

HOUSE OF LORDS

Delegated Powers and Regulatory Reform  
Committee

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5th Report of Session 2024–25

**Passenger Railway  
Services (Public  
Ownership) Bill:  
Government  
Response**

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### *The Delegated Powers and Regulatory Reform Committee*

The Committee is appointed by the House of Lords each session, most recently on 29 July 2024, and has the following terms of reference:

- (i) To report whether the provisions of any bill inappropriately delegate legislative power, or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny;
- (ii) To report on documents and draft orders laid before Parliament under or by virtue of:
  - (a) sections 14 and 18 of the Legislative and Regulatory Reform Act 2006,
  - (b) section 7(2) or section 19 of the Localism Act 2011, or
  - (c) section 5E(2) of the Fire and Rescue Services Act 2004;

and to perform, in respect of such draft orders, and in respect of subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001, the functions performed in respect of other instruments and draft instruments by the Joint Committee on Statutory Instruments; and

- (iii) To report on documents and draft orders laid before Parliament under or by virtue of:
  - (a) section 85 of the Northern Ireland Act 1998,
  - (b) section 17 of the Local Government Act 1999,
  - (c) section 9 of the Local Government Act 2000,
  - (d) section 98 of the Local Government Act 2003, or
  - (e) section 102 of the Local Transport Act 2008.

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The Committee's reports are published by Order of the House in hard copy and on the internet at [www.parliament.uk/hldprcpublications](http://www.parliament.uk/hldprcpublications).

### *Committee Staff*

The staff of the Committee are Jen Mills (Clerk) and Kiran Kaur (Committee Operations Officer).

### *General Information*

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### *Contacts for the Delegated Powers and Regulatory Reform Committee*

Any query about the Committee or its work should be directed to the Clerk to the Delegated Powers and Regulatory Reform Committee, Legislation Office, House of Lords, London, SW1A 0PW. The telephone number is 020 7219 3103. The Committee's email address is [hldelegatedpowers@parliament.uk](mailto:hldelegatedpowers@parliament.uk).

# Fifth Report

## PASSENGER RAILWAY SERVICES (PUBLIC OWNERSHIP)

### BILL: GOVERNMENT RESPONSE

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1. We considered this Bill in our 2nd report of the current session.<sup>1</sup> The Government have responded by way of a letter from Lord Hendy of Richmond Hill CBE, the Minister of State for Rail. The response is printed at Appendix 1.

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<sup>1</sup> DPRRC, *2nd Report* (Session 2024–25, HL Paper 17).

## **APPENDIX 1: PASSENGER RAILWAY SERVICES (PUBLIC OWNERSHIP BILL: GOVERNMENT RESPONSE)**

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Letter from Lord Hendy of Richmond Hill CBE, Minister of State for Rail, to the Rt Hon. The Lord McLoughlin CH, Chair of the Delegated Powers and Regulatory Reform Committee.

### **Passenger Railway Services (Public Ownership) Bill**

Thank you for your Committee's report following its detailed scrutiny of the provisions in the Passenger Railway Services (Public Ownership Bill). The Committee recommended that the House seek clarification concerning the power in section 30A(4) to repeal sections 30A and 30B. This letter sets out the Government's response.

### **Background**

Section 30A empowers the Secretary of State to extend the term of an existing franchise agreement or to enter into a new franchise agreement with an incumbent franchisee, and section 30B describes how the power may be exercised in accordance with the Public Service Obligations in Transport Regulations 2023. This power is an exception to the prohibition on entering into or extending franchise agreements under section 25A. The power may only be exercised by the Secretary of State where she is the appropriate franchising authority in relation to the franchise agreement and is satisfied that it would not be reasonably practicable to secure the provision of the franchised services by awarding a public sector contract to a public sector company under section 30(1A) when the existing agreement comes to an end.

### **Response**

I thank the DPRRC for their recommended that the House seek clarification as to when the Government intends that the power to repeal sections 30A and 30B should be exercised.

As you have suggested, the Secretary of State has no intention of repealing sections 30A and 30B until all the existing private sector franchise agreements have come to an end and all designated passenger railway services are bought into public ownership. As you have correctly identified, it was never our policy intention to use the repeal power before the provisions were spent. Our commitment to public ownership is evident in our Get Britain Moving manifesto and various speeches made by Ministers in the House of Commons and the House of Lords. Therefore, once all franchise agreements have come to end, sections 30A and 30B will cease to be of any practical effect, at which point the Secretary of State will repeal them.

As we want to reassure the Committee and the House of the Government's intention with regards to this power, I suggest that we could amend the Explanatory Notes to the Bill to confirm that the Secretary of State intends to repeal sections 30A and 30B only once all franchise arrangements have come to an end. I am also happy to confirm this to the House during the debate stages.

I acknowledge that the power in section 30A(4) to repeal sections 30A and 30B does not include an express limitation on its duration on the face of the Bill. In preparing the Bill, we discussed with Parliamentary Counsel the possibility of sunseting the powers in sections 30A and 30B—instead of providing a power to repeal them—when all existing franchise agreements have come to an end, given

those sections would naturally no longer be used at that point. This was not, however, considered to be satisfactory from a drafting perspective; we considered that such a provision would effectively say “the power cannot be used when the power can no longer be used”, which would render the drafting circular.

We consider the negative procedure is appropriate to exercise the power in section 30A(4) for the reason flagged in our Delegated Powers Memorandum: the power is extremely limited in scope. It simply enables the Secretary of State to remove provisions once they became obsolete, to tidy up the statute book. It cannot be used to overturn or alter Government policy or other sections of the Bill.

I am grateful to the Committee for its close consideration, which I know will inform scrutiny of the Bill at Committee and Report stage. If you have any further questions, please do not hesitate to contact us. I appreciated our previous discussions and would of course be happy to meet with you and the Committee to discuss this further.

## APPENDIX 2: MEMBERS' INTERESTS

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