UK INFRASTRUCTURE BANK BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the UK Infrastructure Bank Bill [HL] as introduced in the House of Lords on 11 May 2022 (HL Bill 3).

- These Explanatory Notes have been prepared by Her Majesty's Treasury in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

Overview of the Bill

1 The purpose of this Bill is to place the UK Infrastructure Bank ('the Bank') on a statutory footing. The Bank is an operationally independent institution wholly owned by government. The Bank's purposes are to help tackle climate change and to support regional and local economic growth, through investment in infrastructure.

2 Placing the Bank on a statutory footing will complete the set up of the Bank. The Bill will place the Bank's objectives into legislation and create statutory forms of transparency, accountability and governance for the Bank. It will also remove legal obstacles to the Bank's capacity to lend directly to local authorities and the Northern Ireland Executive for infrastructure purposes, and give the Treasury financial assistance powers specific to the Bank.

Policy background

3 The creation of a UK infrastructure bank was first announced by the Chancellor at the Spending Review 2020. A new National Infrastructure Strategy[1] was published alongside the Spending Review, and this outlined plans to transform UK infrastructure in order to "level up the country, strengthen the Union, and put the UK on the path to net zero emissions by 2050". Underpinning this strategy was the intention to create a UK infrastructure bank to "play a leadership role in supporting private infrastructure projects to help meet the Government's objectives on economic growth, levelling up, and transitioning to net zero".

4 In March 2021, a policy design document2 was published, which confirmed that in total, the UK Infrastructure Bank would have £22 billion of financial capacity to deliver its objectives. The Bank's financial capacity consists of £12 billion of equity and debt capital and the ability to issue £10 billion of guarantees. The Bank's investments are expected to help unlock over £40 billion of overall investment.

5 On 17 June 2021, the Bank was launched in interim form at its headquarters in Leeds. The Bank offers three core activities: private sector financing, local authority lending, and advisory services. Since its launch, the Bank has been scaling-up and has undertaken several investments. Its first investment was a £107 million investment in the South Bank Quay development at Teesworks in Teesside, supporting c. 800 direct jobs.

6 The Bank's role is complementary to the existing infrastructure expertise of the Infrastructure and Projects Authority and the National Infrastructure Commission. In designing the Bank, the Government has taken into account the evidence gathered in 2019 through the Infrastructure Finance Review[3].

7 By placing the Bank on a statutory footing, the Bill seeks to:

(a) confirm and give statutory force to the Bank's objectives and activities;

(b) ensure the Bank is a long-lasting institution;

---

1 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938539/NIS_Report_Web_Accessible.pdf

2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966131/UKIB_Policy_Design.pdf

3 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/937407/IFR_consultation_response_20201120_FINAL.pdf

(c) create statutory forms of transparency, accountability and governance for the Bank;

(d) remove legal barriers to the Bank undertaking direct lending to local authorities; and

(e) grant specific powers to the Treasury to provide financial assistance to the Bank.

The Bank's Operating Principles

8 The March 2021 policy design document lists the Bank's operating principles as follows:

(a) **Achieving policy objectives via sound banking:** The Bank will work towards achieving a double bottom line, whereby investments help to achieve the core policy objectives to tackle climate change and support regional and local economic growth, whilst generating a positive financial return to ensure the financial sustainability of the institution and to reduce the burden on the taxpayer.

(b) **Partnership:** The Bank will operate in partnership with private and public sector institutions and other stakeholders to finance and support infrastructure investment.

(c) **Additionality:** The Bank will prioritise investments where there is an under-supply of private sector financing and, by reducing barriers to investment, crowd-in private capital.

(d) **Operational Independence:** The Bank will operate within a strategic framework set out by government but will have operational independence in its day-to-day activity including investment decisions. This will develop in stages with the Bank's establishment.

(e) **Impact and Credibility:** The Bank will take a long-term approach to its interventions to provide the market with confidence and clear direction.

(f) **Flexibility:** The Bank will have flexibility to address its mandate, adapting and responding to evolving markets.

The Bank's Investment Principles

9 The Bank's Framework Document[4] has the following investment principles to guide which investments are within the scope of its mandate. These principles state that investments should:

(a) help to support the Bank's objectives to drive regional and local economic growth or support tackling climate change;

(b) be in infrastructure assets or networks, or in new infrastructure technology. The Bank will operate across a range of sectors, but will prioritise in particular clean energy, transport, digital, water, and waste;

(c) intend to deliver a positive financial return, in line with the Bank's financial framework; and

(d) be expected to crowd-in significant private capital over time.

10 The Framework Document notes that the Bank's dual objectives of investing in projects to help mitigate and adapt to climate change, and of supporting regional and local economic growth across the UK, have "huge potential synergies" but where these objectives are in

[4] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994437/UK_Infrastructure_Bank_Framework_Document.pdf

tension with each other the Bank will "have regard to both of these objectives, both in setting its lending and investment policies and in assessing specific transactions". It further notes that: "where an investment is primarily to support economic growth, the Bank will ensure that it does not do significant harm against its climate objective".

11 As is further set out in the Framework Document, the Bank will not lend or provide other support to projects involving extraction, production, transportation and refining of crude oil, natural gas or thermal coal with very limited exemptions. These exemptions include projects improving efficiency, health and safety and environmental standards (without substantially increasing the lifetime of assets), for Carbon Capture and Storage ('CCS') or Carbon Capture, Usage and Storage ('CCUS') where projects will significantly reduce emissions over the lifetime of the asset, or those supporting the decommissioning of existing fossil fuel assets. The Bank will also not support any fossil-fuel fired power plants, unless part of an integrated natural gas-fueled CCS or CCUS generation asset. This policy will be updated over time to reflect changes in government policy and regulatory standards.

Legal background

12 The Bank was set up in June 2021 as a company under the Companies Act 2006 and wholly owned by HM Treasury.

13 The establishment of the Bank relied on the common law capacity of the Crown to form and support companies.

14 Parliamentary authority for the funding of the Bank, and its initial establishment and exercise of activities, derives from the Infrastructure (Financial Assistance) Act 2012 and, to the extent relevant, sections 50 and 51 of the United Kingdom Internal Market Act 2020.

15 The present Bill seeks to provide a more specific and tailored Parliamentary mandate for the Bank, which is reflective of general considerations concerning transparency, accountability and governance, as well as the current Government's policy priorities in relation to infrastructure investment.

16 The Bill affords a degree of flexibility for future changes to the scope of the Bank's activities (including the definition of "infrastructure") to allow for the possibility of future governments wishing to adjust the scope and focus of the Bank's mandate to reflect their policy priorities, and potential future changes in the market for infrastructure. This is achieved through powers to make delegated legislation subject to the affirmative procedure, as detailed in relation to clause 2 below.

17 The following legislation is relevant by way of background to the provisions of the Bill:

(a) The Companies Act 2006. The Bank is already a registered company and bound by the Companies Act 2006. The present Bill will complement provisions already set out in the Companies Act 2006, for example on governance, and may in some cases overlay or modify the Bank's obligations under that Act (see for example clauses 2(1), 3(5) and 4 as described below).

(b) The Climate Change Act 2008. This set a legally binding target for the UK to reach net zero carbon emissions by the year 2050 and is referenced in the Bill in relation to the Bank's climate change objective (see the description of clause 2(3) below).

(c) The Infrastructure (Financial Assistance) Act 2012 and sections 50 and 51 of the United Kingdom Internal Market Act 2020. As noted above these provisions were relied upon for the setting up and initial funding and activities of the Bank. The current Bill provides a definition of infrastructure which is specifically tailored to the Bank and reflective of the current Government's policy priorities for the Bank. This definition is in some respects broader, and in other respects narrower, than that set out in the 2012 and 2020 provisions and is subject to future change through delegated legislation as noted above.

18 In terms of the Bank's lending to local authorities for infrastructure purposes, the Bill is intended to remove any legal impediments to this that may derive from the existence of the detailed statutory code that currently governs public sector lending to local authorities. The relevant provisions are contained in the Public Works Loans Act 1875, section 4 of the Public Works Loans Act 1944, sections 3 to 6 of the National Loans Act 1968, the Local Loans (Procedure) Regulations 1968 (SI 1968/458) and the Public Works Loans (Fees) Regulations 1991 (SI 1991/1539). These provisions read together would likely amount to a comprehensive statutory scheme displacing any alternative or additional legal capacity to make public sector loans to local authorities for infrastructure purposes in accordance with the decision of the House of Lords in *R v Secretary of State for the Home Department; ex parte Fire Brigades Union* [1995] 2 AC 513. The Bill makes clear, as detailed below in relation to clauses 2(4)(a) and 9, that the legal doctrine in the *Fire Brigades Union* case does not prevent the Bank undertaking infrastructure lending to local authorities.

19 The Bank in its current form has engaged in some transactions involving infrastructure lending to local authorities. In these transactions, the relevant loans have been originated through the Public Works Loans Act process, and subsequently novated to the Bank, in observance of the current legal limitations as outlined above.

Territorial extent and application

20 Clause 11 sets out the territorial extent of the Bill, that is the jurisdictions in which the Bill forms part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect. The Bill extends and applies to the whole of the United Kingdom.

21 Infrastructure investment is a mixture of reserved and devolved competence. Matters relating to energy, cross-border rail and digital communications are cases where investment in infrastructure is likely to fall within reserved competence. Other matters such as rail, ports or bridges within a single devolved country or area are likely to fall within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.

22 The subject of public sector lending to local authorities is within devolved competence as regards Northern Ireland.

23 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned, so legislative consent motions are being sought for this Bill from all three devolved legislatures.

24 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: The UK Infrastructure Bank

25 This clause provides that for the purposes of the Bill the Bank is to be identified with the company number 06816271 registered at Companies House. This is a company set up by the Treasury in reliance on the common law capacity of the Crown, and now known as UK Infrastructure Bank Limited. This clause ensures that the references to the Bank throughout the Bill are to this company.

Clause 2: Objectives and activities

26 This clause sets out the Bank's objectives and activities, as well as the definition of infrastructure which is central to the scope of those activities. This clause also creates delegated powers to enable the Treasury to change the Bank's activities or the definition of infrastructure using secondary legislation under the affirmative procedure.

27 The Bank's objectives and activities were initially established in the Bank's Policy Design Document. These objectives were designed so that the Bank should seek to tackle climate change and support regional and local economic growth. The Bill will give the objectives and activities statutory force, which will be required to be reflected in the Bank's articles of association.

28 Subsections (1) and (2) will ensure that the Bank's articles of association are consistent with the Bank's objectives and activities as set out in the Bill. Subsection (1) will place a duty on the Bank to secure that its articles of association include a statement of its objects; and subsection (2) requires that the objects in that statement are restricted to delivering the Bank's objectives through the exercise of its activities. The objects and activities in question are those set out in the remainder of clause 2.

29 Subsection (3) states the Bank's two objectives: to promote regional and local economic growth, and to help tackle climate change. The climate change objective is expressed to include support by the Bank of efforts to meet the target for 2050 enacted in section 1 of the Climate Change Act 2008. These objectives are consistent with those set out in the Bank's Policy Design Document and the Framework Document.

30 Subsection (4) sets out the Bank's activities. The first activity, in subparagraph (a), is to provide financial assistance to projects wholly or mainly relating to "infrastructure" as defined later in the clause. The second activity is to provide loans to local authorities for projects of that kind, and subparagraph (b) which contains that activity will remove the legal limitation on the Bank providing local authority infrastructure loans derived from the *Fire Brigades Union* case referred to in paragraph 18 above. The third activity, in subparagraph (c), is for the Bank to act as a centre of expertise and to provide advisory and other support services in relation to projects wholly or mainly relating to "infrastructure". The fourth activity, in subparagraph (d), allows the Bank to carry out activities that are incidental, conducive to, or connected with the other activities in subsection (4); this gives the Bank the appropriate amount of flexibility to carry out its activities in the most effective manner.

