

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 Cymru¹ 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 05 November 2025. 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
 - Create a statutory role for Mayors to enable local influence
 - 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.

¹ Please note in accordance with Welsh Government policy we refer to the legislature in Wales as “Senedd Cymru” on first use and “the Senedd” thereafter unless the context stipulates otherwise.

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 under this Bill.
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. In my view, consent is required for the following provisions: clauses 3, 4, 7, 9, 11, 12, 15-21, 24, 25, 27-37, 39, 40, 42, 43, 45-48, 51, 52, 59-72, 79-81, 85-90, 92, Schedule 2 (Part 1) and Schedule 3 (paragraphs 4, 5, 8-10, 12-16, 18, 19, 21-23, 25, 26).

Part 1 – The New Regime for the Railways

Chapter 1 – Great British Railways

11. **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 90(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 (see clause 31(4)) or the network over which those services are provided.

12. **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.

13. **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 a GBR-provided Welsh service (as defined in subsection (7)).

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

14. **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.

15. **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.

16. **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 standards for railways activities, passenger services, the railway network, the use of the network, 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, issuing 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 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, ORR and Passengers' Council 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 relate to railway services other than those for the carriage of goods, in connection with a railway administration order or in connection with the Public Service Obligations in Transport Regulations 2023, 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

17. **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.

18. **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.

19. **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.

20. Contains duty for GBR to have regard to the target set by SoS and any target set by Scottish Ministers 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.

21. **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.

22. 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.

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.

23. **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 land planning consent functions within the legislative competence of the Senedd.

24. **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.

25. **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.

26. **Clause 24 (Memorandum of Understanding: Secretary of State and Welsh Ministers).** Duty on the SoS and Welsh Ministers to prepare 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 in particular.

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

27. **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.

28. By clause 90(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.

29. **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 by them under clause 31. They may 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.

30. See also clauses 28 or 29(3) as to services which are exempt from designation.
31. 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.

32. **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.

33. **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.

34. **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.

35. **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.
36. Subsection (1) enables the SoS to secure the provision of a railway passenger service designated under section 25. Subsection (2) limits the ability of the SoS to do so to awarding a contract to GBR or a GBR company.
37. 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.

38. 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 90(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.

39. **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 function in clause 31.

40. **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.

41. **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).

42. 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.

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

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.

44. **Clause 35 (Interpretation)** 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.

45. **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.

46. **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.

47. 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.

48. **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.

49. **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.

50. **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.

51. 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 regulation 10 of 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.

52. **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.

53. **Clause 45 (Dispute resolution arrangements)** 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.

54. **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 licence under SI 2005/3050. 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.

55. **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 regulation 10 of SI 2005/3050 the PC may require the person to prepare a plan to address the contravention.

56. 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.

57. **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.

58. **Clause 51 (Power to make exclusions)** - SoS power to make regulations to exclude certain passenger services from the duties in clauses 37 to 42, 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.

59. **Clause 52 (Interpretation)** 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

60. **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.

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

62. 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.

63. **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.

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 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.
66. A planned train movement that is not a GBR passenger service may be changed or removed only if the train operator agrees.
67. 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.

68. **Clause 62 (Preparation of working timetable)** contains duties on GBR to invite applications for train movements by notice before issuing a timetable.
69. 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.

70. **Clause 63 (Capacity duty)** contains provision which applies to GBR when making access decisions and preparing a timetable.
71. 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.

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.

72. **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.
73. 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.

74. **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)).

75. 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.

76. **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).

77. 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.

78. **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.

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

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

81. 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.

82. **Clause 69 (Access agreements)** amends the Railways Act 1993 to remove GBR's network, stations and light maintenance depots from the provisions:

- which require facility owners to enter into contracts for the use of their railway facilities, get ORR approval of such agreements or amendments to them,
- which enable contracts for the use, on behalf of the SoS, of installations comprised in a network, and
- which provide for ORR to give directions to require more extensive use by a person with an access agreement.

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.

83. **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.

84. **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 the SI 2016/645.

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.

85. **Clause 72 (Regulations about non-GBR infrastructure, facilities & services)** - SoS power to make regulations about non-GBR infrastructure. Broadly, "GBR infrastructure" is any network, station or track that operated

by or on behalf of GBR (clause 73(1) and regulation 3 SI 2016/645). The SoS has power to amend this definition by clause 73(2).

86. 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.

87. The regulations may provide for –

- (a) criminal or civil enforcement,
- (b) appeals,
- (c) functions (including 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 specified person.

88. 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.

89. **Clause 79 (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 in so far as it confers a function on the Welsh Ministers.

90. **Clause 80 (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.

91. 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.

92. **Clause 81 (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.

93. **Clause 85 (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.

94. **Clause 86 (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.

95. **Clause 87 (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.

96. **Clause 88 (Power of SoS to make consequential provision)** - Regulations making consequential provision may amend 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.

97. **Clause 89 (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.

98. **Clause 90 (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.

99. **Clause 92 (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.

100. **Schedule 3** – paragraphs 3 to 26 make amendments to the Railways Act 1993. Analysis of the paragraphs requiring LCM consent are as follows:

- **Paragraph 4** omits general duties of SoS and ORR 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 functions of SoS and ORR 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 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 9** 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 10** 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 12** 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 13** 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 14** 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 15 and 16** 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 18** 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 19** 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 21** 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 22** 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 23** 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 25** 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 26** 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.

UK Government view on the need for consent

101. Rt Hon Heidi Alexander MP, Secretary of State for Transport, has written to me to advise 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 79.
102. Whilst I broadly agree with the UK Government's list, 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 101, I believe that Senedd consent is required for clauses 3, 11, 12, 15-17, 20, 21, 25, 27, 28, 32, 35-37, 39, 40, 42, 43, 45-48, 51, 52, 59-72, 80, 81, 85-90, 92, Schedule 2 (Part 1) and Schedule 3 (paragraphs 4, 5, 8-10, 12-16, 18, 19, 21-23, 25, 26).

Welsh Government position on the Bill

103. **Clause 4** – the clause as drafted confines the relationship to GBR exercising functions of the Welsh Ministers, but not enabling the reverse. I 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. This is particularly applicable to cross border services.
104. **Clauses 18, 19 and 24** - these clauses (a) require Welsh Ministers to put railway-promotion at the core of decision-making by Welsh Ministers when exercising any function relating to railways and railway services, (b) impose a safety duty on Welsh Ministers when exercising railway and railway services and (c) link the MoU to railway and railway services. They appear to extend beyond the regulatory and service railway functions and into consenting construction etc of railways. To that extent, the provisions are within the legislative competence of the Senedd in relation to planning, as limited by the exception in paragraph 187 of Schedule 7B GoWA to those that start, end and remain in Wales. They also impinge on the functions of the Welsh Ministers –
- (a) in relation to consents for railways under the Infrastructure (Wales) Act 2024,
 - (b) in relation to planning for railways under the Transport and Works Act 1992, to make orders relating to the construction or operation of a railway which has effect solely in Wales.
105. **Clauses 25 and 27** - these are partially equivalent powers to the extent that they relate to Welsh components of Welsh services which are not Wales-only services. Despite being in two separate clauses and there being only a partial overlap, that makes them concurrent powers. 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.

106. **Clause 31** - as drafted, Clause 31 empowers SoS to secure passenger services designated under Clause 25 only through GBR or a GBR company via direct award (Regulation 17 of the Public Service Obligations in Transport Regulations 2023). It omits an alternative pathway whereby the SoS may secure those services through arrangements with the Welsh Ministers. My officials are exploring how this would be consistent with :

- TfW's continued delivery in England post-Bill commencement (I can't see how it could continue);
- funding flows, fares control and performance/data obligations [that the Wales and Borders Agreement between Welsh Ministers and Secretary of State for Transport currently anchors];
- the MoU required to be published by clause 24 between the SoS and the Welsh Ministers on how functions will be exercised, the Heads of Terms (copy at Doc 2) for which signals collaborative delivery in Wales & Borders.

107. **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.

108. **Clause 72** - 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. This could significantly impact the operation of CVL.

109. **Clause 81** - 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.

110. My officials have raised the above clause concerns with DfT officials, who have agreed to review them. In particular, DfT have already confirmed that Clause 31 contains a drafting error which will be amended.

111. In light of the above, I want to have further discussions with UK government on these provisions, before sharing assessment as to whether these provisions are in Wales' best interest.

Financial implications

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

Conclusion

113. 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.
114. Whilst I welcome the engagement of the UK Government to date in respect of the application of the provisions in this Bill, further engagement will be required before I am able to confirm to the Senedd the suitability of all provisions for Wales. I will continue to monitor the Bill's developments and update the Senedd as appropriate. Given the anticipated UK Parliamentary timetable of the Bill it is likely that a decision on the legislative motion for this Bill would - based on our established approach on seeking to schedule such debates after the Committee Stage in the Second House - take place in the next Senedd Term.

Ken Skates, MS

A handwritten signature in black ink, appearing to read 'Ken Skates', with a stylized, looping flourish extending to the right.

Cabinet Secretary for Transport and North Wales

21January 2026