LEGISLATIVE CONSENT MEMORANDUM

Railways Bill

1. This legislative consent memorandum is laid under Standing Order ("SO") 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales that has regard to devolved matters.

2. The Railways Bill ("the Bill") was introduced in the House of Commons on 5 November 2025, and re-introduced into Parliament on 14 May 2026 as part of the UK Government's new legislative programme. The Bill had its first reading in the second house (House of Lords) on 11 June. The Bill can be found at: Railways Bill

Policy Objectives

3. The UK Government's stated policy objectives are 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.

4. The current system suffers from unreliable services, low customer satisfaction and poor value for money, caused by a model which is overly fragmented, lacks accountability, and contains perverse incentives and irregularities, such as different operators selling different tickets and charging different prices for the same journey.

5. The new rail system that is established by the Bill is designed to better the needs and expectations of those who rely on it and support the UK Government's growth agenda.

Summary of the Bill

6. The Bill is sponsored by the Department for Transport.

7. The Bill will:

- Allow the Secretary of State (SoS) to designate a company as GBR
- Set out the functions and duties of GBR (its purpose)
- Provide funding for GBR
- Enable GBR to set fares and sell tickets
- Establish a Passenger Watchdog
- Establish an 'access regime' that allows GBR to make decisions on which services can access the tracks.

8. The Welsh Ministers are responsible for the provision of certain passenger services in Wales and for the infrastructure of the Core Valley Lines and that continues to be the case.

9. UK Government and Welsh Government officials have been in regular contact during the development of the Bill. Engagement will continue at an official and Ministerial level where necessary.

Provisions in the Bill for which consent is required

10. Consent is required for clauses 2-4, 7, 9, 11, 12, 15-21, 24, 25, 27-37, 39, 40, 42, 43, 45-48, 51, 52, 59-73, 76, 81-83, 87, 88, 90, 91, 93-99, 101, Schedule 1, Schedule 2 (Part 1), Schedule 3 and Schedule 4 (paragraphs 4, 5, 7, 8,10-12, 14-18, 20, 21, 23-27,30-32, 42, 44, 46, 50, 52-54, 56-60, 62, 64, 65, 68, 70). An analysis of these provisions is included below.

11. This LCM relates to the Bill, inclusive of all prior amendments, as brought forward from the House of Commons to the House of Lords on 11 June 2026.

Part 1 – The New Regime for the Railways

Chapter 1 – Great British Railways

12. **Clause 2 (Crown Status)** clarifies that the clause does not prevent the Welsh Ministers and others from entering into agency agreements with GBR or GBR subsidiaries under clause 4 for the performance of functions on their behalf.

    I consider this clause has regard to devolved matters in so far as it clarifies the substantive power to enter into agency agreements in clause 4 of the Bill which is subject to an LCM.

13. **Clause 3 (Functions)** confers functions on GBR relating to the management of the rail infrastructure, provision of railway services and associated matters. The SoS has a power to confer further functions on GBR by Regulations. GBR may exercise its functions through bodies including a company jointly owned by GBR and the Welsh Ministers (see meaning of “GBR company” in clause 99(1)).

    I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

14. **Clause 4 (Exercise of functions of Scottish and Welsh Ministers)** enables Welsh Ministers to arrange for any of their functions relating to railways or railway services to be exercised on their behalf by GBR, a subsidiary of GBR or a company jointly owned by the Welsh Ministers and GBR. The clause confers functions on Welsh Ministers which govern any agency arrangement the Welsh Ministers may enter into.

I consider that the clause has regard to devolved matters in so far as it confers functions on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

15. **Clause 7 (Directions by SoS)** enables SoS to give directions to GBR about the exercise of its functions. The SoS must obtain the Welsh Ministers' consent before exercising powers under this section, other than powers in relation to functions under Chapter 1 of Part 3 (access to infrastructure and services) in a manner that directly affects the exercise by GBR of functions on behalf of the Welsh Ministers in accordance with arrangements under clause 4 or under a contract awarded under section 31(4)(b).

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers.

16. **Clause 9 (Guidance by SoS)** enables SoS to give GBR guidance about the exercise of its statutory functions and makes associated provision. (See clause 3(4) for meaning of "statutory functions".)

    I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

17. **Clause 11 & Schedule 1 (Licensing)** - This clause and Schedule 1 make amendments to the Railways Act 1993 to enable the SoS to grant GBR to be the operator of railway assets specified or described in the licence. The ability to grant a licence to another body is retained. Schedule 1 also makes associated provision.

    I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

18. **Clause 12 (Funding) & Part 1 of Schedule 2** make provision in relation to funding the activities of GBR.

    - **ORR to set timetable governing funding process.** Requires the ORR to notify the Welsh Ministers, SoS, Scottish Ministers, GBR and the Passengers' Council before the start of each 5-year funding period of key dates in relation to milestones in the planning of GBR activities for that funding period. The ORR is required to consult the same people as to a timescale specified in the notice.
    - **SoS' statement of objectives.** The SoS issues a statement of objectives in relation to each funding period setting out their objectives and specifies which of those objectives can be met by GBR. Objectives include the railway network or railway assets, the carriage of passengers or goods, fares, accessibility, safety matters.

When preparing the statement, the SoS must consult the Welsh Ministers and must also provide the statement to the Welsh Ministers.

- **Statement of funds available.** The SoS must issue a statement for each funding period about the likely maximum financial assistance that might be available to GBR for funding its activities. There are requirements about timing, issuing and consulting ORR.
- **Business plan and approval by SoS.** GBR must provide ORR with a business plan approved by SoS for each funding period which includes the activities it proposes to carry out, an estimate of the costs of doing so and how GBR proposes to meet the costs. There are requirements about timing, publishing and consulting ORR, SoS and the Passenger Standards Authority. GBR must have regard to the SoS statement of maximum funds available in relation to the funding period.
- **Keeping the approved business plan up to date.** Duty on GBR to keep the business plan up to date. Contains approval role for SoS, consultation roles for ORR and Passengers' Council and publication requirements.
- **SoS' power to provide financial assistance.** The financial assistance that may be provided to GBR by the Secretary of State is limited to activities carried on (a) in exercise of GBR functions under clause 3(1)(a) (managing etc railway infrastructure) or (b) specified by SoS in regulations. The financial assistance may be provided on such terms as the SoS considers appropriate.
- **Notification of assistance to be provided.** Duty on SoS to notify the ORR and GBR of financial assistance to GBR and associated publicity requirement. Imposes requirements to notify GBR and ORR and requirements on SoS if they propose to vary financial assistance and makes associated provision.

I consider that the clause and Schedule have regard to devolved matters in so far as they confer functions on the Welsh Ministers or affect the services provided or secured by the Welsh Ministers or the network over which those services are provided.

Chapter 2 – Exercise of Railway Functions

19. **Clause 15 (Rail strategy)** - Duty on SoS to prepare a long-term strategy for the railway network and services in GB (excluding functions of the Scottish Ministers), with associated provision for review, revision, replacement and publication. When preparing or revising the strategy, the SoS must consult the Welsh Ministers.

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

20. **Clause 16 (Duty of GBR and ORR to have regard to strategies)**. GBR and ORR must have regard to the Wales Transport Strategy when exercising their functions (among other things).

    I consider that the clause has regard to devolved matters in so far as it affects GBR functions which are identified as functions which have regard to devolved matters.

21. **Clause 17 (Rail freight target)** - Duty on SoS to set a target to increase the use of the railway network in GB for the carriage of goods and to keep it under review. Makes associated provision for revision, replacement and publication.

22. Contains duty for GBR to have regard to the target set by SoS and any strategy or policy of the Scottish Ministers relating to the use of the railway network in Scotland for the carriage of goods when exercising its statutory functions.

    I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

23. **Clause 18 (General duties of Ministers, GBR and ORR)** applies to (among other things) the exercise by the Welsh Ministers of their functions relating to railways and railway services.

24. Duty to exercise the functions –

    (a) in the manner best calculated to promote the interests of users and potential users of railway passenger services, in particular the needs of disabled persons,
    (b) in the manner best calculated to promote the use of the railway network for the carriage of goods,
    (c) to promote high standards of railway services performance,
    (d) to enable persons providing railway services to plan with a reasonable degree of assurance,
    (e) in the manner best calculated to be in the public interest, and
    (f) taking into account costs that will need to be met from public funds and the need to make efficient use of those funds,
    balancing those requirements as seems appropriate.

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided. It also appears to partially concern matters within the legislative competence of the Senedd, notably land planning consent.

25. **Clause 19 (Safety duty of Ministers and ORR)** Confers a duty to take into account the need to protect all persons from dangers arising from the

operation of railways on (among other things) the exercise by the Welsh Ministers of their functions relating to railways and railway services.

I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided. It also appears to partially concern matters within the legislative competence of the Senedd, notably land planning consent.

26. **Clause 20 (Competition duty of ORR)** applies to the exercise by ORR of its functions except specified functions. The ORR must exercise its functions in the way it considers best calculated to promote competition in the provision of railway services for the benefit of users.

I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

27. **Clause 21 (Duty of ORR to have regard to Secretary of State's guidance)**. SoS may give ORR guidance as to exercise of its functions in relation to railways, except in relation to specified functions. SoS must consult the Welsh Ministers before giving, varying or revoking such guidance.

I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

28. **Clause 24 (Memorandum of Understanding: Secretary of State and Welsh Ministers)**. Duty on the SoS and Welsh Ministers to prepare and publish a Memorandum of Understanding setting out how they will work together in the exercise of their respective functions in relation to railways and railway services. Sets out matters which a memorandum may include.

I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided. It also appears to partially concern land planning consent functions within the legislative competence of the Senedd.

Part 2 – Passenger and Station Services

Chapter 1 – Passenger Services

29. **Clause 25 (Designation of services by SoS)** - The SoS must designate the passenger services, or a description of such services, the provision of which may be secured by the SoS. The SoS may not designate Wales-only

services or Welsh services so far as already designated by the Welsh Ministers under clause 27.

30. By clause 99(2), an expression given a meaning in the Railways Act 1993 has the same meaning in this Bill. “Wales only services” and “Welsh services” are defined in section 83(1) of the 1993 Act as having the meanings in section 57 of the Railways Act 2005.

    I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

31. **Clause 27 (Designation of services by Welsh Ministers)** - The Welsh Ministers must designate the Wales-only services, or a description of such services, which may be provided or secured by them under clause 31. They must also designate Welsh components of Welsh services that they consider should be provided together with designated Wales-only services. The Welsh Ministers may vary or revoke a designation and must publish it as they see appropriate.

32. See also clauses 28 and 29(3) as to services which are exempt from designation.

33. The meanings of “Welsh component of a Welsh service” are identified in section 83(1) of the Railways Act 1993 as being those in section 57 of the Railways Act 2005).

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

34. **Clause 28 (Exemption from designation: power of SoS)** – The SoS may grant exemption from designation for railway services as they may specify in regulations. The SoS may not specify Wales-only services and must consult the Welsh Ministers before exempting in respect of Welsh services.

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers.

35. **Clause 29 (Exemption from designation: powers of Scottish and Welsh Ministers)** - The Welsh Ministers may grant exemption from designation for Wales-only railway services as they may specify in regulations. Regulations will be subject to the Senedd annulment procedure.

36. **Clause 30 (Exemption from designation: supplementary)** makes provision supplementary to clause 29 (exemption from designation: powers to Scottish Ministers and Welsh Ministers).

I consider that the clause has regard to devolved matters in so far as it relates to the function in clause 29.

37. **Clause 31 (Provision of railway passenger services)** makes provision for provision of railway passenger services by the SoS, the Scottish Ministers and the Welsh Ministers.

38. Subsection (1) enables the SoS to secure the provision of a railway passenger service designated under section 25 by making a direct award of a public service contract. Subsection (2) limits the ability of the SoS to do so to awarding a contract to GBR or a GBR company, or, where the function of securing provision of the service is being exercised by the Welsh Ministers, under arrangements made under section 83 of the Government of Wales Act 2006 (agency arrangements) to one or more public sector companies.

39. Subsection (4) enables the Welsh Ministers to either (a) provide the railway passenger services designated under clause 27 themselves, or (b) secure their provision by making a direct award of a public service contract to a public sector company, or companies, in accordance with regulation 17 (general direct award provision for rail) of the Public Service Obligations in Transport Regulations 2023.

40. A “public sector company” is defined in clause 35 (interpretation) and includes a company wholly owned by the Welsh Ministers or jointly owned by the Welsh Ministers and SoS. By clause 99(3), those terms have the meanings in section 58(4) and (5) of the Railways Act 2005.

    I consider that the clause has regard to devolved matters in so far as it confers functions on the Welsh Ministers.

41. **Clause 32 (Contracts awarded under section 31: supplementary)** makes provision associated with clause 31 (provision of passenger rail services).

    I consider that the clause has regard to devolved matters in so far as it relates to the functions in clause 31.

42. **Clause 33 (Fares)** - Subsection (3) provides that a public service contract under clause 31 may include provision in relation to the general level and structure of fares.

    I consider that the clause has regard to devolved matters in so far as it relates to the functions in clauses 7, 9 and 31.

43. **Clause 34 (Discount fare schemes)** - Subsection (5) is a duty on the Welsh Ministers to make a scheme for enabling persons who are young, elderly or disabled to travel at discounted fares on services provided by them under clause 31(4)(a).

44. Subsection (6) applies to all contracts under section 31 and requires those contracts to requires the service provider to take steps specified in the contract to enable the young, elderly or disabled to travel at discounted fares.

45. Subsections (7) and (8) make associated provision.

    I consider that the clause has regard to devolved matters in so far as the paragraphs identified above confer a function on the Welsh Ministers or affect the services provided or secured by the Welsh Ministers or the network over which those services are provided.

46. **Clause 35 (Interpretation of Chapter 1 of Part 2)** contains defined terms.

    To the extent that the defined terms are used in clauses identified above as requiring an LCM I consider that the clause has regard to devolved matters.

Chapter 2 – The Passengers' Council

47. **Clause 36 (General duties of the Council)** specifies core interests at the heart of the exercise of functions by the Passengers' Council ("PC"). The Passengers' Council is established under section 19 of the Railways Act 2005.

    To the extent that this clause attaches to PC functions identified below as requiring an LCM I consider that the clause has regard to devolved matters.

48. **Clause 37 (Keeping matters under review and collecting information)** - Duty on the PC to keep under review matters affecting the interests of the public in relation to rail services, make representations to and consult those they think appropriate and co-operate with other bodies representing the interests of users of public passenger transport services.

49. The PC may also collect information in respect of matters affecting the interests of the public.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

50. **Clause 39 (Investigations)** - Duty on PC to investigate any matter relating to the provision of railway passenger services or the provision of station services by a licences operator if the matter arises in certain listed circumstances. The circumstances include matters referred to the PC by the Welsh Ministers and matters a (potential) railway user or representative group raises with the PC.

I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

51. **Clause 40 (Power to obtain information)** - The PC may request information from a person who provides or operates railway or station services if it considers it necessary for an investigation under clause 39 (Investigations). The clause makes associated provision.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

52. **Clause 42 (Representations and referrals)** gives the PC a power to make representations to persons it considers appropriate for the purpose of resolving issues raised with it.

53. The clause also requires the PC to refer the matter to the ORR if it thinks that the holder of a licence is contravening a condition of the licence or the holder of a passenger licence is contravening or likely to contravene a condition of licence or a statement of national regulatory provisions issued under SI 2005/3050. It makes associated provision.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

54. **Clause 43 (Reports)** Provides reporting and publication powers to the PC in relation to investigations carried out by it. In particular the PC may send a copy to the Welsh Ministers. The PC must also obtain the consent of the Welsh Ministers before sharing copies of, or publishing, the report.

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers.

55. **Clause 45 (Dispute resolution)** imposes a duty on the PC to secure appropriate dispute resolution arrangements to (potential) users of rail services.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

56. **Clause 46 (Standards)** - The PC may set standards to be complied with by persons providing passenger services and station services under a licence, and passenger services under a railway undertaking licence which authorises the carriage of passengers by railway. The clause lists particular matters which may be covered by standards and makes associated provision.

I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

57. **Clause 47 (Improvement plans)** - If in the course of an investigation or monitoring compliance with standards the PC believes that a person is contravening or likely to contravene a condition of licence or a statement of national regulatory provisions issued under SI 2005/3050 the PC may require the person to prepare a plan to address the contravention.

58. The clause also requires the PC to refer the matter to the ORR if there is a failure in relation to the plan and to inform the SoS. The clause makes associated provision for ORR action.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

59. **Clause 48 (Advice about railway passenger services and station services)** - Duty on the PC to consider any matter affecting the interests of the public in relation to passenger or station services referred to by the Welsh Ministers (among others) and to provide advice as it considers appropriate.

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers or affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

60. **Clause 51 (Power to make exclusions)** - SoS power to make regulations to exclude certain passenger services from the duties in clauses 37 to 43, 45 and 48 or to modify their application in that regard.

    To the extent that this clause attaches to PC functions identified below as requiring an LCM I consider that the clause has regard to devolved matters.

61. **Clause 52 (Interpretation of Chapter 2 of Part 2)** contains defined terms.

    To the extent that the defined terms are used in clauses identified above as requiring an LCM I consider that the clause has regard to devolved matters.

Part 3 – Miscellaneous provisions

Chapter 1 – Access to infrastructure and services

62. **Clause 59 (Access and use policy)** - Duty on GBR to publish its policy and procedures on access to and use of GBR infrastructure (see clause

73). A list of specified matters must be included, including the criteria for determining applications for access and use, a dispute resolution procedure and maintenance and improvement works on GBR infrastructure and their effect.

63. It may also contain terms of access and use.

64. A person aggrieved by provision contained in a document issued under this clause has the right to appeal to the ORR.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

65. **Clause 60 (Infrastructure capacity plan)** - Duty on GBR to publish a document setting out its views on the best use that can be made of GBR infrastructure for the operation of trains. In preparing the document, GBR must have regard to specified matters, broadly the need to accommodate GBR services, other passenger and freight services and maintenance and improvement.

66. A person aggrieved by provision contained in a document issued under this clause has the right to appeal to the ORR.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

67. **Clause 61 (The working timetable)** - Duty on GBR to issue a timetable defining all planned train movements on GBR infrastructure during period it is in force. The clause includes power for GBR to amend timetable.

68. A planned train movement that is not a GBR passenger service may be changed or removed only if the train operator agrees. There is provision for ways in which agreement may be given.

69. There is provision for appeal to ORR for persons who applied for a train movement in the timetable against any provision in/omission from, the timetable or conditions which apply.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers.

70. **Clause 62 (Preparation of working timetable)** contains duties on GBR to invite applications for train movements by notice before issuing a timetable.

71. The clause makes associated provision about timing and procedure. There is provision for appeal to ORR against a GBR decision for persons who applied for a train movement.

I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers.

72. **Clause 63 (Capacity duty)** contains provision which applies to GBR when making access decisions and preparing a timetable.

73. GBR must exercise its functions to ensure that it retains sufficient capacity over GBR infrastructure to allow for (a) the operation of current and future GBR passenger services and (b) carrying out necessary maintenance and improvement work to GBR infrastructure.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

74. **Clause 64 (Charging scheme)** places a duty on GBR to make a scheme setting out the charges (a) for use of GBR infrastructure and (b) in relation to trains which are planned to use GBR infrastructure but do not operate in full.

75. The charges will be on a cost-recovery basis but there is provision for a higher amount in particular circumstances at a rate of return that appears to GBR that an efficient operator would be able to pay. There is also provision for a lower amount in specified circumstances. The scheme may not provide for charges to be made for GBR passenger services (as defined in clause 73(1)).

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

76. **Clause 65 (Performance scheme)**. Duty on GBR to publish a scheme to encourage GBR and users of GBR infrastructure to take appropriate steps to minimise disruption to trains using GBR infrastructure (as defined in clause 73(1)).

77. Examples of provision which may be included are provision for persons to be required to pay penalties for causing disruption to other such services, to receive compensation for disruption, to receive bonuses for better than planned performance of such services or infrastructure.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

78. **Clause 66 (Consultation)** Imposes a duty on GBR to consult the Welsh Ministers (among others) before issuing, making, altering or replacing a document under clause 59 (access and management policy).

79. Imposes a duty on GBR to consult persons it considers appropriate before issuing etc a document under clause 60 (infrastructure capacity plan), section 61 (working timetable), 64 (charging scheme) and 65 (performance scheme).

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers.

80. **Clause 67 (Appeals against access, charging and performance decisions)**. A person aggrieved by a decision as to access to or use of GBR infrastructure or under a scheme made under clauses 64 or 65 may appeal to the ORR.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

81. **Clause 68 (Appeal procedure)** Sets out procedure for appeal to ORR by analogy with the procedure for judicial review.

82. Under subsection (6) the SoS has a power to make regulations in connection with appeals.

83. The ORR may issue a document containing the practice and procedure in relation to appeals. Under subsection (9) it must consult the Welsh Ministers (among others) before doing so.

    I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers.

84. **Clause 69 (Access agreements)** amends the Railways Act 1993 to remove GBR and its subsidiaries from sections 17 to 22C of the Railways Act 1993 (the sections which outline ORR's powers on access and its corresponding duties).

    I consider that the clause has regard to devolved matters in so far as it corresponds to clauses in this memorandum which have been identified as requiring an LCM.

85. **Clause 70 (Access rights)** - Broadly, the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (SI 2016/645) set out rules governing how to allocate access rights if there are conflicting demands. This clause excludes GBR from the Regulations.

    I consider that the clause has regard to devolved matters in so far as it corresponds to the clauses in this memorandum which have been identified as requiring an LCM.

86. **Clause 71 (Operation of existing agreements and rights)**. Power for SoS to make regulations about the operation of access agreements entered into before this section comes into force and access rights granted under SI 2016/645. Use of the power is limited to 15 years after Royal Assent.

    I consider that the clause has regard to devolved matters in so far as it relates to access agreements for the services provided or secured by the Welsh Ministers or the network over which those services are provided.

87. **Clause 72 (Regulations about non-GBR infrastructure, facilities & services)** - SoS power to make regulations about non-GBR infrastructure. The stated intention of this clause is to ensure that legislation governing other infrastructure managers (eg Core Valleys Lines) can be updated periodically to ensure alignment with GBR. The SoS has power to amend the definition of "GBR infrastructure" by clause 73(2).

88. The power includes power to make provision about –
    (a) management and operation of non-GBR infrastructure,
    (b) rights to operate trains between places using non-GBR infrastructure,
    (c) co-operation between GBR and persons operating non-GBR infrastructure,
    (d) provision and supply of facilities and services,
    (e) competition in the market.

89. The regulations may provide for –
    (a) criminal or civil enforcement,
    (b) appeals,
    (c) functions (including conferring discretions on specified persons),
    (d) power to make provision about matters arising out of or related to the regulations in a document issued by a person specified or described in the regulations.

90. The regulation-making power includes power to make consequential provision which amends or repeals primary legislation.

    I consider that the clause has regard to devolved matters in so far as it concerns the services provided or secured by the Welsh Ministers or the network over which those services are provided.

91. **Clause 73 (interpretation of Chapter 1 of Part 3)**. Government amendment at Commons report stage excludes infrastructure managed or

operated by GBR or GBR companies on behalf of non-GBR companies from the definition of GBR infrastructure.

I consider that the clause has regard to devolved matters as, in effect, it revises the extent of provision which may be made under clause 72.

92. **Clause 76 (Modification of licence conditions**) allows ORR to modify a licence under section 8 of the Railways Act 1993 (a licence to operate railway assets) and sets out the associated procedure.

I believe that this clause has regard to devolved matters as it could affect a person licensed to operate services for which the Welsh Ministers are responsible.

93. **Clause 81 (Publication of information by Welsh Ministers)** substitutes new section 73B in Railways Act 1993 which makes provision similar to clause 77 for the Welsh Ministers.

I consider that the clause has regard to devolved matters as it confers a function on the Welsh Ministers.

94. **Clause 82 (Duty to consult Scottish and Welsh Ministers)** contains duty on GBR to consult the Welsh Ministers before making a decision in subsection (4) if it appears to GBR that the decision will significantly affect the interests of Wales' economy or of persons living in, working in or visiting Wales. The decisions in subsection (4) are those that relate to (a) a passenger services designated under clause 25 which is provided in Wales; (b) additions to a part of the network operated by GBR which is situated in Wales.

95. The duty does not apply where consultation is not reasonably practicable, in which case GBR must notify the Welsh Ministers as soon as reasonably practicable.

I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers.

96. **Clause 83 (Duty to consult mayoral combined authorities)** - Duty on the Welsh Ministers (among others) to consult a mayoral combined (county) authority before making a decision relating to a passenger service under clause 27 (designation of services by Welsh Ministers) if the service is provided in the authority's area and if it appears to the Welsh Ministers 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. The duty does not apply where consultation is not reasonably practicable, in which case the Welsh Ministers must notify the authority of the decision as soon as reasonably practicable.

I consider that the clause has regard to devolved matters in so far as it confers a function on the Welsh Ministers.

97. **Clause 87 (Charging for removal etc of road vehicles)** provides that, where road vehicles are causing an obstruction on railway land, charges may be imposed for the removal etc of those vehicles.

    I consider that this new clause has regard to devolved matters in that it could affect the operator of a network providing rail services for which the Welsh Ministers are responsible, or the operator of a station used by rail services for which the Welsh Ministers are responsible.

98. **Clause 88 (Transfer schemes made by Secretary of State)** allows the SoS to make schemes transferring property, rights and liabilities in connection with the provision of railway services or the management of land or other property formerly used in connection with the provision of such services. In particular, it includes the possibility of transfers to a company jointly owned by the Welsh Ministers and the SoS, GBR or a proposed GBR or a subsidiary. It also makes provision for transfers from such a company. There is also provision for transfers from a company wholly owned by the Crown. The Welsh Ministers' consent is required before making a scheme that contains such particular provision.

    I consider that this clause has regard to devolved matters in that it confers a function on the Welsh Ministers.

99. **Clause 90 (Transfer schemes made by Welsh Ministers)** allows the Welsh Ministers to make schemes transferring property, rights and liabilities for any purpose connected with railways or the provision of railway services. In particular, it includes the possibility of transfers from the Welsh Ministers or a company wholly owned by the Welsh Ministers, to GBR, a company owned by GBR, a proposed GBR, a company wholly owned by it or a company jointly owned by the Welsh Ministers and the SoS, GBR or a proposed GBR.

100. It also includes provision for transfer from:

- GBR, a company wholly owned by it or a company jointly owned by the Welsh Ministers and GBR to the Welsh Ministers, a company wholly owned by it, a proposed GBR, a company wholly owned by a proposed GBR or a company jointly owned by the Welsh Ministers and a proposed GBR,
- a former GBR, or a company wholly owned by a former GBR to the Welsh Ministers, a company wholly owned by the Welsh Ministers, GBR, a company wholly owned by GBR or a company jointly owned by the Welsh Ministers and GBR,
- a company wholly owned by the Welsh Ministers to another company wholly owned by them,
- Welsh Ministers to a company wholly owned by Welsh Ministers or vice versa.

101. The SoS' consent is required before making a scheme that contains provision under this clause, other than whether the transfer is from a company wholly owned by the Welsh Ministers to another company wholly owned by them or from the Welsh Ministers to a company wholly owned by Welsh Ministers or vice versa.

    I consider that this clause has regard to devolved matters in that it confers a function on the Welsh Ministers, or affects their property, rights and liabilities.

102. **Clause 91 (Further provisions about transfer schemes)** introduces Schedule 3 which makes further provision about the transfer schemes including those in Clauses 88 and 90 and contains definitions relevant to those clauses.

    I consider the clause has regard to devolved matters so far as it relates to those clauses and the extent that they have been identified for LCM.

103. **Clause 93 (Tax Consequences of Transfer Schemes)** allows the UK Government Treasury to make Regulations by which they may place obligations on the Welsh Ministers, or permit with the consent of Treasury, the method for determining anything which needs to be determined for the purposes of any tax provision so far as relating to anything transferred

104. The clause enables HM Treasury to ensure that statutory transfer schemes do not give rise to unintended or inappropriate tax liabilities. Its purpose is to:

    - prevent tax charges arising solely as a result of statutory transfers of property, rights or liabilities; and
    - ensure that the tax treatment of such transfers is clear, consistent and capable of being administered efficiently.

105. This reflects established practice in public sector restructuring.

106. The clause defines "relevant tax" as:

    - Income tax;
    - corporation tax;
    - capital gains tax;
    - value added tax;
    - stamp duty;
    - stamp duty reserve tax; and
    - stamp duty land tax.

107. These are all reserved taxes and remain within the legislative competence of the UK Parliament.

108. While the amendments relate to 'relevant taxes' which are reserved, the provision allows the UK Government Treasury to make Regulations by

which they may confer functions on the Welsh Ministers therefore an LCM is required.

109. **Clause 94 (Licensing etc of train drivers)** - SoS power to make regulations about licensing/certification of train drivers used to provide railway services. Contains obligation to consult persons the SoS considers appropriate before making the regulations.

    I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

110. **Clause 95 (Cape Town Convention and Luxembourg Protocol)** gives SoS power to give effect by regulations to the Cape Town Convention and Luxembourg Protocol and makes associated provision.

    I consider that the clause has regard to devolved matters in so far as it affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

Part 4 - General

111. **Clause 96 (Minor and consequential amendments)** introduces Schedule 3.

    I consider that the clause has regard to devolved matters in so far as Schedule 3 affects the services provided or secured by the Welsh Ministers or the network over which those services are provided.

112. **Clause 97 (Power of SoS to make consequential provision)** – the Secretary of State may make regulations making consequential provision, including amending primary legislation.

    To the extent that this clause is to make provision that is consequential on clauses identified in this memorandum as requiring an LCM it has regard to devolved matters in the way described in relation to those clauses.

