



The Scottish Parliament  
Pàrlamaid na h-Alba

## Delegated Powers and Law Reform Committee

Fiona Hyslop MSP

Cabinet Secretary for Transport

**21 January 2026**

Dear Cabinet Secretary,

### Railways Bill LCM

The Delegated Powers and Law Reform Committee considered the delegated powers within devolved competence in the above Bill at its meeting on 20 January 2026, and agreed to write to the Scottish and UK Governments to ask further questions.

The Committee's questions focus on the "non-legislative" delegated powers the Bill confers on the Scottish Ministers to make arrangements, to issue directions, to issue guidance and to designate services which have no parliamentary procedure or oversight attached. In particular, why some of the "non-legislative" powers are not expressed as powers to make subordinate legislation, and whether they should be.

First:

- (a) Clause 4: Exercise of functions of Scottish and Welsh Ministers, and
- (b) Clause 26: Power for the Scottish Ministers to designate railway passenger services that they can provide or secure the provision for.

In relation to Clause 4, it would be helpful to understand why the Bill proposes that the Scottish Ministers' functions relating to railways be delegated administratively, rather than through legislative means

In relation to Clause 26, it would be helpful to better understand the decision behind not "upgrading" this power to be framed as a power to make subordinate legislation subject to parliamentary procedure, when the power to grant exemptions from designation in Clause 29 has been "upgraded" in this way (when compared to the similar provisions these replicate in section 23 of the Railways Act 1993).

**The Committee accordingly asks the Scottish Government whether it considers these powers should be framed as powers to make subordinate legislation, to give the Scottish Parliament a role in scrutiny of (a) the delegation of the Scottish Ministers' functions, and (b) the designation of services.**

Second:

Contact: Delegated Powers and Law Reform Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email: [dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot). We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

- (c) Clause 10: Power for the Scottish Ministers to issue Guidance to GBR, and
- (d) Clause 22: Power for the Scottish Ministers to issue Guidance to the ORR

The Committee notes that the clauses confer duties on GBR and the ORR to have regard to guidance issued under these powers in the exercise of their functions, and as such the guidance has some legislative effect. In relation to clause 10, the Committee also notes that the conferral of the Scottish Ministers' functions to GBR under clause 4 is also an administrative process which is not subject to parliamentary oversight. The procedure chosen for issuing guidance on the exercise of those functions requires to be viewed in that context.

**The Committee accordingly asks the Scottish Government why these guidance-issuing powers are not subject to some form of parliamentary procedure, to give the Scottish Parliament a role in scrutiny of such guidance?**

The Committee seeks a response to its questions by **Friday 30 January 2026**.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Stuart".

**Stuart McMillan MSP**

**Convener**