Panel paper

SRA Precepting Legislation update

RECOMMENDATION

The SRA Joint Scrutiny Panel is asked to:

1. Consider and comment on the latest position in relation to progress of the Rivers Authorities and Land Drainage Bill.

Purpose of the item

To update the Panel on progress towards securing the passing of legislation enabling the SRA to be put on a sound legal and financial footing to become a precepting and risk management authority.

Background and context

Since the inception of the Somerset Rivers Authority as an unincorporated association, it was always the aim of the SRA partners to secure the long-term future of the SRA by putting it on a sound legal and financial basis. The Government committed itself to passing legislation necessary to secure the future of the SRA; the Department of Environment, Food and Rural Affairs (Defra) drafted the Rivers Authorities and Land Drainage (RALD) Bill¹.

This Bill would give the Secretary of State the power to create Rivers Authorities (RA) as major precepting and flood risk management authorities. Defra was unable to secure government time to take the Bill through Parliament therefore David Warburton, MP for Somerton and Frome, picked up the Bill as a Private Members' Bill.

David Warburton MP presented the Rivers Authorities and Land Drainage Bill to the House of Commons (HofC) on 6 March 2018 (First Reading). The Bill eventually completed all stages² in the HofC on 15 March 2019 and moved to the House of Lords (HofL).

The Bill was presented to the Lords by Lord Bethell on 18 March and passed its 2nd Reading on 16 May. The Bill received support from all parties and cross-benchers. There were several detailed interventions in the debate. Themes emerged around ensuring appropriate accountability, consultation, environmental responsibilities and climate change amongst others.

Current Status

The next stage was due to be Committee Stage in HofL. On 4 June the Delegated Powers and Regulatory Reform Committee (DPRRC) published a report challenging whether the Private Members' Bill is the correct approach for the RALD Bill. The report conclusion is set out below:

¹ [Detailed RALD Bill Information](#)

² Diagram of stages of a Bill's progress shown at the end of this document.

'We were not only surprised but concerned at the proposals in this Bill. It is an attempt, upon flimsy grounds, to set aside the procedures which Parliament has put in place to protect the interests of citizens who would be unfairly affected by legislation. It would authorise the issuing of precepts—in effect, taxation—in a way which would be unaccountable and unscrutinised. It would allow the framing of Ministerial guidance in a way which would have legislative effect, without Parliamentary scrutiny. It would allow rules in primary legislation about the valuation of agricultural property to be replaced wholesale by statutory instrument with no requirement for consultation or other procedures for protecting private interests. And in order to set up one rivers authority in one part of England it would make provision for this approach to be replicated in every part of the country.'

Subsequently the Select Committee on the Constitution supported the DPRRC view by stating:

'We agree with the Delegated Powers and Regulatory Reform Committee and reiterate our view that it is constitutionally inappropriate to establish public bodies through delegated powers—particularly if the purpose of doing so is to avoid the bill having to go through the hybrid bill procedure.'

At the end of July we received confirmation from David Warburton that he would no longer be taking the Bill any further as a result of the objections raised by the committees above. David stated;

'As you can imagine, I am personally extremely disappointed, having worked on the Bill for Somerset for more than a year. But I am now working with Defra to try to ensure that all of its measures can form part of the forthcoming Environment Bill, which I hope will mean that we'll get there one way or another in the end.'

Next Steps

Given the recent turmoil in parliament it has not been possible to get any clear commitments from Defra about future legislation in relation to the Somerset Rivers Authority.

Despite the absence of clarity from Government it is important that the SRA Board continues to plan for the SRA to become a major precepting authority and risk management authority to keep the issue live in the minds of current and prospective government ministers.

As a general election seems highly likely it will be important to ensure current and prospective MPs are fully briefed on SRA activities to date, the long term plans for the SRA and to seek commitments from candidates that they will support the passing of the legislation that will see the SRA put on a sound legal and financial basis.

If the RALD Bill had been passed into law, it would have been necessary to submit a detailed proposal to the SoS setting out exactly how the SRA would fulfil its legal functions and comply with all pertinent legislation; this would then have to be approved by Parliament. A proposal would also have to have been consulted on with residents of Somerset to ensure support for the creation of a new precepting authority. It is likely that whatever legislative process is eventually applied, the

process to create a Rivers Authority will be very similar in terms of the detail and consultation required.

Preparing a proposal will require extensive input from various subject specialists e.g. local government legislation, organisational governance, employment, finance, procurement, communications, consultation, etc. In June SRA Board Members approved the allocation of up to £100,000 from SRA contingency funding for use in 2019-20 to commission the necessary expertise to prepare a proposal. SRA Officers will continue to develop a proposal for the creation of the SRA as a precepting authority so that when the opportunity arises we can proceed swiftly. However, what work to undertake will be carefully considered to minimise the risk of undertaking any abortive work.

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Date: 11 September 2019

Author: David Mitchell, Senior Manager, Somerset Rivers Authority

Stages of a Bill through parliament

Type of Bill:	Private Members' Bill (Presentation Bill)
Sponsor:	David Warburton

Progress of the Bill

