

Parliamentary Bureau - Legislative Consent Memorandums

Railways Bill (UK Legislation)

Introduction

- Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

The Railways Bill

- The Railways Bill ("the Bill") was introduced by the UK Government in the House of Commons on Wednesday 5 November 2025.
- An LCM was lodged by Fiona Hyslop MSP, Cabinet Secretary for Transport, on 12 December 2025.
- The LCM states that the Bill as a whole relates to Scotland and that it "makes provision for the establishment of a new rail body to be known as Great British Railways ("GBR") in line with the UK Government's manifesto commitment. GBR will act as the new publicly owned "directing mind" and will be responsible for rail infrastructure and rail passenger services for which the Secretary of State for Transport is currently responsible. The Bill introduces a new process for funding GBR and a new regime governing allocation of and charging for access to rail infrastructure managed by GBR. The Bill also establishes a new Passenger Watchdog, formed from the existing "Transport Focus" (Transport Focus is a trading name, the statutory title is 'the Passengers' Council and this will be retained in the Bill)."
- The LCM further notes that the Bill will provide the Scottish Government with "enhanced public sector options to deliver deeper integration of rail passenger and infrastructure services and improve the overall accountability of the rail system to the Scottish Ministers and the Scottish Parliament. Critically, it offers the opportunity to improve the efficient and effective delivery of services for the benefit of Scotland's rail users, businesses and communities."
- The LCM notes that the UK Government considers that the Bill relates to reserved matters, principally the provision and regulation of railway services, but accepts that the legislative consent process is engaged in respect of clauses 4, 7-10, 12, 18, 19, 22, 23, 26, 29-31, 33-35, 78, 81 and schedule 2 (although it has not confirmed which paragraphs of schedule 2) to the extent that these provisions alter the executive competence of the Scottish Ministers.
- The Scottish Government agrees that the above provisions require legislative consent and, in addition, considers that legislative consent is required in respect of clauses 25, 28, 32, 39, 43, 48, 66, 75, 80, 87, 90, paragraphs 1,2, 8-14 and 16 of schedule 2 and paragraphs 4, 8, 9, 12-18, 22, 25, 26, 33 and 53 of schedule 3.

8. The Scottish Government has indicated that it intends to lodge a motion seeking the Parliament's consent to the relevant provisions of the Bill relating to all of the provisions set out above (paragraphs 6 and 7).

Designation of lead committee

9. The relevant provisions in the Bill appear to fall within the remit of the Net Zero, Energy and Transport Committee.
10. The Committee's remit includes (among other things) considering and reporting on matters falling within the responsibility of the Cabinet Secretary for Transport. The Cabinet Secretary's responsibilities include rail services, public transport policy and transport infrastructure improvement projects.
11. The LCM may also be considered by the Delegated Powers and Law Reform Committee in relation to any provisions in the Bill conferring powers to make subordinate legislation in areas of devolved competence.

Recommendation

12. The Bureau is invited to refer, under Rule 9B.3.5, the LCM to the Net Zero, Energy and Transport Committee as lead committee.

Crime and Policing Bill (UK Legislation)

Introduction

13. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

Crime and Policing Bill

14. An LCM relating to the Crime and Policing Bill was lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs on 16 May 2025. The LCM states that the Bill makes provision about "anti-social behaviour, offensive weapons, offences against people (including sexual offences), property offences, the criminal exploitation of persons, sex offenders, stalking and public order, the powers of the police, the border force and other similar persons. It also makes provisions about confiscation; about the police; about terrorism and national security, and about international agreements relating to crime; and about the criminal liability of bodies; and for connected purposes."
15. Relevant amendments were added to the Bill through amendments tabled on 24 April 2025 and agreed to on 8 May 2025 at committee stage. A supplementary LCM was subsequently lodged by the Cabinet Secretary for Justice and Home Affairs on 12 June 2025. A second supplementary LCM was then lodged by the Cabinet Secretary on 1 August 2025, following the tabling of further amendments to the Bill on 10 June 2025.

16. This third supplementary LCM has been lodged by the Cabinet Secretary on 19 December 2025. This followed the tabling of amendments on 27 October, 3 November and 12 November 2025, which extend provisions to Scotland covering offensive weapons, online sales of knives and crossbows, child criminal exploitation prevention orders, child sex abuse image generators, possession of advice or guidance about creating child sexual abuse or child sexual abuse images and providing for a technology testing defence and creating new offences relating to pornographic images of strangulation or suffocation to in Scotland. It also includes clause 41 of the Bill, which was inadvertently overlooked in the second supplementary LCM.
17. The Scottish Government has indicated that it intends to lodge a motion seeking the Parliament's consent to the relevant provisions of the Bill relating to clause 28 (offensive weapons), clause 36 (duty to report bulk sale of knives), clause 41 (proving the offence of child criminal exploitation at clause 40), new clauses after clause 55 and Schedule 5 (child criminal exploitation prevention orders: Scotland), new clause after clause 63 (child sexual abuse image-generators: Scotland), new clause after clause 64 (possession of advice or guidance about creating child sexual abuse or CSA images), new clauses after clause 84 (technology testing defence), and new clauses after clause 84 (pornographic images of strangulation or suffocation), so far as these matters fall within the legislative competence of the Scottish Parliament.

Designation of lead committee

18. The original LCM and subsequent supplementary and second supplementary LCMs were referred to the Criminal Justice Committee as the relevant provisions fell within its remit.
19. The Committee's remit is to consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland. The Cabinet Secretary is responsible (among other things) for the justice system and criminal law procedure, police and offender services, and courts and sentencing.
20. This supplementary LCM therefore appears to fall within the remit of the Criminal Justice Committee.
21. The LCM may also be considered by the Delegated Powers and Law Reform Committee in relation to any provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation in areas of devolved competence.

Recommendation

22. The Bureau is invited to refer, under Rule 9B.3.5, the third supplementary LCM relating to the Crime and Policing Bill to the Criminal Justice Committee as lead committee.

Parliamentary Business Team
December 2025