



The Scottish Parliament
Pàrlamaid na h-Alba

Fiona Hyslop MSP
Cabinet Secretary for Transport
Scottish Government

**Net Zero, Energy and Transport
Committee**

c/o Clerk to the Committee
Room T3.40

The Scottish Parliament
Edinburgh
EH99 1SP

By email only

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10 September 2024

Dear Fiona,

Passenger Railway Services (Public Ownership) Bill

Thank you for your evidence to the Committee on 3 September on the Scottish Government's Legislative Consent Memorandum (LCM) in relation to the UK Government legislation, the Passenger Railway Services (Public Ownership) Bill.

During the evidence session, we discussed whether it would remain possible for Scottish Ministers to award contracts for passenger railway services to private operators if this Bill passes. You advised the Committee that:

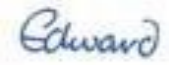
“I understand that the legislation would operate with an interplay between sections 24 and 30 of the 1993 act, but the UK Government is doing that in quite a technical way. I would interpret that in layman's terms as leaving a window open and not closing it completely.

If services were exempted from designation by order, the duty under section 30 would not apply and the Scottish ministers could make alternative arrangements to secure the provision, which could include a contract award to a private operator. That is our understanding of what the UK Government is doing—as I said, it is leaving the window open.”

Whilst recognising that the Scottish Government is not the author of the Bill, it will have received advice (including legal advice) on its impact on the executive powers of the Scottish Ministers, as part of its work in laying the LCM. It would therefore be helpful if you could provide an update to the Committee of your best understanding, in the light of legal or other advice, as to the extent to which this Bill would enable the Scottish Ministers to award contracts for the provision of passenger rail services to private operators. In particular, could you clarify whether the powers in the Bill could be used to exempt all Scottish passenger rail services from the requirement to be provided by a publicly owned company, or whether this is a narrow power (for example, to allow for the continued provision of services by open access operators)?

Given this Bill is moving somewhat quickly at Westminster, I would be grateful for a response by Tuesday 24 September so that the Committee can ensure it is clear on this matter before considering a draft report.

Yours sincerely,

A handwritten signature in blue ink that reads "Edward".

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee