

The Welsh Government's Legislative Consent Memoranda on the Railways Bill

March 2026



1. Background

The UK Government's Railways Bill

1. The Railways Bill¹ (the Bill) was introduced into the House of Commons and had its first reading on 5 November 2025. It is sponsored by the Department for Transport.

2. As set out in its Explanatory Notes:

"The primary purpose of the Bill is to enable the creation of Great British Railways (GBR), a new publicly owned body which will be the directing mind taking responsibility for the railway infrastructure (e.g. tracks, bridges, tunnels and stations) and most passenger train services. This means the Bill aims to bring "track and train" together."²

3. The Bill will:

- enable the Secretary of State to designate a company as Great British Railways (GBR);
- set out the functions and duties of GBR;
- set out the process for funding GBR;
- create a statutory role for mayoral strategic authorities in respect of GBR;
- enable GBR to set fares and sell tickets;
- establish a Passenger Watchdog; and
- establish an 'access regime' that allows GBR to make decisions on which services can access the tracks.

4. The Explanatory Notes to the Bill also state that the Bill will "uphold" the current devolution settlement in Scotland and Wales³ and that, under the Bill:

¹ Railways Bill, as introduced (HC Bill 325)

² Railways Bill, Explanatory Notes, paragraph 5

³ Railways Bill, Explanatory Notes, paragraph 23

“... Scottish and Welsh Ministers will have various options for delivering their passenger services. They may delegate their function to provide passenger services to GBR (or a company wholly owned by GBR or a jointly owned company between GBR and Scottish or Welsh Ministers). Alternatively, they will have the option to contract with a public sector company to deliver the services (including the above options or a company they solely own – e.g. Scotrail or Transport for Wales).”⁴

5. The Bill follows the enactment of the *Passenger Railway Services (Public Ownership) Act 2024*, which provides that passenger railway services are to be provided by public sector companies instead of by means of franchises.⁵ The Senedd consented to the inclusion of devolved provision within the Bill which became the 2024 Act; we reported on the legislative consent memorandum laid for that Bill in October 2024.⁶

6. The Bill completed Committee stage in the House of Commons on 10 February 2026.⁷ At the time this report was agreed, a date for Report stage was yet to be announced.

The Welsh Government's Legislative Consent Memorandum

7. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant Bill before the UK Parliament makes provision in relation to Wales that has regard to devolved matters (relevant provision).

8. On 21 January 2026, Ken Skates MS, the Cabinet Secretary for Transport and North Wales (the Cabinet Secretary), laid before the Senedd a legislative consent memorandum in respect of the Bill (the Memorandum).⁸

9. The Business Committee agreed that the Legislation, Justice and Constitution Committee and the Climate Change, Environment, and

⁴ Railways Bill, Explanatory Notes, paragraph 24

⁵ *Passenger Railway Services (Public Ownership) Act 2024* (c. 15)

⁶ For further information about the Senedd's consideration, see [this webpage](#).

⁷ [Railways Bill, as amended in Committee](#) (HC Bill 373)

⁸ Welsh Government, [Legislative Consent Memorandum on the Railways Bill](#), 21 January 2026

Infrastructure Committee should report on the Memorandum by 20 March 2026.⁹ The deadline to report was later extended to 27 March 2026.¹⁰

Provisions for the which the Senedd's consent is required

10. The Cabinet Secretary expresses his view in the Memorandum that consent is required for the following clauses of, and Schedules to, the Bill as introduced:

- clause 3 – Functions;
- clause 4 – Exercise of functions of Scottish and Welsh Ministers;
- clause 7 – Directions by Secretary of State;
- clause 9 – Guidance by Secretary of State;
- clause 11 and Schedule 1 – Licensing of GBR;
- clause 12 and Part 1 of Schedule 2 – Funding of GBR by the Secretary of State;
- clauses 15 to 21 – Rail strategies and target, and duties;
- clause 24 – Memorandum of understanding: Secretary of State and Welsh Ministers;
- clause 25 – Designation of services by Secretary of State;
- clauses 27 to 37 – Designation, exemption and provision of services, fares, interpretation, and the Passengers' Council;
- clause 39 – Investigations;
- clause 40 – Power to obtain information;
- clause 42 – Representation and referrals;
- clause 43 – Reports;

⁹ [Business Committee: Timetable for consideration: Legislative Consent Memorandum on the Railways Bill](#), January 2026

¹⁰ [Business Committee: Revised timetable for consideration: Supplementary Legislative Consent Memorandum \(No. 2\) on the Railways Bill](#), March 2026

- clauses 45 to 48 – Dispute resolution, standards and improvement plans, and advice about railway passenger services and station services;
- clause 51 – Power to make exclusions;
- clause 52 – Interpretation of Chapter 2 of Part 2;
- clauses 59 to 72 – Access to and use of GBR infrastructure, access agreements and rights, and regulations about non-GBR infrastructure, facilities and services;
- clauses 79 to 81 – Publication of information by Welsh Ministers, and duties to consult mayoral combined authorities and Transport for London;
- clauses 85 to 90 – Licensing etc of train drivers, Cape Town Convention and Luxembourg Protocol, minor and consequential amendments, power to make consequential provision, regulations and interpretation;
- clause 92 – Commencement; and
- Schedule 3 – Minor and consequential amendments (paragraphs 4, 5, 8 to 10, 12 to 16, 18, 19, 21 to 23, 25 and 26).¹¹

UK Government view on the need for consent

11. The Cabinet Secretary states in the Memorandum that the UK Government considers that the Senedd's consent is only required for clauses 4, 7, 9, 18, 19, 24, 29 to 31, 33, 34 and 79 of the Bill as introduced.¹²

12. The Cabinet Secretary agrees with this assessment, but considers that other clauses of the Bill also require consent, as set out above.¹³

The Welsh Government's position

13. At paragraphs 103 to 111 of the Memorandum, the Cabinet Secretary sets out the Welsh Government's concerns in relation to clauses 4, 18, 19, 24, 25, 27, 31, 63, 72 and 81 of the Bill as introduced.