113. **Clause 98 (Regulations)** makes provision as to the extent of regulations making powers of the SoS and scrutiny of those Regulations.

    To the extent that this clause is to make provision under clauses identified in this memorandum as requiring an LCM it has regard to devolved matters in the way described in relation to those clauses.

114. **Clause 99 (General interpretation)** - To the extent that this clause contains provision relevant to clauses identified in this memorandum as requiring an LCM it has regard to devolved matters in the way described in relation to those clauses.

115. **Clause 101 (Commencement)** - To the extent that this clause concerns provision under clauses identified in this memorandum as requiring an LCM it has regard to devolved matters in the way described in relation to those clauses.

116. **Schedule 3 (Transfer Schemes)** is a schedule which makes further provision about the transfer schemes including those in Clauses 86 and 88. In particular it confers a liability in paragraph 10(3) to pay compensation on the Welsh Ministers as the "appropriate Minister" in relation to a scheme made by the Welsh Ministers under Clause 88 (transfer schemes made by Welsh Ministers). Under paragraph 11 the appropriate Minister may also direct a body corporate to provide certain bodies to provide information necessary for making a scheme. Those bodies include a company jointly owned by the Welsh Ministers. Paragraph 12 contains a definition of the appropriate Minister.

    I consider that the clauses have regard to devolved matters so far as the provision is supplementary to clauses 88 and 90.

117. **Schedule 4 (Minor and consequential amendments)** – paragraphs 3 to 33 make amendments to the Railways Act 1993. The paragraphs requiring LCM are as follows:

- **Paragraph 4** omits general duties of the Welsh Ministers in section 4. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on clauses in this Bill analysed as requiring an LCM.
- **Paragraph 5** makes amendments to conditions of licensing. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on conditions of licensing in this Bill analysed as requiring an LCM.
- **Paragraph 7** removes provision about franchised and operator of last resort services which will no longer be required. I consider that it has regard to devolved matters to the extent that it is consequential on provision about provision of railway services by the public sector in this Bill analysed as requiring an LCM; see in particular clause 31.
- **Paragraph 8** omits provision for review of access charges by ORR. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on provision about access charges in this Bill analysed as requiring an LCM.
- **Paragraph 10** removes references to Schedule 4A of the Railways Act 1993, in consequence of the repeal of that Schedule by this Bill. I consider that has regard to devolved matters to the extent that it is consequential on provision relating to access and access charges in this Bill which have been analysed as requiring an LCM; see in particular clauses 64 and 69.
- **Paragraph 11** omits provision about the provision of passenger services. I consider that an LCM is required as it has regard to

devolved matters to the extent that it is consequential on provision about provision of passenger services in this Bill analysed as requiring an LCM.

- **Paragraph 12** omits provision about the exclusion of liability for breach of statutory duty. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on provision about liability for breach of statutory duty in this Bill analysed as requiring an LCM.
- **Paragraph 14** omits provision about exercise of functions for purpose of encouraging investment in railways. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on provision about the purpose of exercising functions in this Bill analysed as requiring an LCM.
- **Paragraph 15** amends provision about orders for securing compliance. I consider that an LCM is required because it removes functions of the Welsh Ministers (among others) in subsection (5) and (5C) relating to compliance orders.
- **Paragraph 16** amends provision about meaning and effect of railway administration order. I consider that an LCM is required because it removes functions of the Welsh Ministers (among others) in subsection (6)(za) and (d) as appropriate authority to protected railway companies.
- **Paragraphs 17 and 18** amend provision about restriction on making winding up orders in respect of, or voluntary winding up or insolvency of, protected railway company. I consider that an LCM is required because it removes functions of the Welsh Ministers (among others) in section 61(1) and (2) and section 62 of the 1993 Act as appropriate authority in relation to protected railway companies.
- **Paragraph 20** omits provision about financial assistance by Welsh Ministers (and Scottish Ministers) where railway administration orders in force for Welsh protected railway company. I consider that an LCM is required because it removes financial assistance functions of the Welsh Ministers (among others) in section 64A of the 1993 Act.
- **Paragraph 21** omits provision about franchises. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on provision replacing franchising in this Bill analysed as requiring an LCM.
- **Paragraph 23** omits provision about general duties of Passenger Council and delegation of those duties. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on provision about general duties of the PC in this Bill analysed as requiring an LCM.
- **Paragraph 24** inserts and omits defined terms. I consider that an LCM is required to the extent that the provision is consequential on the amendment or omission of defined terms used in clauses regarding devolved matters analysed as requiring an LCM.

