

**Net Zero, Energy and Transport Committee**  
**Tuesday 10 March 2026**  
**12th Meeting, 2026 (Session 6)**

## **Legislative consent memorandum on the Railways Bill (UK Parliament legislation)**

### **Note by the Clerk**

1. Legislative consent memorandum LCM-S6-69 was lodged on 5 November 2025 by Fiona Hyslop MSP, Cabinet Secretary for Transport and has been referred to the Net Zero, Energy and Transport Committee for scrutiny.
2. The LCM is available on the Scottish Parliament [website](#).
3. The Cabinet Secretary lodged a Supplementary Legislative Consent Memorandum (“sLCM”) LCM-S6-69a on 20 February 2026.
4. The sLCM is also available on the Scottish Parliament [website](#).

### **Railways Bill**

5. The Bill was introduced by the UK Government in the House of Commons on 5 November 2025. The Second Reading in the House of Commons took place on 9 December 2025 with amendments subsequently being made to the Bill at Committee Stage. The Bill is now at Report Stage.
6. The Bill and associated documents can be viewed on the UK Parliament [website](#).
7. The Bill is made up of 4 parts and 3 schedules. Its provisions extend to England, Wales and Scotland.
8. The stated 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” and will be responsible for rail infrastructure and rail passenger services.
9. 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.
10. 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).

### **Legislative consent procedure**

11. Under the Sewel Convention, the UK Parliament does not normally legislate on devolved matters, or to alter the legislative competence of the Parliament or the executive competence of the Scottish Government, without the consent of the Scottish Parliament. Consent is given by means of a resolution of the Parliament.

12. Under Chapter 9B of the Standing Orders, the Scottish Government must lodge a legislative consent memorandum (LCM) in relation to each UK Parliament Bill that contains provision (“relevant provision”) that would require the Parliament’s consent under the Convention. Sometimes the Scottish Government may be required to lodge one or more supplementary LCMs during the passage of a Bill. It is also possible for an LCM to be lodged by an individual MSP.
13. Every LCM lodged is referred to a lead committee for scrutiny, and may also be referred to other committees. If the Bill confers power on the Scottish Ministers to make subordinate legislation, the Delegated Powers and Law Reform Committee (DPLRC) must also consider the LCM and may report on it to the lead committee.
14. Once the lead committee has reported, the Scottish Government normally lodges a motion on legislative consent for consideration in the Chamber. Such a motion may give consent to relevant provision in the Bill, refuse consent to such provision, or a mixture of the two. A draft of the motion is normally included in the LCM.

## **The Scottish Government’s LCM**

15. The Railways Bill will impact on numerous technical aspects of the rail related executive powers exercised by Scottish Ministers.
16. 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.
17. 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. The UK Government does however 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.
18. The Scottish Government agrees that legislative consent is required as regards all the provisions identified by the UK Government.
19. 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.
20. The Scottish Government’s position in relation to these clauses are outlined in paragraphs 7 to 75 of the LCM.

## **Consent**

21. The Scottish Government is of the view that consent is required because the above provisions alter the executive competence of Scottish Ministers.
22. The LCM states that it is the view of the Scottish Government that this Bill does not compromise the current executive powers of the Scottish Ministers. It goes on to state that it will provide the Scottish Government with a range of 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. It also offers the opportunity to improve the efficient and effective delivery of services for the benefit of Scotland's rail users, businesses and communities.
23. The Scottish Government therefore recommends consent to all of the clauses and provisions outlined in paragraphs 7 to 75 of the LCM.
24. The Scottish Government also states that the provisions in the Bill are broadly consistent with the Scottish Government's policy position on the best way to deliver rail services and respect the current devolved arrangements. The Scottish Ministers will continue under the Bill to set strategy, fund and specify the railway in Scotland. It will also continue to be responsible for the provision of ScotRail and Caledonian Sleeper services.
25. The draft motion on legislative consent is as follows:

"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, should be considered by the UK Parliament."

## **Supplementary LCM**

26. The supplementary LCM (sLCM) states that it concerns the 54 amendments to the Bill tabled by the UK Government at the House of Commons Committee Stage, between 15 and 26 January 2026. The amendments, tabled in the name of Keir Mather MP (Parliamentary Under-Secretary (Department for Transport)), are available on the [UK Parliament website](#).
27. The sLCM states that the UK Government considers the amendments mainly relate to reserved matters, principally the provision and regulation of railway services.
28. However, the UK Government does 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. The Scottish Government agrees that all of these

amendments trigger the requirement for legislative consent for the reasons given by the UK Government.

29. 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 Scottish Government's position in relation to these amendments is outlined in paragraphs 11 to 34 of the sLCM.

## Consent

30. The sLCM states that the Scottish Government does not view these amendments to the Railways Bill as compromising the current executive powers of the Scottish Ministers.
31. It further states that the amendments will revoke redundant references to franchising in the Railways Act 1993 ("the 1993 Act") and the Railways Act 2005 ("the 2005 Act") 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. The sLCM states that this is a "welcome development of an important control measure for the Scottish Ministers."
32. The Scottish Government therefore recommends consent to all of the amendments outlined in paragraphs 8 to 31 of the sLCM, 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).
33. The draft motion on legislative consent in the sLCM contains the provisions included in the initial LCM lodged on 12 December and all of the provisions described in the sLCM.

"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."

## Scrutiny by DPLR Committee

34. 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 Committee agreed to send [questions to the Scottish Government](#) and [to the UK Government](#) in relation to certain delegated powers. The Committee received the following responses from [the Scottish Government](#) and [the UK Government](#).

35. The LCM was further considered by the DPLRC at its meeting on [3 March 2026](#).
36. 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.
37. 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 DPM."
38. 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."

## **Evidence**

39. The Net Zero, Energy and Transport Committee issued a targeted call for views on the LCM asking whether stakeholders agree with the Scottish Government that the Scottish Parliament should consent to all the provisions in the Bill that involve the use of powers devolved to the Scottish Parliament or which affect the powers of the Scottish Ministers. The Committee received the following responses:
- [Associated Society of Locomotive Engineers and Firemen \(ASLEF\)](#)
  - [Transport Focus](#)

## **Decision**

40. After hearing from the Cabinet Secretary, the Committee will be invited to decide what recommendation to make to the Parliament – in particular, whether to recommend agreement to the Scottish Government's draft motion.

## **Report**

41. The Committee is required to report to the Parliament on the LCM. One option is for the Committee to agree to consider a draft report, by correspondence. Alternatively, it could delegate responsibility to the Convener to finalise the wording of a short report reflecting the outcome of today's meeting.

**Clerks to the Committee**  
**March 2026**