¹¹ Memorandum, paragraphs 10 to 100

¹² Memorandum, paragraph 101

¹³ Memorandum, paragraph 102

14. He states that his officials have raised these concerns with officials at the Department for Transport, who have agreed to review them. In particular, he states that the Department for Transport has already confirmed that clause 31 contains a drafting error which will be amended.¹⁴

15. In light of these concerns, the Cabinet Secretary states that he wishes to have “further discussions with UK government on these provisions, before sharing assessment as to whether these provisions are in Wales’ best interest”.¹⁵

16. The Cabinet Secretary concludes in the Memorandum:

“In my view it is appropriate to deal with these provisions in this UK Bill as it will reduce complexity of the rail industry and improve overall delivery of passenger train services in Wales and across the UK.”¹⁶

17. However, he states that “further engagement” will be required with the UK Government before he is able to confirm to the Senedd “the suitability of all provisions for Wales”.¹⁷

18. The Cabinet Secretary further states that, given the anticipated timetable for the Bill, it is likely that a debate to seek the Senedd’s consent for the Bill would take place in the next Senedd.¹⁸

The Welsh Government’s Supplementary Legislative Consent Memorandum (Memorandum No. 2)

19. On 2 February 2026, the Cabinet Secretary laid before the Senedd a supplementary legislative consent memorandum (Memorandum No. 2) in respect of amendments to the Bill tabled by the UK Government on 16 January 2026 for consideration at Commons Committee stage.¹⁹

¹⁴ Memorandum, paragraph 110

¹⁵ Memorandum, paragraph 111

¹⁶ Memorandum, paragraph 113

¹⁷ Memorandum, paragraph 114

¹⁸ Memorandum, paragraph 114

¹⁹ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 2\) on the Railways Bill](#), 2 February 2026

20. On 10 February 2026, the Business Committee set a reporting deadline of 20 March 2026 for Memorandum No. 2.²⁰ The deadline was later extended to 27 March 2026.²¹

Provisions for the which the Senedd's consent is required

21. The Cabinet Secretary states in Memorandum No. 2 that amendments to clauses 2, 7, 24, 31, 61, 69 of, and Schedule 3 to, the Bill as introduced contain relevant provision, as well as a new, un-numbered clause (amendment Gov NC23) on the charging for removal etc of road vehicles.²²

22. No information is provided in Memorandum No. 2 as to whether the UK Government considers that the consent of the Senedd is required for the amendments and the new clause.

The Welsh Government's position

23. The Cabinet Secretary states that he is content with the amendments to existing clauses set out in Memorandum No. 2, as well as the new clause.²³

24. He also states that the amendments to clause 31 (Gov 170 and 171) resolve one of the areas of concern set out the Memorandum²⁴; however no specific reference is made in Memorandum No. 2 in respect of the other outstanding areas of concern that were identified.

25. The Cabinet Secretary concludes:

"Whilst I continue to broadly support this Bill and welcome the ongoing engagement of the UK Government, I am seeking further engagement with the UK Government on the role of the Welsh Ministers and the Senedd within the Bill. I will continue to monitor the Bill's developments and update the Senedd as appropriate."²⁵

²⁰ Business Committee: Timetable for consideration: Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Railways Bill, February 2026

²¹ ~~Business Committee: Revised timetable for consideration: Supplementary Legislative Consent Memorandum (No. 2) on the Railways Bill~~, March 2026

²² Memorandum No. 2, paragraph 8

²³ Memorandum No. 2, paragraph 11

²⁴ Memorandum No. 2, paragraph 9

²⁵ Memorandum No. 3, paragraph 12

26. The Cabinet Secretary also confirms the position set out in the Memorandum in that, given the anticipated timetable for the Bill, it is likely that a debate to seek the Senedd's consent for the Bill would take place in the next Senedd.²⁶

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3)

27. On 16 March 2026, the Cabinet Secretary laid before the Senedd a further supplementary legislative consent memorandum (Memorandum No. 3) in respect of amendments to the Bill tabled by the UK Government on 27 and 30 January 2026 for consideration at Commons Committee stage.²⁷

Provisions for which the Senedd's consent is required

28. The Cabinet Secretary states in Memorandum No. 3 that the following amendments contain provision requiring consent:

- Gov NC61 (a new clause which appears as clause 86 in the version of the Bill as amended in Committee²⁸) – Transfer schemes made by Secretary of State;
- Gov NC63 (a new clause which appears as clause 88 in the version of the Bill as amended in Committee) – Transfer schemes made by Welsh Ministers;
- Gov NC64 (a new clause which appears as clause 89 in the version of the Bill as amended in Committee) – Further provision about transfer schemes; and
- Gov NS1 (a new Schedule which appears as Schedule 3 in in the version of the Bill as amended in Committee) – Transfer schemes.²⁹

29. The Cabinet Secretary also states that clause 73 of the Bill as introduced (Interpretation of Chapter 1 of Part 3) also contains relevant provision, and that this clause was omitted from the first Memorandum because of an oversight.³⁰

²⁶ Memorandum, paragraph 114

²⁷ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 3\) on the Railways Bill](#), 16 March 2026

²⁸ Railways Bill, as amended in Committee (HC Bill 373)

²⁹ Memorandum No. 3, paragraph 10

³⁰ Memorandum No. 3, paragraph 11

30. No information is provided in Memorandum No. 3 as to whether the UK Government considers that the consent of the Senedd is required for the new clauses and Schedule, or whether the UK Government considers that consent is required for clause 73 of the Bill as introduced. However, the Explanatory Notes to the Bill indicate that the UK Government does not consider that the Senedd's consent is required for this clause.³¹

The Welsh Government's position

31. The Cabinet Secretary states that he is content with the amendments listed in Memorandum No. 3.³²

32. However, he states that dialogue “continues between Welsh Government and UK Government officials during the development of this Bill to understand its provisions, their application to Wales and their potential impact on delivering rail services in Wales.”³³

33. The Cabinet Secretary concludes by reiterating his broad support for the Bill and the engagement with the UK Government but that “further engagement” is needed on the role of the Welsh Ministers and the Senedd within the Bill. He also restates the position set out in previous memoranda in that a consent debate for the Bill is likely to take place during the next Senedd.³⁴

Evidence from the Cabinet Secretary

34. Following our consideration of the Memorandum and Memorandum No. 2 on 23 February 2026³⁵, we wrote to the Cabinet Secretary on 24 February 2026³⁶ and received a response on 12 March 2026³⁷.

Engagement between the Welsh Government and the UK Government

35. The Cabinet Secretary states in the Memorandum that UK Government and Welsh Government officials have been in regular contact during the development

³¹ Railways Bill, Explanatory Notes, Annex A

³² Memorandum No. 3, paragraph 13

³³ Memorandum No. 3, paragraph 9

³⁴ Memorandum No. 3, paragraph 14

³⁵ Legislation, Justice and Constitution Committee, [23 February 2026](#)

³⁶ [Letter to the Cabinet Secretary for Transport and North Wales](#), 24 February 2026

³⁷ [Letter from the Cabinet Secretary for Transport and North Wales](#), 12 March 2026

of the Bill, and that engagement will continue at official and Ministerial level where necessary.³⁸

36. We therefore asked the Cabinet Secretary to explain why the Memorandum was not laid until 11 weeks³⁹ after the Bill's introduction. In response, he stated:

*"The breadth of the Bill is considerable, and it contains 93 clauses and 3 schedules. Policy officials have been working through the detail required. Although we had some productive discussions with the UK Government before the Bill was published, the size of the Bill and its continuing evolution until introduction posed a challenge in carrying out our analysis."*⁴⁰

37. We also asked the Cabinet Secretary to provide an update on the engagement between the Welsh Government and the UK Government in respect of the clauses of concern set out at paragraphs 103 to 109 of the Memorandum, and the further engagement cited at paragraph 12 of Memorandum No. 2. He told us in response:

*"Welsh Government and Transport for Wales have worked closely with UK Government officials since the start of the year on the MOU and to specifically consider the points raised in the LCM and to ensure the Railways Bill achieves the best deal for Wales. This engagement has taken the form of twice weekly meetings and has resulted in constructive dialogue."*⁴¹

38. In his update regarding the clauses of concern set out at paragraphs 103 to 109 of the Memorandum, the Cabinet Secretary confirmed that, having given further consideration to the issues set out in paragraphs 103, 105 and 109 – in respect of clauses 4, 25, 27 and 81 of the Bill – he is content with those clauses of the Bill as drafted.⁴² He also confirmed that he intends to use the memorandum of understanding between the Secretary of State and the Welsh Ministers

³⁸ Memorandum, paragraph 8

³⁹ Standing Order 29.1 requires a member of the government to lay a legislative consent memorandum for a Bill which makes relevant provision normally no later than weeks after the Bill's introduction. The Railways Bill was introduced on 5 November 2025; the Memorandum was laid on 21 January 2026.

⁴⁰ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 1

⁴¹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 3

⁴² Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

required under clause 24 of the Bill to address the concerns set out in paragraphs 107 and 108 of the Memorandum.⁴³

Part 1, Chapter 1 – Great British Railways

39. Chapter 1 of Part 1 of the Bill contains provision about GBR and its functions, the provision of directions and guidance to GBR, the licensing of GBR, and its funding.

Clause 3 – Functions

40. Clause 3 of the Bill sets out the functions of GBR, and provides that it may delegate such functions to a subsidiary. The Secretary of State has the power to add to the list of functions. However there is no requirement for consultation to be undertaken with, or consent to be given by, the Welsh Ministers where such additional functions apply in a devolved area in Wales.

41. We asked the Cabinet Secretary to explain the absence of a requirement for the Secretary of State to engage with the Welsh Ministers when imposing additional functions on GBR which affect devolved areas in Wales. In response, he said:

“My understanding is that adding a consultation requirement is considered unnecessary by UK Government officials as the Railways Bill should provide GBR with most functions the SoS requires it to carry out, and it is therefore unlikely that they will rely on this power. It is also worth noting that under clause 16, GBR and ORR will be required to have regard to strategies, including the Wales Transport Strategy. In addition, this power cannot be used to alter the devolved settlement and I expect the MoU to provide a mechanism for the Welsh Ministers to influence the organisation and design of GBR.”⁴⁴

Clause 4 – Exercise of functions of Scottish and Welsh Ministers

42. Clause 4 of the Bill allows the Welsh Ministers to make arrangements for any of their functions to be delegated to GBR or a subsidiary or company owned jointly by the Welsh Ministers and GBR. However, the Bill does not provide for

⁴³ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁴⁴ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 4

reciprocal arrangements to allow the Welsh Ministers to exercise any of GBR's functions.

43. The Cabinet Secretary states in the Memorandum that he “would like to explore the possibility of the Bill text enabling Welsh Ministers to exercise functions of GBR should circumstances dictate this to be beneficial”. According to the Cabinet Secretary, this is particularly applicable to cross-border services.⁴⁵ We asked the Cabinet Secretary to provide an update on this exploratory work; he responded as follows:

“Having considered further, I do not think that further provision is required in the Bill. If circumstances suggest that further co-operation would be beneficial, I could look into ways of achieving that.”⁴⁶

44. Clause 4(2) of the Bill requires the Welsh Ministers to consult the Secretary of State and GBR before making, varying or revoking arrangements under clause 4(1). We asked the Cabinet Secretary for an explanation of why this is the case, and what form such arrangements are anticipated to take. He told us in response:

“My understanding is that clause 4(1) provides Welsh Ministers with the option of asking GBR to provide services on their behalf. This could take varying forms from delivering passenger services to providing a joined-up procurement to save costs. This consultation requirement ensures that the views of the Secretary of State, as sole shareholder of GBR, are considered before GBR is tasked with new activity on Welsh Ministers' behalf.”⁴⁷

Clauses 7 and 9 - Directions and guidance by Secretary of State

45. Clause 7 of the Bill enables the Secretary of State to give directions to GBR regarding the exercise of its functions. Where such directions directly affect the operation of a GBR-provided Welsh service, other than powers relating to functions under Chapter 1 of Part 3 (access to infrastructure and services), the Secretary of State is required to obtain the consent of the Welsh Ministers. The Bill

⁴⁵ Memorandum, paragraph 103

⁴⁶ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁴⁷ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 6

does not however enable the Welsh Ministers to give directions to GBR in relation to a GBR-provided Welsh or Wales-only service.