31 Subsection (5) sets out a definition of "infrastructure" for the purposes of the Bank's activities. The definition is inclusive in character and nominates technologies and facilities relating to:

(a) water, electricity and gas, telecommunications, sewerage or other services (including the provision of heat),

(b) railways (including rolling stock), roads or other forms of transport, and

(c) climate change (including the removal of greenhouse gases from the atmosphere) as falling within the scope of the definition, which otherwise relies upon the natural and ordinary meaning of the word "infrastructure" (for example "the basic systems and services, such as transport and power supplies, that a country or organization uses in order to work effectively" (Cambridge Dictionary online)).

32 The definition of "infrastructure" in subsection (5) is similar to previous definitions in the Infrastructure (Financial Assistance) Act 2012 and sections 50 and 51 of the United Kingdom Internal Market Act 2020, with some notable differences. All definitions are inclusive and subsection (5) is designed to highlight the priorities of the Bank. One difference between the definitions is that subsection (5) includes an explicit reference to climate change technologies and facilities which are not explicitly referred to in the earlier definitions. It is the current Government's policy to enable the Bank to invest in new climate change related infrastructure technologies, such as technologies to help the UK reach net zero, as well as other infrastructure projects to enhance the UK's climate resilience, including nature-based solutions. Such investments are in line with the outcome of the Government's review of UKIB's environmental objectives[5].

33 The infrastructure definition is also potentially narrower in scope in some respects in that the explicit references to health and educational facilities, court or prison facilities and housing in the earlier statutory definitions are not repeated. The current Government's policy is for the Bank to invest mainly in economic infrastructure sectors such as clean energy, transport, digital, water, and waste. A future government may wish to adjust this emphasis by amending the definition of "infrastructure" using the delegated powers set out in the remainder of this clause.

34 The definition of "infrastructure" is an inclusive one. The specific examples listed are intended to reflect the current Government's policy emphasis on new investment in economic infrastructure. The list is not intended to limit the ability of the Bank to engage in specific activities that are not incompatible with this emphasis, notably the administration on behalf of the Treasury of guarantees given before the Bill's enactment as part of the UK Guarantee Scheme in reliance on the Infrastructure (Financial Assistance) Act 2012.

35 It is a notable feature of the Bank's activities in relation to infrastructure that it will be able to invest in "mixed" infrastructure projects, where these relate "wholly or mainly" to "infrastructure" as otherwise defined (see clause 2(4)(a)). For example, a regeneration project which comprised a transport hub, as well as a housing development, would be within the scope of the Bank's investment activities as defined in the Bill. Further detail on the current Government's policy intention about the potential for the Bank to invest in mixed infrastructure projects is set out in the non-statutory statement of strategic priorities[6] from the Chancellor of the Exchequer to the CEO of the Bank dated 18 March 2022. More detail on this non-statutory statement is provided in paragraph 40 below.

36 Subsections (6) and (7) give the Treasury the power to amend the Bank's activities or the definition of "infrastructure" by statutory instrument following the affirmative Parliamentary procedure.

37 The purpose of these powers is to ensure that whilst the Bank's overall objectives will be alterable by primary legislation only, its specific activities will be able to be modified by

[5] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061776/Strategic_steer_to_the_UK_Infrastructure_Bank_180322.pdf

[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061776/Strategic_steer_to_the_UK_Infrastructure_Bank_180322.pdf

delegated legislation, with positive Parliamentary consent. This allows for the possibility that future governments may wish to change the emphasis of the Bank's activities for policy reasons, and also for the fact that the Bank's approach may need to evolve in the future to reflect changes in the market for infrastructure, for example the emergence of new kinds of technologies. Further detail in respect of these powers is set out in the memorandum to the Delegated Powers and Regulatory Reform Committee which the Government has prepared in relation to the Bill.

Clause 3: Strategic priorities and plans

38 This clause requires the Treasury to prepare and lay before Parliament (at the latest six months after the Bill takes effect) a statement of strategic priorities for the Bank. Such a statement may be revised or replaced by the Treasury. The policy intention is that the statement will provide the Bank with a steer on where, in the Government's view, the Bank should prioritise and focus its activities. It is also the policy intention that the Government will not normally issue the steer more than once a Parliament.

39 The clause also requires the Bank to secure that its articles of association provide for the Bank to publish and act in accordance with strategic plans, which must reflect the Treasury's strategic statement; and for the Bank to update those plans whenever the Treasury's strategic statement is revised or replaced. The policy intention is that the Bank will be expected to respond within a reasonable timeframe, taking into consideration the scale of the changes required in the response to any updates.

40 The Treasury's first (non-statutory) strategic statement for the Bank was published on 18 March 2022. It provides further detail on how the Bank should interpret its strategic objectives and encourages the Bank to prioritise opportunities that align with the Government's recent focus on energy security. The Bank will respond to this in its first strategic plan, to be published in June 2022.

41 When the Bill takes effect the preparation and presentation to Parliament of the Treasury's strategic statements for the Bank will become the subject of mandatory statutory obligations, and the Bank's alignment with these will take place through the relevant provisions in its articles of association. The Treasury does not plan to prepare a new strategic statement for the Bank within six months of the Bill taking effect, but intends to reissue the strategic statement published on 18 March 2022.

Clause 4: Directions

42 This clause gives the Treasury the power to give directions to the Bank of a specific or general nature about how it is to deliver its objectives.

43 The Bank is required by subsection (2) to comply with such a direction.

44 The Treasury is not able to give a direction until it has consulted the Bank's board of directors.

45 Any direction given must be published by the Treasury as soon as practical after it is carried out.

46 The Treasury is the only shareholder of the Bank and could therefore influence the Bank's activities by means of its ownership stake under normal principles of company law.

47 The Government's policy is that such influence should be used sparingly in practice, and that the default position should be that the Bank is independent as regards its operations and investment decisions. This position is supported by the Government's public statements to date in this regard, and by the fact that the Government will be constrained by public law and public policy considerations to act rationally and proportionately in any use of its influence over the Bank.

48 Against this background the Government is also conscious of the fact that ministers remain accountable to Parliament to the extent that the Bank's activities may ultimately entail any degree of risk to the Exchequer.

49 It is with that in mind that clause 4 creates a specific direction power in addition to the general level of influence exercisable by the Government under company law noted above.

50 The policy intention behind the clause is that the direction-giving power should be of a reserve nature and exercisable in practice in circumstances where ministerial accountability to Parliament requires that the Bank be given an overriding form of direction as to how it should be delivering its objectives, particularly in cases where a more precise, tailored and expeditious form of intervention may be needed than general company law could afford.

51 As in the case of influence through ownership, any use of the direction-giving power by the Treasury would be subject to appropriate public law and public policy constraints, supported by the Government's public statements regarding the Bank's operational independence as the default position. The requirement to consult the Bank's board of directors in advance of any use of the direction power would also need to be observed in each case in order for a legally valid direction to be given.

52 This power is consistent with the power that the Government has to direct comparable institutions, for example the Treasury has a statutory power to direct the Bank of England (with the exception of monetary policy), although in practice this has never been used.

Clause 5: Financial assistance

53 This clause gives the Treasury the power to provide financial assistance to the Bank for the purpose of helping the Bank to deliver its objectives. A capacity of this nature exists already, deriving from the Infrastructure (Financial Assistance) Act 2012 and sections 50 and 51 of the United Kingdom Internal Market Act 2020. However, it is the Government's view that a specific form of statutory authority is appropriate to include in the Bill, given the specific nature of the Bank's remit and the policy intention that the Bank be an enduring institution. "Financial assistance" is defined in broad terms in clause 10 of the Bill, to include loans, guarantees, indemnities, participation in equity finance and any other form of financial assistance of an actual or contingent nature.

54 Subsection (2) provides that the Treasury may make arrangements for money to be paid out of the National Loans Fund in order to enable loans to be made to the Bank under this clause.

55 Subsection (3) explicitly provides that the Treasury will determine the interest rates and terms and conditions applicable to any loan made to the Bank directly from the National Loans Fund. This removes the need for the Treasury always to access the National Loans Fund first and then on-lend to the Bank, but still allows the Treasury to maintain a level of control over these direct loans.

