

Supplementary Legislative Consent Memorandum

Railways Bill

Background

1. This memorandum has been lodged by Fiona Hyslop MSP, Cabinet Secretary for Transport, in accordance with Rule 9B.3.1(c)(ii) of the Parliament's Standing Orders. It should be read in conjunction with the [Scottish Government's previous legislative consent memorandum \(LCM\) on the Bill](#).
2. The Railways Bill ("the Bill") was introduced by the UK Government in the House of Commons on Wednesday 5 November 2025. The Bill is available on the UK Parliament website via this link: [Railways Bill - Parliamentary Bills - UK Parliament](#). The Bill is currently at House of Commons Committee Stage.
3. The first LCM on the Bill was lodged on 12 December 2025 ([LCM-S6-69](#)). The LCM recommended consent to clauses 4, 7-10, 12, 18, 19, 22, 23, 25, 26, 28-35, 39, 43, 48, 66, 75, 78, 80, 81, 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 of the Bill being considered by the UK Parliament.
4. This memorandum concerns amendments to the Bill tabled by the UK Government on 15 and 26 January 2026. Given that the amendments were tabled such a short time apart and with a view to minimising the burden on the Scottish Parliament, it was considered prudent to prepare one supplementary LCM for all of the relevant amendments. The amendments were tabled in the name of Keir Mather MP (Parliamentary Under-Secretary (Department for Transport)) and are available on the UK Parliament website via this link – [Committee stage Amendments on Railways Bill - Parliamentary Bills - UK Parliament](#).

Contents of the Bill

5. The Bill 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).

6. The Bill is comprised of 4 Parts and 3 Schedules:
- Part 1 (The new regime for the railways) and Schedules 1 and 2 include provision:
 - Establishing GBR and setting out a range of statutory functions it will be required to exercise, including: managing, operating, maintaining, renewing and improving the rail network; providing access to the network; operating passenger services for which it is responsible; selling tickets for passenger services; providing services to facilitate the provision of railway services; and carrying out research and publishing advice;
 - Giving the Scottish Ministers the power to make arrangements in terms of which GBR, a subsidiary of GBR or a company jointly owned by GBR and the Scottish Ministers will exercise the Scottish Ministers' functions in relation to railways or railway services on their behalf. A similar power is given to the Welsh Ministers;
 - Giving the Secretary of State and the Scottish Ministers power to issue directions and guidance to GBR in relation to the exercise of its statutory functions;
 - Placing a duty on GBR, the Secretary of State, the Scottish Ministers, the Welsh Ministers and the rail regulator, the Office of Rail and Road, to take account of various matters in exercising their relevant rail functions;
 - Giving the Secretary of State the power to issue a licence to GBR;
 - Establishing a new process for funding GBR; and
 - Obliging the Scottish Ministers and the Secretary of State to enter into a Memorandum of Understanding setting out how they will work together in the exercise of their functions. A similar duty is imposed on the Secretary of State and the Welsh Ministers.
 - Part 2 (Passenger and station services) includes provision:
 - Requiring the Secretary of State to designate the railway passenger services for which GBR should be responsible;
 - Requiring the Scottish Ministers to designate Scotland-only and particular cross-border services for which they are to be responsible;
 - Requiring the Welsh Ministers to designate Welsh services for which they are to be responsible;
 - Setting out the responsibilities of GBR, the Secretary of State, the Scottish Ministers and the Welsh Ministers in relation to designated services;
 - Giving the Scottish Ministers powers to provide passenger services they designate themselves or to secure the provision of those services by direct award of a public service obligation contract to GBR or a public sector company owned by the Scottish Ministers;

- Giving the Secretary of State, the Scottish Ministers and the Welsh Ministers powers in relation to fares for the rail passenger services they designate; and
- Establishing 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 under the Bill).
- Part 3 (Access to infrastructure and services) includes provision:
 - Establishing a new regime governing allocation of and charging for access to infrastructure for which GBR is responsible;
 - Providing rights of appeal on access matters to the Office of Rail and Road; and
 - Giving the Office of Rail and Road certain monitoring functions in relation to the exercise by GBR of its statutory functions.
- Part 4 (General) and Schedule 3 make general provision in areas such as regulation making procedures, consequential amendments, interpretation, commencement, etc.

Content of UK Government amendments

7. As noted above, the UK Government tabled 54 amendments to the Bill at the House of Commons Committee Stage. Many of these amendments make minor, technical changes to various clauses in the Bill. There are also a number of amendments which add provisions to Schedule 3 of the Bill (Minor and consequential amendments), the effect of which is mainly to amend or revoke further references to ‘franchising’ in the Railways Act 1993 (“the 1993 Act”) and the Railways Act 2005 (“the 2005 Act”), which have become redundant as a result of provision in the Passenger Railway Services (Public Ownership) Act 2024 (“the 2024 Act”) and other provisions in Schedule 3 of the Bill.

8. There are also a number of amendments which will add new provisions to the Bill, including powers for the Secretary of State, the Scottish Ministers and the Welsh Ministers to make statutory transfer schemes.

Provisions which require the consent of the Scottish Parliament

9. The UK Government considers that the amendments mainly relate to reserved matters, principally the provision and regulation of railway services (Head E2 of Schedule 5 of the Scotland Act 1998). The UK Government does however consider that new Clause 61, new Clause 62, new Clause 64, new Schedule 1, the amendment to clause 7 of the Bill (amendment 166), the amendment to clause 90 of the Bill (amendment 263), and amendments to Schedule 3 of the Bill (amendments

190 and 195), will trigger the need for legislative consent on the basis that they alter the executive competence of the Scottish Ministers.

10. The Scottish Government agrees that all of the amendments referred to above trigger the requirement for legislative consent for the reasons given by the UK Government. However, the Scottish Government considers that legislative consent is also required in relation to other amendments to Schedule 3 of the Bill (amendments 188, 189, 191, 196, 197, 198 and 199). The reasons for the Scottish Government's position on all of the amendments in view are set out in more detail below.

New Clause 61 (Transfer schemes made by the Secretary of State)

11. This provision enables the Secretary of State to make schemes transferring property, rights and liabilities in connection with railways or the provision of railway services. Such schemes may be used, for example, to allow the transfer of property, rights and liabilities required in order to provide rail passenger services to GBR, a company wholly owned by GBR, or a company jointly owned by any of: (i) the Secretary of State, (ii) the Welsh Ministers, (iii) the Scottish Ministers and (iv) Great British Railways. In terms of subsection (2) of this clause, the Secretary of State must obtain the consent of the Scottish Ministers before making a scheme that contains provision for the transfer of property, rights and liabilities to or from a company jointly owned by the Scottish Ministers. Insofar as this provision confers a new function on the Scottish Ministers, it alters the Scottish Ministers' executive competence and triggers the need for legislative consent.

New Clause 62 (Transfer schemes made by the Scottish Ministers)

12. This provision enables the Scottish Ministers to make schemes transferring property, rights and liabilities in connection with railways or the provision of railway services. Such schemes can be made, for example, to transfer property, rights and liabilities between: (i) the Scottish Ministers or a company wholly owned by the Scottish Ministers on the one hand and (ii) GBR, a former GBR, a proposed GBR, a company wholly owned by GBR or a company jointly owned by the Scottish Ministers and GBR on the other. The Scottish Ministers are obliged to obtain the consent of the Secretary of State before making such a transfer scheme. This provision also enables schemes transferring property, rights and liabilities between: (i) wholly owned companies of the Scottish Ministers and (ii) a wholly owned company of the Scottish Ministers and the Scottish Ministers. There is no requirement for the Scottish Ministers to obtain the consent of the Secretary of State for these schemes. Insofar as this provision confers new functions on the Scottish Ministers, it alters the executive competence of the Scottish Ministers and triggers the requirement for legislative consent.

New Clause 64 (Further provision about transfer schemes)

13. This provision introduces a new Schedule to the Bill (new Schedule 1 (Transfer schemes), discussed further below) which makes further provision about what a transfer scheme made by the Scottish Ministers under new Clause 62 can contain or do. New Clause 64 also defines the terms “a former GBR” and “a proposed GBR”. Under new clause 64(2) “a former GBR” means a body corporate formerly designated as Great British Railways under section 1; and “a proposed GBR” means a body corporate that the Secretary of State proposes to designate as Great British Railways under section 1. Both of these terms are used in new Clause 62 to describe the bodies to and from which a scheme can transfer property etc. and, as such, this clause also alters the executive competence of the Scottish Ministers and triggers the need for legislative consent.

New Schedule 1 (Transfer schemes)

14. This provision adds a new Schedule to the Bill which makes supplementary provision about transfer schemes made under new Clause 61 and new Clause 62. This includes provision specifying the types of property, rights and liabilities that can be the subject of a transfer scheme, the effect of a scheme and compensation for third parties. Paragraph 11 of the Schedule also confers a power on “the appropriate Minister” to direct specified bodies corporate to provide such information as the Minister considers necessary for the purposes of making a scheme. The Scottish Ministers are the “appropriate Minister” in relation to a transfer scheme made by the Scottish Ministers. Insofar as the provisions in this Schedule confer new functions on the Scottish Ministers, they alter the executive competence of the Scottish Ministers and trigger the requirement for legislative consent.

Amendment to clause 7 of the Bill (Directions by the Secretary of State)

15. Clause 7 provides the Secretary of State with the power to give GBR directions as to the exercise of its functions under the Bill. Clause 7(4) requires the Secretary of State to obtain the consent of the Scottish Ministers before issuing a direction (other than a direction in relation to access to infrastructure and services) in a manner that directly affects the operation of a GBR-provided Scottish service (i.e. a service provided by GBR on behalf of the Scottish Ministers). Insofar as it conferred a new function on the Scottish Ministers, clause 7 triggered the need for legislative consent and this was set out in paragraph 8 of the first LCM.

16. This amendment (Amendment 166) alters the terms of clause 7(4) so that the requirement for the Scottish Ministers’ consent will now apply when the Secretary of State exercises the power to make directions (other than in relation to access and infrastructure services) in a manner which directly affects the exercise by GBR of functions on behalf of the Scottish Ministers under section 4 of the Bill (Exercise of functions of the Scottish and Welsh Ministers) or under a contract awarded under section 31 of the Bill (Provision of rail passenger services).

17. This amendment broadens the circumstances in which the Secretary of State will be required to obtain the Scottish Ministers' consent before giving a direction to GBR and, in the Scottish Government's view, is a welcome development of this important measure of control for the Scottish Ministers. Insofar as this modifies an executive function of the Scottish Ministers in a way which goes beyond the description of the function in the first LCM for the Bill, this amendment triggers the legislative consent requirement.

Amendments to Schedule 3 of the Bill (Minor and consequential amendments)

18. There are a large number of UK Government amendments to Schedule 3 of the Bill. The first of these amendments which triggers the legislative consent requirement is Amendment 188 (which inserts a new paragraph 22A into Schedule 3). New paragraph 22A amends section 130 of the 1993 Act (Penalty fares) which confers a power on the Scottish Ministers to make regulations about penalty fares.

19. Section 130(1A) provides that the power will only be exercised in relation to trains and stations used for the purposes of railway passenger services provided under Scottish franchise agreements or a Scotland-only service/service secured by Scottish Ministers. The amendment changes the purposes specified in section 130(1A) by removing the references to 'Scottish franchise agreements' so that the power can be exercised in relation to trains and stations used for the purposes of a Scotland-only services or any other railway passenger service provided or secured to any extent by the Scottish Ministers under the Bill. This is an alteration of the Scottish Ministers' executive competence and triggers the requirement for legislative consent.

20. Amendment 189 adds a new paragraph 23A to Schedule 3 of the Bill. The amendment repeals section 136 of the 1993 Act (Grants and subsidies), which provides that the Scottish Ministers (and the Secretary of State and the Welsh Ministers) are the "competent authority" for the purposes of the Public Service Obligations in Transport Regulations 2023 ("the 2023 Regulations"). The 2023 Regulations now contain a definition of "competent authority" which it is considered would be met by the Scottish Ministers and, that being so, it is considered that the provision in section 136 is redundant. Insofar as this amendment removes a function conferred on the Scottish Ministers by section 136, it appears to trigger the legislative consent requirement on the basis that it alters the Scottish Ministers' executive competence.

21. Amendment 190 adds a new paragraph 24A to Schedule 3 of the Bill. New paragraph 24A amends section 149 of the 1993 Act (service of documents) so as to add a provision enabling service of any notice required under the 1993 Act or the Bill to be made by electronic means. In the Scottish Government's view this is a welcome change which ensures that service methods keep pace with current technology and practice. Insofar as this provides the Scottish Ministers with a power to serve documents under the 1993 Act in a new way and makes provision for the methods of service of documents under the Bill, it alters an executive function of the Scottish Ministers and triggers the legislative consent requirement.

22. Amendment 191 adds a new paragraph 25A to Schedule 3 of the Bill. New paragraph 25A amends Schedule 6 of the 1993 Act (Railway administration orders) which applies parts of the Insolvency Act 1986 (“the 1986 Act”) to Railway Administration Orders made under the 1993 Act, with certain modifications. Various provisions of the 1986 Act, as modified, give functions to the “appropriate national authority”. The Scottish Ministers are the “appropriate national authority” in relation to orders applying to Scottish protected railway companies – i.e. a protected railway company only in respect of activities carried on by it under a Scottish franchise agreement. This amendment removes the functions of “appropriate national authority”. Insofar as this provision removes functions of the Scottish Ministers under the 1986 Act, as modified, it alters their executive competence and triggers the need for legislative consent.

23. Amendment 195 inserts new paragraph 32A into Schedule 3 of the Bill. New paragraph 32A repeals section 3 of the 2005 Act, which made various amendments to section 4 of the 1993 Act (General duties of the Secretary of State and the Office of Rail and Road), including conferring general duties and powers on the Scottish Ministers. Section 4 of the 1993 Act will be repealed (by paragraph 4 of Schedule 3 of the Bill) and replaced with similar duties and powers in sections 18, 19 and 22 of the Bill (see paragraph 60 of the first LCM). The amendments to section 4 of the 1993 Act are therefore redundant and so they are repealed by paragraph 32A. Insofar as this provision removes functions of the Scottish Ministers, it alters the executive competence of the Scottish Ministers and triggers the need for legislative consent.

24. Amendment 199 inserts a new paragraph 36A into Schedule 3 of the Bill. New paragraph 36A repeals Schedule 4 (Reviews by ORR of access charges and licence conditions) of the 2005 Act, which amends Schedule 4A of the 1993 Act and confers various functions on the Scottish Ministers in relation to access charges reviews. Schedule 4A of the 1993 Act will be repealed (by paragraph 25 of Schedule 3 of the Bill) and replaced by new provisions for funding rail infrastructure in section 12 and Schedule 2 of the Bill (see paragraph 61 of the first LCM). The amendments to Schedule 4A are therefore redundant. Insofar as new paragraph 36A removes functions of the Scottish Ministers, it alters the executive competence of the Scottish Ministers and triggers the need for legislative consent.

25. Amendment 196 inserts a new paragraph 33B into Schedule 3 of the Bill. New paragraph 33B amends section 8 of the 2005 Act (Franchising and financial assistance in relation to Scotland) which gives the Scottish Ministers powers to provide financial assistance for various rail purposes, including for the purposes of being a party to a franchise agreement. This amendment removes that function (leaving the function of providing funding for the other purposes specified in section 8 in place). Insofar as the amendment modifies a function of the Scottish Ministers, it alters the executive competence of the Scottish Ministers and triggers the need for legislative consent.

26. Amendment 197 inserts new 34E into Schedule 3 of the Bill. New paragraph 34E amends section 23 of the 2005 Act (Proposal by funding authority to discontinue non-franchised service), which gives the Scottish Ministers as “national authority”

various functions in relation to such proposals. New paragraph 34E replaces the reference in section 23(1)(a) to 'non-franchised services' with a reference to 'services provided otherwise than under s31 (Provision of railway passenger services) of the Bill'. This amendment modifies an existing function of the Scottish Ministers and as such alters their executive competence. Therefore, this provision triggers the need for legislative consent.

27. Amendment 197 inserts new paragraph 34F into Schedule 3 of the Bill. New paragraph 34F amends section 24 of the 2005 Act (Proposals to discontinue franchised or secured services), which gives the Scottish Ministers functions as "national authority" in relation to such proposals. New paragraph 34E replaces references in section 24 to 'franchised services' with references to 'services provided under s31 (Provision of railway passenger services) of the Bill'. This amendment modifies an existing function of the Scottish Ministers and as such alters their executive competence and triggers the need for legislative consent.

28. Amendment 197 inserts new paragraph 34J into Schedule 3 of the Bill. New paragraph 34J amends section 36 of the 2005 Act (Designation of experimental passenger services), which gives the Scottish Ministers the power to designate such services where the services are Scotland-only services or specified cross border services. Paragraph 34F amends section 36 of the 2005 Act by removing references to 'franchising agreements' from that section. This amendment modifies an existing function of the Scottish Ministers and as such alters their executive competence. Therefore, this provision triggers the need for legislative consent.

29. Amendment 197 inserts new paragraph 34K into Schedule 3 of the Bill. New paragraph 34K amends section 37 of the 2005 Act (Discontinuance of experimental passenger services), which gives the Scottish Ministers functions in relation to the discontinuance of experimental passenger services they fund. It removes the references to 'services provided under a franchise agreement' from section 37. This amendment modifies an existing function of the Scottish Ministers and as such alters their executive competence. As such this provision triggers the need for legislative consent.

30. Amendment 197 inserts new paragraph 34N into Schedule 3 of the Bill. New paragraph 34N amends section 40 of the 2005 Act (Substitute road services), which gives the Scottish Ministers functions as "appropriate national authority" to secure road services as a substitute for franchised services and services secured by the Scottish Ministers. It amends the definition of "appropriate national authority" in section 40 by removing the reference to 'franchised services' and replacing it with a reference to 'services which may be designated by the Scottish Ministers under section 26 of the Bill (Designation of services by Scottish Ministers)'. Insofar as this provision modifies the functions of the Scottish Ministers, it alters the executive competence of the Scottish Ministers and triggers the need for legislative consent.

31. Amendment 198 inserts a new paragraph 35A into schedule 3 of the Bill. New paragraph 35A amends section 48 of the 2005 Act (Code of practice for disabled rail users in Scotland), which gives the Scottish Ministers the power to issue a code of practice for protecting the interests of users or relevant Scottish services. Paragraph

35A amends the definition of “relevant Scottish services” to remove the reference to ‘services provided under a franchise agreement’ and replace it with a reference to a ‘Scotland-only service or railway passenger service provided under section 31 (provision of railway passenger services) of the Bill’. Insofar as paragraph 35A alters the Scottish Ministers existing functions, it alters the executive competence of the Scottish Ministers, triggering the requirement for legislative consent.

Amendment to Clause 90 of the Bill (Interpretation)

32. Amendment 263 amends clause 90 of the Bill (Interpretation), specifically the definition of “wholly owned” and “jointly owned” provided in clause 90(3). Clause 90(3) of the Bill defines “wholly owned” and “jointly owned” by reference to section 58 of the 2005 Act. Section 58 (4) of the 2005 Act provides that a company is wholly owned by a person at any time when it has no members other than one or more of: that person; a company which is wholly owned by that person; and a person acting on behalf of that person or of such a company.

33. Section 58(5) provides that a company is jointly owned by two or more persons (“the relevant persons”) at any time when it has no members other than two or more of: the relevant persons; a company which is jointly owned by two or more of the relevant persons or which is wholly owned by one of them; and a person acting on behalf of one or more of the relevant persons or of such a company. The amendment changes clause 90(3) so that these definitions do not apply to the expression “wholly owned by the Crown” – this expression is to be defined as per section 151(2) of the 1993 Act – i.e. a company which has no members other than: the Secretary of State or a Government department; a company which is itself wholly owned by the Crown; or a person acting on behalf of the Secretary of State, a Government department or such a company.

34. The provision made in new Clause 61 of the Bill (Transfer schemes made by the Secretary of State) relies on this expression and this amended definition. This includes the requirement in new Clause 61(2) for the Secretary of State to obtain the consent of the Scottish Ministers before making a transfer scheme applying to a company jointly owned by the Scottish Ministers. Insofar as the function conferred on the Scottish Ministers by new Clause 61 relies on this definition, this amendment also confers a new function on the Scottish Ministers and alters their executive competence. As such, this amendment triggers the need for legislative consent.

Reasons for recommending legislative consent

35. Section 28(8) of the Scotland Act 1998 recognises that the UK Government will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament. Devolution Guidance Note 10 states that Bills require the consent of the Scottish Parliament if they contain provision applying to Scotland and which are for devolved purposes or if they alter the legislative competence of the Scottish Parliament or the executive competence of the Scottish Ministers.

36. As described above, the Scottish Government is presently of the view that all of the amendments referred to in the preceding paragraphs alter the executive competence of the Scottish Ministers.

37. A good number of the amendments in view make minor and consequential amendments to the 1993 Act and 2005 Act to remove references to franchising and franchise agreements (which have been made redundant by provisions in the 2024 Act and the Bill). In other cases, the amendments remove or modify functions of the Scottish Ministers that have become redundant as a result of other provisions in the Bill which repeal functions of the Scottish Ministers under the 1993 and 2005 Acts and replace them with similar functions under the Bill. The Scottish Government welcomes the removal of all these redundant references in the interests of clarity.

38. An amendment is also made to Clause 7 of the Bill (Directions by the Secretary of State), more specifically to the requirement in subsection (4) of that clause for the Secretary of State to obtain the consent of the Scottish Ministers before issuing directions (other than directions relating to access to infrastructure) to GBR which would directly affect the operation of passenger services by GBR on behalf of the Scottish Ministers. The amendment broadens the circumstances in which the Scottish Ministers' consent is required so that it will be required where a direction (other than a direction in relation to access to infrastructure) will directly affect the exercise by GBR of functions on behalf of Ministers in terms of section 4 (Exercise of Scottish and Welsh Ministers' functions) or section 31 (Provision of railway passenger services). This is a welcome development to this important measure of control for the Scottish Ministers.

39. The amendments introducing transfer scheme powers are considered crucial by the Scottish and UK Government in order that the Scottish Ministers and the Secretary of State can make a transfer scheme to enable the efficient movement of assets, rights and liabilities between public sector bodies.

40. This will be essential should the Scottish Ministers choose to pursue any of the more integrated delivery options under the Bill. However, even if the Scottish Ministers do not pursue those options, the current arrangements for the provision of ScotRail and Caledonian Sleeper passenger services (secured through wholly owned companies of the Scottish Ministers in terms of section 30 of the 1993 Act – “the operator of last resort duty”) are time limited. It may therefore be necessary to transfer property, rights and liabilities in order to put new delivery arrangements in place at that point and therefore it is vital that the Scottish Ministers have the power to make transfer schemes for that purpose also.