46. We asked the Cabinet Secretary to explain why this was the case in light of clause 33(1) of the Bill, which enables a direction under clause 7 to be issued to GBR on the general level and structure of fares. We also asked him to set out the Welsh Government's position on the absence of a direction-making power for the Welsh Ministers. The Cabinet Secretary told us in response:

*"My understanding is that powers of direction over GBR have been provided where the Secretary of State is a direct funder of GBR railway services and infrastructure. I am content with this."*⁴⁸

47. In Memorandum No. 2, the Cabinet Secretary states that amendment Gov 167 to clause 7 broadens the circumstances in which the Secretary of State must obtain the consent of the Welsh Ministers when giving directions to GBR.⁴⁹ In response to our request for clarification as to how the circumstances have been broadened, the Cabinet Secretary said:

*"My understanding is that the original drafting may have inadvertently created a scenario in which consent was not required on a matter that Welsh Ministers had delegated to GBR outside of passenger service. This amendment ensures that Welsh Ministers' consent is required in relation to all things which they might arrange for GBR to do on their behalf, whether under clause 4 of the Bill or under a contract awarded under clause 31(4)(b)."*⁵⁰

48. Clause 9 of the Bill enables the Secretary of State to issue guidance to GBR regarding the exercise of its functions. The clause does not however enable the Welsh Ministers to issue such guidance.

49. We asked the Cabinet Secretary to explain why this was the case, in light of clause 33(2) of the Bill, which enables guidance under clause 9 to be issued to GBR on the general level and structure of fares. We also asked him to set out the

⁴⁸ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 7

⁴⁹ Memorandum No. 2, paragraph 8

⁵⁰ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 8

Welsh Government's position on the absence of a power for the Welsh Ministers to issue guidance. He told us in response:

"My understanding is that the reasoning in relation to this power to provide guidance is the same as in relation to the power to provide directions ... [within clause 7]. I am content with this."⁵¹

Clause 12 and Schedule 2 - Funding Great British Railways

50. Clause 12 of the Bill introduces Schedule 2, which contains provision in relation to funding the activities of GBR.

51. Paragraph 4 of Schedule 2 requires GBR to produce a business plan. In accordance with paragraph 4(7), GBR will be required to consult with the Secretary of State, the Office for Rail and Road (ORR) and the Passengers' Council when preparing its business plan; however it will not be required to consult the Welsh Ministers. There is neither a requirement for the Welsh Ministers to approve GBR's business plan, nor a requirement for the Secretary of State to notify the Welsh Ministers when providing financial assistance to GBR.

52. We asked the Cabinet Secretary to set out the Welsh Government's position in respect of the provisions in clause 12 and Schedule 2. He stated in response:

"My understanding is that GBR is empowered to deliver an improved and integrated railway, balancing delivery and trade-offs, whilst being accountable to Secretary of State as the funder. The business plan will be developed in-line with GBR's statutory duties which will include requirements to have due regard to Welsh Ministers' strategies, and the statement of objectives and long-term strategy, for which the Welsh Ministers are statutory consultees. I am content with this."⁵²

⁵¹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 9

⁵² Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 10

Part 1, Chapter 2 – Exercise of Railway Functions

53. Chapter 2 of Part 1 of the Bill contains provision about strategies for rail, a rail freight target, and duties and memoranda of understanding in respect of railways and railway services.

Clause 15 – Rail strategy

54. Clause 15 of the Bill requires the Secretary of State to prepare and publish a rail strategy. The Secretary of State must consult the Welsh Ministers when preparing, revising or replacing the rail strategy.

55. We asked the Cabinet Secretary to provide his understanding as to why the requirement to consult is not instead a requirement to obtain the consent of the Welsh Ministers, and to set out the Welsh Government's position on this matter. He told us in response:

“My understanding is that the Secretary of State will be responsible for the long term strategy as it relates to Great Britain and so it is considered that a requirement to secure Welsh Ministers' consent would be inappropriate. I am content with this.”⁵³

Clause 16 – Duty of Great British Railways and ORR to have regard to strategies etc

56. Clause 16 of the Bill requires GBR and the ORR to have regard to the Wales Transport Strategy⁵⁴ when exercising their functions. We asked the Cabinet Secretary to set out the Welsh Government's position on this clause, with particular reference to the fact that no express requirement to comply with the strategy is included. He responded as follows:

“My understanding is that GBR and the ORR will be required to balance the strategies of many stakeholders, including the interests of freight, Mayoral Strategic Authorities and the Secretary of State's Long Term Railway Strategy. These

⁵³ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 11

⁵⁴ Published under section 2 of the *Transport (Wales) Act 2006* (c. 5).

*strategies may not always align and so a duty to comply with them could be unmanageable. I am content with this.*⁵⁵

Clauses 18 and 19 – General duties of Ministers, Great British Railways and ORR, and safety duty of Ministers and ORR

57. Clause 18 of the Bill sets out the general duties that apply to the Welsh Ministers and others in the exercise of their functions relating to railways and railway services. In particular, they must consider a number of factors when exercising their functions, for example, they must promote the interests of users and potential users of railway passenger services, promote the use of rail freight, and promote high standards in railway performance.

58. Clause 19 requires the Welsh Ministers and others to take into account the need to protect all persons from dangers arising from the operation of railways when exercising their functions relating to railways and railway services.

59. The Cabinet Secretary states in the Memorandum that clauses 18 and 19, as well as clause 24 (see paragraph 63 below), “appear to extend beyond the regulatory and service railway functions and into consenting construction etc of railways.” He also states that these clauses “impinge on the functions of the Welsh Ministers”.⁵⁶

60. In response to our request for an update on the Welsh Government’s engagement with the UK Government in respect of these clauses, the Cabinet Secretary told us that his officials “will pursue the issue with UK Government officials.”⁵⁷

Clause 21 – Duty of ORR to have regard to Secretary of State’s guidance

61. Clause 21 of the Bill enables the Secretary of State to issue guidance to the ORR as to the exercise of its functions. In accordance with clause 21(4), the Secretary of State must consult the Welsh Ministers before giving, varying or revoking such guidance.