Clause 6: Annual accounts and reports

56 This clause provides for the Bank to provide to the Treasury a copy of its annual reports and accounts prepared as set out under section 441 of the Companies Act 2006, and for the Treasury to lay these in Parliament, to ensure the direct accessibility of the accounts by Parliament.

Clause 7: Directors: appointment and tenure

57 The purpose of this clause is to ensure that certain provisions concerning the appointment and tenure of the Bank's directors (both executive and non-executive) are reflected in the Bank's articles of association.

58 In summary, the clause will place a duty on the Bank to ensure that its articles provide that it is to have at least five but no more than fourteen directors in total; that the Chancellor of the Exchequer is to appoint the chair of the board, the Bank's CEO and its non-executive directors ('NEDs'); that NEDs can be appointed for a term of a maximum of four years and for a maximum of two terms; and that a person ceases to be a NED whenever the person ceases to be or is prohibited from being a director by law, becomes bankrupt, has ceased to be mentally or physically capable as certified by a treating doctor, or resigns as a NED by notice to the Bank.

59 The number of directors is intended to be broadly consistent with the size of comparable boards (such as the Bank of England board); and to provide enough flexibility for the Bank's board to contain a spread of expertise and the appropriate balance between executive and non-executive directors, whilst protecting against the board becoming so large that it becomes unwieldy.

60 Paragraphs (a) to (e) of this clause will supplement existing provisions in the Corporate Governance Code 2018[7], the Companies Act 2006[8], and the Bank's existing Framework Document[9] as regards board appointment and tenure.

Clause 8: Duties of the Bank etc

61 This clause is intended to ensure that the duties imposed upon the Bank by the Bill are technically enforceable as a matter of law.

62 The Treasury will be enabled to apply to the court for an injunction (or equivalent remedies in Scotland) to enforce the Bank's duties under the Bill, such as its duty to secure that its articles of association properly reflect the Bank's objectives and activities in accordance with clause 2 or the appointment and tenure provisions in clause 7.

63 It is not envisaged that these provisions will be needed in practice. They are included in the Bill to ensure that the Bank's legal duties under the Bill have an appropriate legal status.

Clause 9: Reviews of the Bank's effectiveness and impact

64 This clause seeks to ensure that the Bank is effective and impactful. Subsection (1) requires the Treasury to review key metrics for evaluating the Bank's performance: the effectiveness of the Bank in delivering its objectives, and its impact in relation to those objectives.

65 Subsection (2) requires that a report on each review be published and laid before Parliament; this ensures transparency and accountability.

66 Subsection (3) requires that the first report be published within 10 years of the Act coming into force and subsequent reports must be published at intervals of not more than seven years. This timeframe allows these reviews to be effective and comprehensive, while also allowing the Bank time to embed itself and to see the return and impact of its investments, which are likely to be long-term in nature. The first review is likely to be at the end of the 10 year period specified, to allow for a proper evaluation of the Bank's effectiveness and impact.

67 In addition, the Treasury has already committed in the Bank's Policy Design Document to reviewing the Bank's progress and financial performance by the spring of 2024. This review

---

[7] https://www.frc.org.uk/getattachment/88bd8c45-50ea-4841-95b0-d2f4f48069a2/2018-UK-Corporate-Governance-Code-FINAL.PDF

[8] https://www.legislation.gov.uk/ukpga/2006/46/contents

[9] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994437/UK_Infrastructure_Bank_Framework_Document.pdf

would have a different focus from the above clause and consider market demand, prospective projects, and sufficiency of capital.

Clause 10: Interpretation

68 This clause sets out the definitions for various terms that are used in the Bill.

69 The definition of "financial assistance" is intended to be broad in a similar way to the definitions in the Infrastructure (Financial Assistance) Act 2012 and in sections 50 and 51 of the United Kingdom Internal Market Act 2020 but to reflect the specific priorities of the Bank.

70 The definition of "local authority" aligns with the definition in paragraph 1 of Schedule 4 to the National Loans Act 1968, and therefore includes local authorities in England, Wales, and Scotland, and is then extended in the Bill to include local authorities in Northern Ireland too. This reinforces the provision made in clause 2(4)(b) enabling the Bank to lend directly to local authorities, consistent with the *Fire Brigades Union* case (see paragraph 30 above).

71 The definition of "relevant public authorities" includes Northern Ireland departments. This is intended to ensure that the Bank can lend directly to the Northern Ireland Executive, as well as to local authorities in Northern Ireland.

Clause 11: Extent, commencement and short title

72 The Bill extends to England and Wales, Scotland and Northern Ireland.

73 The Bill will come into force at the end of the period of two months beginning with the day on which it is passed, that is, two months after the day on which the Bill receives Royal Assent.

74 The short title of the Act resulting from the Bill will be the UK Infrastructure Bank Act 2022.

Commencement

75 See paragraph 73 above.

Financial implications of the Bill

76 Clause 5 establishes that the Treasury can provide the Bank with financial assistance to deliver its objectives under the Bill, including with money paid out of the National Loans Fund.

77 The Treasury will provide the Bank with £22 billion of financial capacity; this was announced in a policy design document published in March 2021. This sum consists of £5 billion as equity from the Treasury, £7 billion in debt that it can borrow from the Treasury, and £10 billion in guarantees that can be issued by the Bank as part of the UK Guarantee Scheme. The Bank can also borrow from private markets and will grow through recycling and retention of return on investments. Further detail regarding the Bank's capitalization and financial capacity is set out in the Bank's Framework Document published in June 2021.

Parliamentary approval for financial costs or for charges imposed

78 This section will be completed when the Bill enters the House of Commons.

Compatibility with the European Convention on Human Rights

79 The Government considers that the UK Infrastructure Bank Bill is compatible with the European Convention on Human Rights. Accordingly, a statement has been made under section 19(1)(a) of the Human Rights Act 1998 to this effect.

Environmental law provisions

80 The Government considers that the UK Infrastructure Bank Bill contains provision which, if enacted, would constitute environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, a statement has been made under section 20 of the Environment Act 2021.

Related documents

81 The following documents are relevant to the Bill and can be read at the stated locations:

- The National Infrastructure Strategy
  https://www.gov.uk/government/publications/national-infrastructure-strategy
- UKIB Policy Design Document
  Policy Design of the UK Infrastructure Bank - GOV.UK (www.gov.uk)
- UKIB Framework Document
  UK_Infrastructure_Bank_Framework_Document.pdf (publishing.service.gov.uk)
- Corporate Governance Code 2018
  2018-UK-Corporate-Governance-Code-FINAL.PDF (frc.org.uk)
- Court of Session Act 1988
  https://www.legislation.gov.uk/ukpga/1988/36/contents
- Local Government Act 1988
  https://www.legislation.gov.uk/ukpga/1988/9/contents
- Human Rights Act 1998
  https://www.legislation.gov.uk/ukpga/1998/42/contents
- Companies Act 2006
  https://www.legislation.gov.uk/ukpga/2006/46/contents
- Local Democracy, Economic Development and Construction Act 2009
  https://www.legislation.gov.uk/ukpga/2009/20/contents
- Climate Change Act 2008
  https://www.legislation.gov.uk/ukpga/2008/27/contents
- Letter from the Chancellor to the UK Infrastructure Bank on the Government's priorities for the Bank (18 March 2022)
  Strategic_steer_to_the_UK_Infrastructure_Bank_180322.pdf_ (publishing.service.gov.uk)
- UK Internal Market Act 2020
  United Kingdom Internal Market Act 2020 (legislation.gov.uk)

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 3	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 4	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 5	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 6	Yes	Yes	No	Yes	No	Yes	No
Clause 7	Yes	Yes	No	Yes	No	Yes	No
Clause 8	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 9	Yes	Yes	No	Yes	No	Yes	No
Clause 10	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 11	Yes	Yes	Yes	Yes	Yes	Yes	Yes

UK INFRASTRUCTURE BANK BILL [HL]

EXPLANATORY NOTES

These Explanatory Notes relate to the UK Infrastructure Bank Bill [HL] as introduced in the House of Lords on 11 May 2022 (HL Bill 3).

Ordered by the House of Lords to be printed, 11 May 2022

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS