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## **Net Zero, Energy and Transport Committee**

# **Net Zero, Energy and Transport Committee Report on the Legislative Consent Memorandum and supplementary Legislative Consent Memorandum on the Railways Bill**



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# Contents

<b>Introduction</b>	<b>1</b>
<b>Content of the LCM and supplementary LCM</b>	<b>2</b>
<b>Committee Consideration</b>	<b>4</b>
Delegated Powers and Law Reform Committee consideration	4
Net Zero, Energy and Transport Committee consideration	4
<b>Conclusion</b>	<b>8</b>

# Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Transport and the Cabinet Secretary for Climate Action and Energy, with the exception of matters relating to just transition; and on matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland and Royal Botanic Garden within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands.



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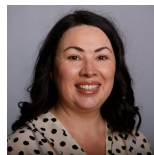
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# Introduction

1. The UK Government introduced the [Railways Bill](#) in the House of Commons on 5 November 2025. The Scottish Government lodged a [Legislative Consent Memorandum \(LCM\)](#) on the Bill, published on 12 December. The LCM was subsequently referred to the Net Zero, Energy and Transport Committee. A [supplementary LCM \(sLCM\)](#) was lodged on 20 February 2026 and has also been referred to the Committee. This report follows the Committee's consideration of the LCMs and the sLCM.
2. An LCM is laid when a Bill in the UK Parliament makes provision (a) for any purpose within the legislative competence of the Scottish Parliament or (b) that alters the legislative or executive competence of the Scottish Government. The LCM sets out the Scottish Government's position on whether the Scottish Parliament should consent to such provisions.
3. The LCM states that the purpose of the Bill is to enable the creation of a new rail body, to be known as Great British Railways ("GBR"). GBR will act as the new publicly owned "directing mind" for the rail industry. GBR will run the passenger train services currently managed by the UK Secretary of State for Transport alongside the national railway infrastructure, currently owned by Network Rail.
4. 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.
5. The Bill also establishes a new passenger watchdog, formed from the existing statutory passenger representative group '[Transport Focus](#)' (Transport Focus is a trading name, the statutory title is the Passengers' Council and this will be retained in the Bill).
6. Under changes proposed in the Bill Scottish Ministers will continue to own and operate ScotRail and Caledonian Sleeper services. They will also specify and fund GBR infrastructure management, maintenance, and enhancement in Scotland, as currently happens with Network Rail. The UK and Scottish Governments will be required to agree a Memorandum of Understanding setting out how they will work together. Scottish and UK Ministers will have powers to issue directions to GBR in relation to the exercise of its statutory functions, with a requirement to consult or obtain consent from the other prior to issuing such directions.

# Content of the LCM and supplementary LCM

7. The Railways Bill will impact on numerous technical aspects of the rail related executive powers exercised by Scottish Ministers.
8. Part 1 and schedules 1 and 2 of the Bill establish GBR and set out a range of statutory functions it will be required to exercise, including licensing and funding arrangements. Part 2 defines how passenger rail services are designated and related provisions. Part 3 covers access to rail infrastructure, rights of appeal to the regulator and gives the Office of Rail and Road (“ORR”) power to monitor the performance of GBR. Part 4 contains other general provisions including amendments to other legislation and commencement and interpretation provisions.
9. The LCM states that the Bill as a whole extends to Scotland. It reports that the UK Government's view is that the Bill relates to reserved matters, principally the provision and regulation of railway services.
10. However, the UK Government does accept 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 legislative consent is required as regards all the provisions identified by the UK Government. In addition, the Scottish Government 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.
11. The LCM sets out that the Scottish Government recommend consent to all of the clauses and provisions set out above. The clauses are described in detail in the LCM, which also states that:
  - ” ...this Bill does not compromise the current executive powers of the Scottish Ministers. It 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.
12. The sLCM was lodged in response to minor and technical amendments made to the Railways Bill at the House of Commons Committee stage.
13. The most significant of these amendments included powers for the Secretary of State, the Scottish Ministers, and the Welsh Ministers to make statutory transfer schemes. Such schemes allow for the transfer of property, rights, and liabilities in connection with railways or the provision of railway services. This allows UK and Scottish Ministers to transfer property, rights, and liabilities to GBR, or a company jointly owned by any of: (i) the Secretary of State, (ii) the Welsh Ministers, (iii) the Scottish Ministers (e.g. ScotRail or Caledonian Sleeper) and (iv) Great British Railways.

14. Another amendment extended the requirement for the UK Government to obtain the consent of Scottish Ministers before exercising its power to make directions to GBR, where this would directly affect the exercise by GBR of functions on behalf of the Scottish Ministers.
15. The sLCM states that the Scottish Government is supportive of these and all the other amendments made at the House of Commons Committee stage, giving the following explanation:

 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.

# Committee Consideration

## Delegated Powers and Law Reform Committee consideration

16. The LCM was first considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on [20 January 2026](#). At that meeting, the DPLRC agreed to [send questions to the Scottish Government](#) and to the [UK Government](#) in relation to certain delegated powers. The DPLRC received the following responses from the [Scottish Government](#) and the [UK Government](#).
17. The LCM was further considered by the DPLRC at its meeting on [3 March 2026](#). The DPLRC's [report on the LCM](#) was published on Thursday 5 March 2026. The report states that the Committee is content with the powers in the LCM and made no recommendations.
18. However, the report states that a further non-legislative delegated power has also been added to the Railways Bill at Committee Stage (new clause 62) as detailed in the sLCM. It notes that "there is very limited information available on the power conferred in new clause 62 on the Scottish Ministers as it was amended into the Bill during the Committee Stage and it is not subject to a supplementary [Delegated Powers Memorandum] DPM."
19. The report concludes:
  - ” Given the lack of available information on the sLCM, under normal circumstances, the Committee would consider asking questions of both Governments about this power. However, this would not be able to be dealt with before the end of the current Session. Therefore, rather than having the sLCM straddle two parliamentary sessions, the Committee notes the power and information set out in the sLCM at this stage, and defers consideration to its successor Committee in the next parliamentary session.

## Net Zero, Energy and Transport Committee consideration

20. Ahead of consideration of the LCM and to help further inform its scrutiny, the Net Zero, Energy and Transport Committee wrote to passenger and freight operators, rail unions, passenger representatives, rail industry groups, and sustainable transport organisations seeking their written views on the Bill and LCM. Ahead of the Committee's evidence session with the Cabinet Secretary on 10 March 2026, the Committee had received submissions from the following organisations:
  - [Associated Society of Locomotive Engineers and Firemen \(ASLEF\)](#)
  - [National Union of Rail, Maritime and Transport Workers \(RMT\)](#)
  - [Transport Focus](#)

All three responses broadly welcomed the Bill, though raised some points which are considered below.

21. At its meeting on 10 March, the Net Zero, Energy and Transport Committee took evidence from:

- Fiona Hyslop, Cabinet Secretary for Transport
- Debbie Blair, Lawyer, Scottish Government
- Bill Reeve, Director for Rail Reform, Transport Scotland

The evidence taken at the meeting can be read in full in the Official Report: [Official Report - Tuesday 10 March 2026](#)

### **Powers for Scottish Ministers**

22. The LCM states that the Railways Bill will "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".
23. RMT welcomed the Bill as a move toward a fully integrated, publicly owned rail system. In their submission they support closer alignment between track and train in Scotland, along with stronger powers for Scottish Ministers.
24. The Cabinet Secretary welcomed the Bill, however she said that the Scottish Government has called for full devolution of track and train but that the UK Government is not prepared to make that change at this time. She stressed that Scottish Ministers will not accept any loss of existing devolved responsibilities and that the Bill, as amended, meets that requirement and strengthens the role of Scottish Ministers.
25. She explained that under the Bill, GBR will run rail infrastructure and some passenger services across Great Britain. However, Scottish Ministers will continue to oversee ScotRail, the Caledonian Sleeper and rail infrastructure in Scotland. She also said that public ownership of ScotRail is unaffected.
26. The Cabinet Secretary said that new powers introduced by the Bill support the aim of deeper integration of track and train while respecting devolved responsibilities. She also noted that the sLCM addresses earlier concerns raised by the Committee during scrutiny of the Passenger Railway Services (Public Ownership) Act 2024, particularly around what happens at the end of a period of control of assets and how any transfer of assets would work. In this context, the sLCM states that the amendments introducing transfer-scheme powers are considered essential by both the Scottish and UK Governments. These powers will allow Scottish Ministers and the Secretary of State to "make a transfer scheme to enable the efficient movement of assets, rights and liabilities between public-sector bodies".
27. The Cabinet Secretary told the Committee that Scotland's railway is already more integrated than the rest of Great Britain through the existing Alliance with Network Rail, and that the Bill builds on this by providing a more formal set of tools. She said that future Scottish Governments could retain the current Alliance model, establish a joint venture, or pursue alternative structures, emphasising that the Bill does not

require a specific approach. She said the benefit of the Bill lies in giving Scottish Ministers clearer mechanisms to ensure that UK-level decisions on infrastructure and operations reflect Scottish priorities.

28. Members sought detail on future infrastructure funding arrangements. The Cabinet Secretary explained that Scotland will continue to specify and fund rail infrastructure. She outlined that the Bill introduces a new regime under which Scottish Ministers may issue guidance and directions to GBR. Officials noted that five-year funding cycles will remain, but with a shift in accountability where GBR will be directly accountable to Scottish Ministers for its delivery in Scotland.
29. On disability access, the Cabinet Secretary confirmed that although the Scottish Government pushed for these powers to be devolved, accessibility legislation remains reserved. She said the Scottish Government will continue to pursue improvements through planning and integration wherever possible.

### **Memorandum of Understanding**

30. The Bill obliges the Secretary of State and Scottish Ministers to prepare and publish a Memorandum of Understanding (MoU) setting out how they will work together in the exercise of their respective rail functions.
31. Transport Focus, supportive of the proposals in the Bill, highlighted that the success of the Bill will depend on the implementation of its provisions, including ensuring passengers are involved in designing service improvements, that the MoU between the UK and Scottish Governments provides clear lines of accountability, that arrangements for developing cross-border and ScotRail timetables focus on opportunities for easy through travel, and that new management arrangements provide a seamless experience for rail travellers.
32. During her evidence, the Cabinet Secretary noted that although Scotland and the UK currently have an informal MoU, the new agreement will sit in statute and therefore hold greater weight. The Cabinet Secretary said the MoU is still being drafted but will set out how the Scottish and UK Governments work together on matters such as timetable development, infrastructure decisions, access rights and dispute resolution.

### **Cooperation between Scottish and UK Governments and services**

33. While supportive of the Bill, ASLEF raised concerns over the potential for full devolution of rail powers to English mayoral authorities possibly interfering with some cross-border services, and the potential for conflict between UK and Scottish Ministers where the needs of cross-border and Scotland-only services to access rail infrastructure are in conflict.
34. The Cabinet Secretary pointed to new duties in the Bill requiring UK Ministers to consult Scottish Ministers where decisions affect Scotland. She explained that she expects the MoU to set this out in more detail and that the MoU is focused on giving effect to the Bill. Bill Reeve from Transport Scotland described effective engagement with the UK Government on this issue.

### **Open access operators and freight**

35. There was discussion about the interests of open access operators. The Cabinet

Secretary confirmed that access rights remain a reserved matter for the UK Government, but said the Bill gives Scottish Ministers a stronger voice in these decisions. Bill Reeve from Transport Scotland noted that while the UK Government is offering assurances, some open access operators remain unsatisfied, and further amendments may be brought forward in the House of Lords to address this. The Cabinet Secretary said it is important that the Scottish Government continues to raise these concerns.

36. On freight, the Cabinet Secretary expressed continued support for growing rail freight and noted Scotland's investment in the sector. She explained that while the Bill does not restrict Scotland's ability to do more, borrowing limits remain a constraint. On the suggestion of a publicly owned freight operator, she said she is open to the idea in principle but did not think it appropriate, so close to the end of the parliamentary term, to set out commitments that would bind a future Government.

# Conclusion

37. **The Committee recommends that the Scottish Parliament give its consent to the UK Parliament legislating in this area, as proposed in the Scottish Government's draft motion contained within the sLCM. This contains the provisions included in the initial LCM lodged on 12 December and the provisions described in the sLCM<sup>i</sup>.**

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<sup>i</sup> Douglas Lumsden abstained from the final recommendation on the grounds of concerns raised about the impacts on open access operators.

