

# Report on Legislative Consent Memorandum for the Passenger Railway Services (Public Ownership) Bill

October 2024

## 1. Introduction

1. On 1 August 2024, the Cabinet Secretary for Economy, Transport and North Wales ('the Cabinet Secretary') laid a Legislative Consent Memorandum for the Passenger Railway Services (Public Ownership) Bill ('the LCM') before the Senedd.
2. On 17 September 2024, the Business Committee referred the LCM to the Climate Change, Environment and Infrastructure Committee ('the Committee') and the Legislation, Justice and Constitution ('LJC') Committee with a reporting deadline of 1 November 2024.

### Our approach

3. The Committee considered the LCM at its meeting on 3 October 2024.



## 2. The Passenger Railway Services (Public Ownership) Bill

4. The Passenger Railway Services (Public Ownership) Bill ('the Bill') was introduced in the House of Commons on 18 July 2024.

### Policy objectives

5. The policy objectives of the Bill, as outlined in paragraph 3 of the LCM, are to:

*“remove the presumption in favour of private sector operation of franchised passenger services in the Railways Act 1993 (‘the 1993 Act’). This will facilitate the UK Government’s commitment to bring such train operations back into public ownership when current franchise contracts end.”*

6. As stated at paragraph 5 of the LCM, the Bill makes provision for:

- Amending specific provisions in the 1993 Act to remove the presumption in favour of private sector operation of franchised passenger services to facilitate UK Government’s commitment to bring such train operations back into public ownership when current franchise contracts end;
- Enabling the Secretary of State, the Scottish Ministers and/or the Welsh Ministers, as the appropriate franchising authorities, to secure the provision of designated railway passenger services via contracts with public sector operators and to commence the transition to public sector operation as current contracts reach their end date or contractual break point;
- Disapplying the requirement under regulation 22 of the Public Service Obligations in Transport Regulations 2023/1369 (“the 2023 Regulations”) to give at least 12 months’ notice before awarding such contracts to public sector companies;
- Removing the power to award franchises to private sector operators via a competitive tendering process and the requirement to publish a statement on how that power will be exercised; and

- The Secretary of State to make short further awards or extensions to existing incumbent private sector operators where satisfied that, at that time, it will not be reasonably practicable to provide or to secure the provision of the railway passenger services by awarding a contract to a public sector company.

## 3. The LCM

### Provisions for which consent is required

**7.** According to the Welsh Government, consent is required for the four clauses in the Bill and its Schedule. Further details can be found in paragraphs 15 to 24 of the LCM.

**8.** The UK Government shares the Welsh Government's view.

### Welsh Government's current position on consent

**9.** Paragraphs 26 to 35 of the LCM set out the Welsh Government's reasons for making the provisions for Wales in the Bill.

**10.** The LCM states:

*"it is appropriate to deal with these provisions in this UK Bill as, whilst the Bill has significant impacts for devolved issues, railway services are a reserved matter on which the Senedd could not legislate.*

*The clauses in the Bill provide powers to Welsh Ministers which will provide continuity with the current provider of the Wales & Borders franchise, TFW Rail."*

**11.** It concludes the Welsh Government recommends the Senedd gives consent to the Bill's provisions.

### Committee's conclusion

We note the Welsh Government's reasons for making the provisions for Wales in the Bill.

We agree that a Senedd Act could not replicate the provisions in the Bill for reasons relating to legislative competence.

We have, on many previous occasions, called for a fair level of funding to be given to Wales for rail. We note that the LCM states that the Bill “does not achieve the wider goal of greater devolution with a fair funding settlement”.

We also note that it goes on to say that the Welsh Government’s “priorities for rail reform in Wales have already been laid out to the new Secretary of State for Transport.”

Although clearly not a matter for this Bill, we will keep progress on this matter under review as the UK Government brings forward its proposals and policies for the reform of railways in the UK.

In conclusion, the Committee has found no reason why the Senedd should not consent to the Bill’s provisions.