41. The amendments that the UK Government have tabled in relation to transfer schemes address these requirements and are very welcome.

42. As noted above, the transfer scheme amendments include a requirement for the Scottish Ministers to obtain the consent of the Secretary of State before making a scheme which transfers property, rights and liabilities to or from GBR or a company wholly owned by GBR. This is considered appropriate as a reflection of the fact that

those companies are ultimately owned (or jointly owned) by the Secretary of State. The amendments provide a reciprocal requirement for the Secretary of State to obtain the Scottish Ministers' consent when making a scheme transferring property etc to or from a company jointly owned by the Scottish Ministers and GBR. This is another very welcome measure of control for the Scottish Ministers.

Consultation

43. As this is a UK Bill, the Scottish Government had no locus to consult on its contents. However, consultation on these amendments has not been carried out due to their largely technical nature.

44. As part of the UK Government's wider consultation on the Railways Bill, the UK Government indicated that it intended to include provisions for a transfer scheme within the Bill. This did not feature in the published summary of consultation responses, which is presumed to reflect the technical and uncontroversial nature of this provision.

Financial implications

45. It is possible that it will be necessary to pay compensation to a transferor or a third party in connection with provision made in a transfer scheme. At this stage it is not possible to confirm if such payments would be required or estimate what their costs would be. This is pending further consideration by officials.

46. It should also be noted that, insofar as such transfer schemes allow for the transfer of assets, rights and liabilities between public bodies, the expectation is that such a scheme will look to minimise tax liability of transferred assets to the greatest degree possible.

47. Discussions are ongoing with Scottish Government Tax officials and Department for Transport and Treasury officials as to what provision may be required in connection with devolved tax implications of such schemes.

Post EU scrutiny

48. The amendments considered in this LCM do not appear to relate to assimilated law or to give rise to any potential for divergence with the EU.

Conclusion

49. It is the considered view of the Scottish Government that these amendments to the Railways Bill do not compromise the current executive powers of the Scottish Ministers.

50. The amendments in view will revoke redundant references to franchising in the 1993 and 2005 Acts and confer vital new powers on the Scottish Ministers to make transfer schemes. The amendments will also further strengthen the requirement for the Secretary of State to obtain the consent of the Scottish Ministers before giving directions to GBR (other than directions about access to infrastructure) in relation to functions GBR exercise on behalf of the Scottish Ministers. This is a welcome development of an important control measure for the Scottish Ministers.

51. The Scottish Government therefore recommends consent to all of the amendments outlined in paragraphs 8 to 31 above, these being new Clauses 61, 62 and 64, new Schedule 1, the amendments to clause 7 and clause 90, and the amendments to Schedule 3 (inserting new paragraphs 22A, 23A, 24A, 25A, 32A, 33B, 34E, 34F, 34J, 34K, 34N, 35A and 36B to Schedule 3). The draft motion on legislative consent below contains the provisions included in the initial LCM lodged on 12 December and all of the amendments described here.

Draft motion on legislative consent

52. The draft motion, which will be lodged by the Cabinet Secretary for Transport, is:

“That the Parliament agrees that the relevant provisions of the Railways Bill, introduced in the House of Commons on 5 November 2025, relating to clauses 4, 7-10, 12, 18, 19, 22, 23, 25, 26, 28-35, 39, 43, 48, 66, 75, 78, 80, 81, 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, new clauses 61, 62 and 64, new Schedule 1, the amendments to clause 7 and clause 90, and the amendments to Schedule 3 (inserting new paragraphs 22A, 23A, 24A, 25A, 32A, 33B, 34E, 34F, 34J, 34K, 34N, 35A and 36B to Schedule 3), should be considered by the UK Parliament.”

Scottish Government
February 2026

This Supplementary Legislative Consent Memorandum relates to the Railways Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 20 February 2026

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