62. We asked the Cabinet Secretary to provide his understanding as to why the requirement to consult is not instead a requirement to obtain the consent of the

⁵⁵ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 12

⁵⁶ Memorandum, paragraph 104

⁵⁷ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

Welsh Ministers, and to set out the Welsh Government's position on this matter. He told us in response:

"My understanding is that the guidance power relates to functions that are exercised on a Great Britain-wide basis by a single independent regulator; requiring consent could create a unilateral veto over GB-wide regulatory direction. The ORR will also provide advice to funders of GBR railway services and infrastructure and so Scottish Ministers, as funders, have also been given the power to issue guidance to the ORR. I am content with this."⁵⁸

Clause 24 – Memorandum of understanding: Secretary of State and Welsh Ministers

63. Clause 24 of the Bill requires the Secretary of State and the Welsh Ministers to prepare and publish a memorandum of understanding setting out how they will work together in their respective functions. The matters the memorandum may set out include:

- the role the Welsh Ministers are to have in the governance and management of GBR;
- the cross-border passenger services that the Secretary of State and the Welsh Ministers consider should be provided by the Welsh Ministers on behalf of the Secretary of State in England; and
- the shared objectives in relation to the integration of the management and operation of GBR and the Welsh Ministers' railway functions, including steps they may take to facilitate such integration.

64. The Welsh Government shared heads of terms for the memorandum of understanding with the House of Commons Transport Select Committee in November 2025.⁵⁹

(Note: following the agreement of this report, the Welsh Government wrote to the Committee notifying it of the publication of the Memorandum of

⁵⁸ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 13

⁵⁹ [Letter from the Cabinet Secretary for Transport and North Wales to the Chair of Transport Select Committee](#), 26 November 2025

*Understanding between UK Government and Welsh Government on Rail Reform in the Wales and Borders Area.*⁶⁰)

65. We asked the Cabinet Secretary to set out his understanding as to why the information to be set out in a memorandum of understanding could not instead be included on the face of the Bill. We also asked him to set out the Welsh Government's position in respect of this matter. He said in response:

*"My understanding is that these commitments reflect how the Secretary of State and Welsh Ministers will work together in practice, and recording practical arrangements in legislation would not only provide little flexibility in how services are delivered, and also limit how these commitments can be amended, as the railway and its delivery evolves and develops. I am content with this."*⁶¹

66. In evidence to the Climate Change, Environment and Infrastructure Committee on 25 February 2026, the Cabinet Secretary said that the memorandum will be "vitally important" and, alongside "joint partnership", is considered to be "the most effective way to get the best outcomes for passengers in Wales."⁶² However, he also stated that there was a "huge distance still to travel for the Bill" and that the Welsh Government was "in discussions" about whether the content of the memorandum could be included in statute.⁶³ He elaborated:

*"I remain to be convinced that any Government would ignore something that is required by law, and it would be, as I say, a very, very brave Government to ignore something of this nature. However, I could be convinced that actually having it in statute, if there are key areas that would benefit the MOU, I stand to be convinced of that. But at the moment I would stress again that something that is required by law carries incredible weight ..."*⁶⁴

67. As stated at paragraph 59 above, the Cabinet Secretary states in the Memorandum that clause 24, as well as clauses 18 and 19, "appear to extend beyond the regulatory and service railway functions and into consenting

⁶⁰ ~~Letter from the Cabinet Secretary for Transport and North Wales~~, 25 March 2026. Additional text agreed by the Chair of the Committee on 27 March 2026.

⁶¹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 14

⁶² Climate Change, Environment and Infrastructure Committee, ~~25 February 2026~~, RoP [92]

⁶³ Climate Change, Environment and Infrastructure Committee, 25 February 2026, RoP [98]

⁶⁴ Climate Change, Environment and Infrastructure Committee, 25 February 2026, RoP [100]

construction etc of railways.” He also states that these clauses “impinge on the functions of the Welsh Ministers”.⁶⁵

68. As stated previously, in response to our request for an update on the Welsh Government's engagement with the UK Government in respect of these clauses, the Cabinet Secretary told us that his officials “will pursue the issue with UK Government officials.”⁶⁶

69. In Memorandum No. 2 the Cabinet Secretary states that amendment Gov 169 to clause 24 sets out additional provisions in the non-exhaustive list of provisions which the memorandum of understanding may include, in particular being the use to be made of the power to give directions under clause 7.⁶⁷

70. We asked the Cabinet Secretary to clarify the content and effect of amendment Gov 169. He told us in response:

“Amendment Gov 169 sets out additional provisions in the non-exhaustive list of provisions which the Memorandum of Understanding (MoU) between the SoS and Welsh Ministers may include, in particular being the use to be made of the power to give directions under section 7.”⁶⁸

Part 2, Chapter 1 – Passenger services

71. Chapter 1 of Part 2 of the Bill contains provision about the designation and exemption of railway passenger services, the provision of services, and fares.

Clauses 25 and 27 – Designation of services by Secretary of State and by Welsh Ministers

72. Clause 25 of the Bill requires the Secretary of State to designate railway passenger services for which GBR should be responsible, except for Scotland-only services or Wales-only services.

73. Clause 27 of the Bill requires the Welsh Ministers to designate railway passenger services for which they are responsible, and may only designate such services if they are Wales-only services, or Welsh components of Welsh services

⁶⁵ Memorandum, paragraph 104

⁶⁶ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁶⁷ Memorandum No. 2, paragraph 8

⁶⁸ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 15

which the Welsh Ministers consider should be provided together with designated Wales-only services.

74. In the Memorandum, the Cabinet Secretary identifies the powers in clauses 25 and 27 as concurrent powers, and that:

*"... Whilst it appears that these clauses look to carry over existing powers, which fundamentally we do not object to, further engagement is required to fully understand the impact and practicalities."*⁶⁹

75. In response to our request for an update on this further engagement, the Cabinet Secretary told us:

*"Having considered the position, my understanding is that the Bill replicates the existing designation position and there is no change to the status quo. I am content with this and so I require no further engagement on this point."*⁷⁰

76. While the Secretary of State must consult the Scottish Ministers before designating a cross-border service or varying or revoking a designation of a cross-border service under clause 25, the Secretary of State is not required to consult the Welsh Ministers in respect of Welsh services. We asked the Cabinet Secretary to set out his understanding as to why this was the case. We also asked him to set out the Welsh Government's position in respect of this matter. He said in response:

*"I expect the MoU to reiterate that (a) the current devolution settlement for Wales will be preserved and (b) that Ministers agree that the existing devolution settlement represents a baseline of service for which Welsh Ministers are responsible to deliver. It is intended that any future designation will be done in collaboration with the Welsh Ministers. I am content with this."*⁷¹

⁶⁹ Memorandum, paragraph 8

⁷⁰ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁷¹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 16

Clauses 28 and 29 – Exemption from designation: powers of Secretary of State, Scottish and Welsh Ministers

77. Clause 28 of the Bill enables the Secretary of State to exempt certain railway passenger services from designation by regulations. The Secretary of State must consult the Scottish Ministers before making regulations specifying cross-border services, and must consult the Welsh Ministers before making regulations specifying Welsh services.

78. We asked the Cabinet Secretary to set out his understanding as to why this requirement to consult is not instead a requirement to obtain the consent of the Welsh Ministers, and to provide the Welsh Government's position on this matter. In response, he said:

“My understanding is that the power to exempt a service from designation is usually used to facilitate local devolution of services (e.g. to Transport for London). Because of the commitments I expect in the MoU relating to baseline services, it is not considered necessary to add a requirement for the Secretary of State to seek the consent of Welsh Ministers for exemptions from designation. I am content with this.”⁷²

79. Clause 29(3) of the Bill enables the Welsh Ministers to exempt certain Wales-only railway passenger services from designation by regulations. Subsection (4) of clause 29 provides that such regulations are subject to the Senedd annulment procedure.

80. In its memorandum to the Delegated Powers and Regulatory Reform Committee, the Department for Transport states that this procedure is considered appropriate because:

“... it is a limited/specific power with a specific outcome, and also because it upgrades the previous method of designation by writing. We would expect decisions to devolve rail services to be taken after consultation with stakeholders as part of the

⁷² Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 17

*right to request rail devolution process committed to in the English Devolution White Paper in December 2024.*⁷³

81. We asked the Cabinet Secretary to set out the Welsh Government's position on the procedure applied to this power, and whether the Senedd approval procedure would be more appropriate. In response, he stated:

*"I believe that the Senedd annulment procedure for regulations made under Clause 29 of the Bill is appropriate. It is consistent with the principles for annulment procedure in paragraph 10.12 the WG Legislation Handbook on Senedd Bills. I am content with this."*⁷⁴

Part 3 – Miscellaneous provisions

82. Part 3 of the Bill includes provision about: access to GBR infrastructure and services; the functions of ORR; the publication of information; and co-operation between GBR, the Welsh and Scottish Ministers, and others.

Clause 63 – Capacity duty

83. Clause 63 requires GBR to ensure, when exercising its functions, that it retains sufficient capacity over GBR infrastructure to allow for the operation of current and future GBR passenger services, and for engineering access.

84. In the Memorandum, the Cabinet Secretary raises the following concern in respect of the duty in clause 63:

*"Prioritisation by GBR of its own services could affect services provided or secured by the Welsh Ministers under clause 31 of the Bill in a way that risks the practical ability of devolved authorities and freight operators to secure fair access to the network."*⁷⁵

⁷³ UK Government, [Railways Bill: Memorandum from the Department for Transport to the Delegated Powers and Regulatory Reform Committee](#), November 2025, paragraph 37

⁷⁴ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 18

⁷⁵ Memorandum, paragraph 107

85. The Cabinet Secretary told us in his letter of 12 March that he intends to use the memorandum of understanding referred to in clause 24 to address the Welsh Government's concern in respect of clause 63.⁷⁶

Clause 72 – Regulations about non-GBR infrastructure, facilities and services

86. Clause 72 of the Bill enables the Secretary of State to make provision about non-GBR infrastructure, facilities and services by regulations. Subsection (4) of clause 72 provides that such regulations may make consequential provision which amends or repeals primary legislation, and subsection (5) requires the Secretary of State to consult such persons as they consider appropriate before making regulations under clause 72.

87. The Cabinet Secretary states in the Memorandum that “the operation of this clause could affect the railway infrastructure which the Welsh Ministers own or services that the Welsh Ministers provide or secure to be run on it under clause 31.” He also states that the operation of the clause could “significantly impact” the operation of the Core Valley Lines^{77,78} For these reasons the clause represents an area of concern to the Welsh Government.⁷⁹

88. The Cabinet Secretary told us in his letter of 12 March that he intends to use the memorandum of understanding referred to in clause 24 to address the Welsh Government's concern in respect of clause 72.⁸⁰

89. We asked the Cabinet Secretary to clarify the scrutiny procedure applicable to regulations made under clause 72, and whether such regulations may amend primary legislation within the legislative competence of the Senedd. If this was the case, we also asked him to clarify whether the Secretary of State will be required to obtain the consent of the Welsh Ministers before making such regulations. He told us in response:

“The scrutiny procedure applicable to regulations made under clause 72 of the Bill is in clause 89(3)(b) of the Bill, ie the

⁷⁶ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁷⁷ The Core Valley Lines include the railway infrastructure between Cardiff Queen Street and: Cardiff Central, Cardiff Bay, Treherbert, Aberdare, Merthyr Tydfil, Coryton, Rhymney, Cwmbargoed (freight only), Hirwaun (freight only); and between Radyr and Ninian Park stations. The ownership of this infrastructure was transferred from National Rail to Transport for Wales in March 2020.

⁷⁸ Memorandum, paragraph 108

⁷⁹ Memorandum, paragraphs 110 to 111

⁸⁰ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

affirmative procedure in Parliament. In principle the power may be used to amend primary legislation within the legislative competence of the Senedd. I expect the MoU to deal with operational concerns. ... There is no requirement for the Welsh Ministers to consent to the exercise of the [Secretary of State's] power in this way.”⁸¹

Clause 73 – Interpretation of Chapter 1 of Part 3

90. Clause 73 of the Bill includes definitions for terms used in Chapter 1 of Part 3 of the Bill. The Secretary of State may amend the definition of “GBR infrastructure” by regulations.

91. We asked the Cabinet Secretary to explain why he does not consider that clause 73 of the Bill contains relevant provision, considering that other provisions in Chapter 1 of Part 3 of the Bill which are identified as requiring consent use the terms set out in clause 73. In response, he told us:

“The omission of clause 73 (interpretation of Chapter 1 of Part 3) is an oversight which I intend to rectify. It does not prevent consideration by the Senedd of the substance of the clauses to which it relates.”⁸²

92. Clause 73 is addressed in Memorandum No. 3.⁸³

Clause 81 – Duty to consult mayoral combined authorities

93. Clause 81 requires the Welsh Ministers and others to consult a mayoral authority before making a decision relating to a passenger service designated by them (in the case of the Welsh Ministers, under clause 27) if the service is provided in the authority’s area and if it appears to them that the decision will significantly affect the interests of the economy of the area or of persons living in, working in or visiting the area.

94. In the Memorandum, the Cabinet Secretary raises the following concern in respect of the Welsh Ministers’ duty to consult in clause 81:

⁸¹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 19

⁸² Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 20

⁸³ Memorandum No. 3, paragraph 11

“Whilst we are content with the principle of consulting mayoral authorities on significant changes, we are unclear about how the duty on Welsh Ministers is triggered as currently drafted. Further clarity is needed to understand how DfT and GBR see this clause working in practice.”⁸⁴

95. However, in his letter of 12 March, the Cabinet Secretary states that he is content with this clause, as he understood it to be “highly unlikely the requirement within this clause to consult with Mayoral Strategic Authorities will apply directly.”⁸⁵

Clause 85 – Charging for removal etc of road vehicles (inserted by amendment Gov NC23)

96. Amendment Gov NC23 which, subsequent to being agreed, appears as clause 85 in the version of the Bill as amended at Commons Committee stage, makes provision about the charging for removal etc of road vehicles. We asked the Cabinet Secretary to provide further information about this amendment, with particular reference to who will be responsible for such removal etc, how such charges will be made and what will happen in the event that they are not paid. He told us in response:

“My understanding is as follows. The relevant operator of a station or network would have the power to remove a vehicle in breach of byelaws. There would likely be a sign making clear that parking was prohibited and the charge for breaching the byelaw. Costs would be recovered as a debt if not paid.”⁸⁶

Part 4 – General

97. Part 4 of the Bill makes minor and consequential provision, and includes provision about the power of the Secretary of State to make consequential provision, and about regulations made under the Bill, its interpretation, extent and commencement.

⁸⁴ Memorandum, paragraph 109

⁸⁵ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁸⁶ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 22

Clause 88 – Power of Secretary of State to make consequential provision

98. Clause 88 of the Bill as introduced (clause 94 of the Bill as amended in Committee) enables the Secretary of State to make regulations containing provision that is consequential to the Bill. As the Bill does not however enable the Welsh Ministers to make such regulations, we asked the Cabinet Secretary to set out the Welsh Government's position on this clause. In response, he stated:

"Clause 88 enables the Secretary of State to ensure that the statute book is tidy and appropriately reflects the changes made by this Bill. I am content with this."⁸⁷

2. Committee consideration

99. We considered the Memorandum and Memorandum No. 2 at our meeting on 23 February 2026.⁸⁸

100. At our meeting on 23 March 2026 we considered Memorandum No. 3 and agreed our report.⁸⁹

Our view

101. We note the Welsh Government's assessment of the provisions requiring consent within the Bill as set out in the Memorandum, Memorandum No. 2 and Memorandum No. 3.

102. We also note that Memorandum No. 3 identifies a clause (clause 73) containing relevant provision in the Bill as introduced which was omitted from the Memorandum.

103. In addition, we note the UK Government's position in respect of the clauses of the Bill as introduced which it considers to require the consent of the Senedd. However we highlight that the UK Government's position in respect of the new clauses inserted into the Bill as amended at House of Commons Committee stage is unclear, given that no relevant detail is provided in Memorandum No. 2 or Memorandum No. 3 on its position.

⁸⁷ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 21

⁸⁸ Legislation, Justice and Constitution Committee, [23 February 2026](#)

⁸⁹ Legislation, Justice and Constitution Committee, [23 March 2026](#)

Conclusion 1. We agree with the Welsh Government's assessment, as set out in the Memorandum, Memorandum No. 2 and Memorandum No. 3, of the provisions of the Bill which require the consent of the Senedd in accordance with Standing Order 29.

104. We note from Memorandum No. 3 that it continues to be the case that a debate to seek the Senedd's consent for the inclusion in the Bill of provisions that have regard to devolved matters is likely to take place during the next Senedd.

105. With this in mind, we thank the Cabinet Secretary for providing us with written evidence to assist our consideration of the memoranda, and believe this evidence will help inform a successor committee's consideration of memoranda for the Bill which may be laid by an incoming Government during the next Senedd.

106. We therefore take this opportunity to highlight a number of matters to inform that anticipated future scrutiny.

Conclusion 2. A successor committee may wish to consider the matters we set out in the following sections of this report as part of its consideration of any memoranda laid in respect of the Bill in the next Senedd.

Conclusion 3. A successor committee may wish to ascertain the UK Government's position as to which clauses of, and Schedules to, the Bill as amended at House of Commons Committee stage require the consent of the Senedd.

Areas of concern identified by the Welsh Government

107. We note that, in the Memorandum, the Cabinet Secretary highlighted a number of areas of concern in respect of clauses 4, 18, 19, 24, 25, 27, 31, 63, 72 and 81 of the Bill as introduced.⁹⁰

108. We acknowledge that one of these clauses – clause 31 – contained a drafting error which has since been resolved by amendment, as set out in Memorandum No. 2.⁹¹ We also note that the Welsh Government continues to pursue its concerns in relation to clauses 18, 19 and 24 of the Bill.⁹²

⁹⁰ Memorandum, paragraphs 103 to 111

⁹¹ Memorandum No. 2, paragraph 9

⁹² Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

109. However, we note that – following his further consideration – the Cabinet Secretary's initial concerns in respect of clauses 4, 25, 27, 63 and 72 have now been resolved, without any relevant amendments having been made to the Bill.⁹³

110. It is unclear why full consideration of these clauses had not been completed by the time of the Memorandum's laying, especially as it was not laid until 11 weeks after the Bill's introduction, and considering the apparent intensity of intergovernmental engagement in relation to the Bill.

111. In light of the time it has taken for these concerns to be resolved, we believe that it is important that consideration of any memoranda laid for the Bill in the next Senedd should include testing the incoming Welsh Government's position in respect of clauses 4, 25, 27, 63 and 72 of the Bill, as well as clauses 18, 19 and 24.

Memorandum of understanding between the Secretary of State and the Welsh Ministers

112. We note the comments made by the Cabinet Secretary to the Climate Change, Environment and Infrastructure Committee on the importance of the memorandum of understanding between the Secretary of State and the Welsh Ministers which will be required under clause 24 of the Bill.⁹⁴ We also note that discussions are ongoing between the Welsh Government and the UK Government in relation to clause 24⁹⁵, and as to whether the contents of the memorandum of understanding could be included on the face of the Bill⁹⁶.

