



Department for Transport

From the Secretary of State
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Stuart McMillan MSP
Convener
Delegated Powers and Law Reform Committee
The Scottish Parliament
Edinburgh
EH99 1SP

3 February 2026

Dear Stuart,

Thank you for your letter of 21 January, from the Scottish Parliament Delegated Powers and Law Reform Committee.

I welcome your timely consideration of the Railways Bill and appreciate the Committee's interest and follow-up. I understand the Cabinet Secretary for Transport will also be responding to you on your questions. Through both my own and official level engagement with the Cabinet Secretary and Scottish Government, I understand we will be aligned in our response.

Regarding your question about clause 4, Scottish and Welsh Ministers' functions are already devolved to them through legislation. Clause 4 enables Ministers to deliver their functions through a range of entities that are subject to the same duties as Scottish Ministers (and some additional requirements such as the requirement to consider the rail strategies and freight targets). We do not consider the administrative burden of legislation as a necessary measure on the basis that Scottish Ministers are empowered to enter such arrangements; and where this occurs, transparency will be provided through the requirement that the terms of such arrangements must be published. This is not dissimilar to delegated powers that exist in the current railways regime, where Scottish Ministers deliver passenger services through a contract with ScotRail. This clause ensures there are a range of options for Scottish Ministers to deliver their devolved railway functions within Scotland and Wales, including setting up joint companies to deliver a vertically integrated railway that combines Great British Railways (GBR) infrastructure and devolved passenger services, with associated efficiency and performance benefits that are at the heart of the Railways Bill.

I understand your query regarding clause 26. The power to designate services has not been upgraded to a legislative power as the legislation is looking to replicate the provisions in the Railways Act 1993. The designation process itself does not create the legal requirement on the delivery body (e.g. Scotrail) to deliver passenger services; rather this is through the public service contracts provided for in clause 31.

Scottish Ministers may secure designated services either by providing them directly, or by making a direct award of a public service contract under regulation 17 of the Public Service Obligations in Transport Regulations 2023 to one or more public sector companies. Scottish Ministers will continue to be accountable to the Scottish Parliament, and placing further legislative restriction on the designation process would limit Scottish Ministers' ability to deliver as effectively. In contrast, clause 29 is a legislative delegated power to allow each administration to determine which services should fall outside the scope of designation, offering flexibility in managing their respective networks – for example enabling a local authority to deliver a service on their behalf. Given an exemption from designation acts as an exception to the normal pathway to provide or enter a public service contract, this power is exercisable by regulations.

We strongly believe framing these clauses as powers to make subordinate legislation would add unnecessary legislative restriction on the railway, where Ministers are already accountable to their respective administrations.

Regarding powers of guidance over GBR and the Office of Rail and Road (ORR), the Bill enables Scottish Ministers to provide guidance to GBR and the ORR, as part of its role as funder of the railway in Scotland. These powers often address challenges at short notice, so an efficient underlying process is important. I note the nature of such guidance is not binding on GBR and the ORR. The process is designed to enable Scottish Ministers to steer the sector in matters that they are responsible for, whilst retaining GBR's operational independence as the directing mind for the sector. The process for issuing guidance will be within the powers of Scottish Ministers. In the interests of transparency, Scottish Ministers will be required by statute to publish directions and guidance issued to GBR. This will ensure stakeholders are fully aware of any guidance given. As part of the Memorandum of Understanding between the Secretary of State and Scottish Ministers, we will set out the principles underpinning the issuance of guidance, which will include the key points of engagement. Scottish Ministers will remain directly accountable to the Scottish Parliament, and therefore there will continue to be sufficient oversight of any guidance, and the underpinning process Scottish Ministers have taken.

Thank you once again for bringing these important matters to my attention, and I hope this response helps clarify them.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Heidi Alexander', written in a cursive style.

Rt Hon Heidi Alexander MP

SECRETARY OF STATE FOR TRANSPORT