- **Paragraph 25** makes changes to the penalty fare provisions of the Railways Act 1993 that reflect the way passenger services will be provided under Part 2 of the Bill. I consider that this paragraph has regard to devolved matters to the extent that it is consequential on provision in this Bill which has been analysed as having regard to devolved matters.
- **Paragraph 26** omits provision as to concessionary travel for railway staff in franchise agreements. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on provision replacing franchising in this Bill analysed as requiring an LCM.
- **Paragraph 27** repeals section 136 of the Railways Act 1993 (grants and subsidies). I consider that it has regard to devolved matters in that it removes functions of the Welsh Ministers as competent authority in relation to persons who operate services of the carriage of passengers and goods by rail for the purposes of the public services obligations regulations and to the extent that it is consequential on provision elsewhere in this Bill which has been analysed as requiring an LCM.
- **Paragraph 30** omits provision as to review of access charges by ORR. I consider that an LCM is required as it has regard to devolved matters to the extent that it is consequential on provision relating to access charges in this Bill analysed as requiring an LCM.
- **Paragraph 31** makes consequential amendments of the provision about railway administration orders. I consider that an LCM is required in respect of the removal of functions of the Welsh Ministers as the appropriate national authority in relation to Welsh protected railway companies.
- **Paragraph 32** makes amendments in relation to the transfer of relevant activities in connection with railway administration orders. I consider that an LCM is required because it removes functions of the Welsh Ministers (among others) as appropriate national authority in relation to transfer schemes.

118. **Schedule 4 (Amendments to Railways Act 2005).** Paragraphs 41 to 71 make amendments to the Railways Act 2005. The paragraphs requiring LCM are as follows:

- **Paragraph 42** repeals sections 3 and 4 of the Railways Act 2005.

The following paragraphs make provision consequential on provisions in the Bill, particularly the ending of the franchising system:

- **Paragraph 44** – Section 6 of the 2005 Act makes provision about financial assistance from the SoS.

- **Paragraph 46** – Section 10(3) to (12) of the 2005 Act makes provision about financial assistance from the Welsh Ministers in relation to railways and railway services.

The following paragraphs make provision consequential on provisions in the Bill, particularly the ending of the franchising system; see in particular clauses 25 to 32:

- **Paragraph 50** – removes text inserting provision in Railways Act 1993 in particular qualifying SoS or Scottish Ministers' duty to provide Welsh services where the Welsh Ministers are not providing funding to a certain level.
- **Paragraph 52** – makes amendments to provisions for proposals by service operators to discontinue non-franchised services.
- **Paragraph 53** – makes amendments to provision for proposals by railway funding authority to discontinue non-franchised services.
- **Paragraph 54** – makes amendments to provision for proposals to discontinue franchised services or secured services.
- **Paragraph 56, 57** – makes amendments to provision about proposals for minor modifications which are closures of services or stations.
- **Paragraph 58** – makes amendments to provision about designation of experimental passenger services.
- **Paragraph 59** – makes amendments to provision about the discontinuance of experimental passenger services.
- **Paragraph 60** – makes amendments to provision about excluding services, networks and stations from the application of provisions about their discontinuance.
- **Paragraph 62** – makes amendments to provision about substitute road services.
- **Paragraph 64** - makes amendments to provision about closure guidance.
- **Paragraph 65** - makes amendments to interpretation provisions to include mayoral combined authorities and mayoral combined county authorities, to omit references to section 30 of the Railways Act 1993, to exclude a reference to "Welsh franchise agreements" and to include reference to Acts of the Senedd.
- **Paragraph 68** – makes provision about the code of practice for disabled rail users in Wales.

The following paragraph makes provision consequential on provisions in the Bill, particularly in relation to track and station access; see in particular clause 59 and 69:

- **Paragraph 70** – omits provision about reviews by ORR of access and licence conditions.

I consider that these amendments have regard to devolved matters to the extent that they are consequential on clauses identified as requiring an LCM.

UK Government view on the need for consent

119. Rt Hon Heidi Alexander MP, Secretary of State for Transport wrote to the previous Cabinet Secretary for Transport and North Wales to advise that in the UK Government's view the consent of the Senedd is needed for clauses 4, 7, 9, 18, 19, 24, 29-31, 33, 34 and 81 (now 83).

120. Whilst I broadly agree with the UK Government's list, I feel there is a divergence between my view and the view of the UK Government on the need for Senedd consent. In addition to the clauses listed in paragraph 119, it is advised that Senedd consent is required for clauses 2, 3, 11, 12, 15-17, 20, 21, 25, 27, 28, 32, 35-37, 39, 40, 42, 43, 45-48, 51, 52, 59-73, 76, 81, 82, 87, 88, 90, 91, 93-99, 101, Schedule 1, Schedule 2 (Part 1), Schedule 3 and Schedule 4 (paragraphs 4, 5, 7, 8, 10-12, 14-18, 20, 21, 23-27, 30-32, 42, 44, 46, 50, 52-54, 56-60, 62, 64, 65, 68 and 70).

Financial implications

121. There are no financial implications for Wales in relation to the UK Government's Railways Bill.

Conclusion

122. The Welsh Government is committed to negotiating for fairer rail funding for Wales and a pathway to full devolution through a new Wales Bill.

123. Given the complicated nature of the current devolution settlement for Wales, I recognise the need for provisions in this Bill which have regard to devolved matters.

124. However, I have concerns about how a number of clauses in the Bill affect the role of Welsh Ministers and the Senedd. I am seeking further engagement to understand the full implications of the Bill and how our aspirations for rail in Wales can be safeguarded and furthered. As a result, I am not yet in a position where I can recommend consent.

Mark Hooper MS, Deputy Minister for Transport

9 July 2026