113. We are also cognisant of the Cabinet Secretary's high expectations in relation to the memorandum of understanding, in that:

- it could “provide a mechanism for the Welsh Ministers to influence the organisation and design of GBR”, in lieu of a requirement in clause 3 of the Bill for the Secretary of State to consult the Welsh Ministers before imposing additional functions on GBR⁹⁷;
- it could “reiterate that the current devolution settlement for Wales will be preserved” and “that Ministers agree that the existing devolution

⁹³ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁹⁴ Climate Change, Environment and Infrastructure Committee, 25 February 2026, RoP [92]

⁹⁵ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

⁹⁶ Climate Change, Environment and Infrastructure Committee, 25 February 2026, RoP [98]

⁹⁷ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 4

settlement represents a baseline of service for which Welsh Ministers are responsible to deliver”, in lieu of a requirement in clause 25 of the Bill for the Secretary of State to consult the Welsh Ministers before designating a cross-border service⁹⁸;

- it will make commitments in relation to baseline services, in lieu of a requirement in clause 28 of the Bill for the Secretary of State to obtain the consent of the Welsh Ministers before exempting certain railway passenger services from designation⁹⁹;
- it will be a vehicle to resolve the Welsh Government's concerns that, under clause 63 of the Bill, GBR's prioritisation of its own services “could affect services provided or secured by the Welsh Ministers under clause 31”¹⁰⁰; and
- it will be a vehicle to resolve the Welsh Government's concerns that the operation of clause 72 of the Bill “could affect the railway infrastructure which the Welsh Ministers own or services that the Welsh Ministers provide or secure to be run on it under clause 31.”¹⁰¹

114. We believe it is necessary to emphasise that a statutory requirement to prepare and publish a memorandum of understanding, as is required under clause 24 of the Bill, does not make a memorandum of understanding legally binding.

115. It however appears to us that significant weight is being given to what the memorandum of understanding is anticipated to achieve, and this is a matter of concern.

116. For this reason, we believe that discussions between the UK Government and the Welsh Government in relation to clause 24 of the Bill should continue – and intensify – with the objective of containing as many requirements as possible on the face of the Bill so that devolved Welsh interests in respect of railways and

⁹⁸ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 16

⁹⁹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 17

¹⁰⁰ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

¹⁰¹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

railway services are protected from any changes in the respective positions of governments.

117. We consider that matters in relation to the balance between what is included on the face of the Bill and what is anticipated to be included in a memorandum of understanding are key matters for consideration in the next Senedd.

118. We also believe in the importance of the next Senedd having sight of an agreed version of the memorandum of understanding to inform a decision of whether to consent to clause 24 of the Bill.

(Note: following the agreement of this report, the Welsh Government wrote to the Committee notifying it of the publication of the Memorandum of Understanding between UK Government and Welsh Government on Rail Reform in the Wales and Borders Area.¹⁰²)

Concurrent powers

119. When read together, clauses 25 and 27 of the Bill contain concurrent powers which, according to the Welsh Government's principles on UK legislation in devolved areas, should only be created in exceptional cases. The principles also state that if concurrent powers are created, they should be subject to relevant consent mechanisms and associated 'carve outs' from the *Government of Wales Act 2006*, such that no consent is required for the Senedd to remove the powers in future.¹⁰³

120. We note that while the Cabinet Secretary expressed his concerns in relation these concurrent powers in the Memorandum¹⁰⁴, he is now content given that the Bill replicates existing powers because "there is no change to the status quo."¹⁰⁵

121. We however consider that the introduction of legislation which replaces existing provisions can provide an opportunity to revisit the status quo, and, in this regard, we believe that consideration should be given in the next Senedd to

¹⁰² Letter from the Cabinet Secretary for Transport and North Wales, 25 March 2026. Additional text agreed by the Chair of the Committee on xx March 2026.

¹⁰³ Welsh Government, [Principles on UK Legislation in devolved areas](#), December 2024

¹⁰⁴ Memorandum, paragraph 8

¹⁰⁵ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2

whether clauses 25 and 27 of the Bill are fit for purpose to protect devolved Welsh interests.

Secretary of State's power to make consequential provision

122. We note the Cabinet Secretary's confirmation that clause 72(4) of the Bill enables the Secretary of State to make regulations that amend primary legislation within the legislative competence of the Senedd for the purpose of making consequential provision about non-GBR infrastructure, facilities and services.¹⁰⁶

123. We also note the Cabinet Secretary's confirmation that the Bill contains no requirement for the Welsh Ministers to consent to, or even be consulted on, the exercise of the Secretary of State's power in this way.¹⁰⁷ We believe this to be a matter of concern for further consideration in the next Senedd.

Provisions in respect of transfer schemes

124. We note that in Memorandum No. 3, the Cabinet Secretary identifies provision in three new clauses and a Schedule as requiring consent, which appear as clauses 86, 88, 89 and Schedule 3 in the version of the Bill as amended at Commons Committee stage.¹⁰⁸ These clauses and Schedule make provision about schemes for the transfer of property, right and liabilities in connection with railways or railway services.

125. We believe that further clarity is required in relation to these clauses and Schedule, in particular as to:

- the circumstances in which the Welsh Ministers may incur a liability to pay compensation under Schedule 3;
- whether any Senedd procedure is to be applied to any scheme made under the new clause 88 of the Bill or whether the scheme must be laid before the Senedd and, in either case, if not, why not.

126. We believe this also to be a matter for further consideration in the next Senedd.

¹⁰⁶ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 19

¹⁰⁷ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 19

¹⁰⁸ Memorandum No. 3, paragraph 10

Duty on the Welsh Ministers to consult mayoral combined authorities

127. We make one final observation in respect of evidence provided to us by the Cabinet Secretary. The Cabinet Secretary told us that it is “highly unlikely” that the requirement within clause 81 to consult with Mayoral Strategic Authorities will apply “directly” to the Welsh Ministers, and for that reason he is content with the clause.¹⁰⁹

128. It is however unclear to us if the implication of this statement is that there may be ways in which this requirement may apply indirectly to the Welsh Ministers. If that is the case, the ways in which it may apply indirectly are similarly unclear to us. For these reasons, we believe this to be a matter for further consideration in the next Senedd.

¹⁰⁹ Letter from the Cabinet Secretary for Transport and North Wales, 12 March 2026, response to question 2