

A submission by the Institution of Mechanical Engineers to the House of Commons Transport Committee's inquiry to scrutinise the draft Rail Reform Bill

March 2024

About the Institution of Mechanical Engineers

The Institution of Mechanical Engineers (IMechE) represents 115,000 engineering professionals and students in the UK and across the world.

The Engineering Policy Unit of the IMechE informs and responds to UK policy developments by drawing on the expertise of our members and partners.

Reason for Submitting Evidence

The IMechE's Industry and Special Interest Groups include those covering power, energy, buildings, process industries, alternative fuels, and road and rail transport. Our Railway Division members believe they can make an important contribution to help the Great British Railways Transition Team formulate their long-term strategic plan.

This submission has been prepared by the Engineering Policy Unit in consultation with the IMechE Railway Division.

The Integrated Rail Body

Question 1: If enacted, would the draft Bill provide the necessary legislative foundations for an integrated rail body with franchising powers (Great British Railways), as envisioned in the Plan for Rail?

Yes, we generally agree this is provided for in the draft Bill and we welcome the progress it makes towards the vision outlined in the Plan for Rail.

Further amendments may be needed to ensure the integrated rail body (IRB) is responsible for contracts for trains procured by the Department for Transport (e.g. IET and class 700), where the Department have continued involvement.

Question 2: Will the integrated rail body (IRB), as proposed in the draft Bill, achieve the Government's aim of a 'guiding mind', providing: (i) better accountability, (ii) more reliable services, (iii) greater efficiency, and (iv) coordinated growth, across both passenger and freight sectors?

Alongside the amendments outlined in this response, the draft Bill makes progress towards achieving the aim of a 'guiding mind', but this alone will not be enough. A system-wide strategy and action plan that is spearheaded by the IRB is needed to ensure the various organisations within the sector are working collaboratively towards the same goal, which aligns with the interests of customers and communities. This will require the IRB leadership team to have an extensive understanding of the railway system and the ability to inspire change. Lessons should also be taken from Scotland's far more joined-up approach to applying the existing legislation, leading to faster, better results.

Question 3: Would the provisions of the draft Bill establish an IRB with the independence and accountability to achieve its aims? If not, what amendments would be needed?

While the draft Bill sets up the IRB as independent from the Crown and civil service, the provision that enables the Secretary of State to direct the IRB could hinder their ability to act independently

as they may be required to obtain the Secretary of State's consent for certain functions. Clarity is needed about what functions the Secretary of State may require consent for and the processes to gain consent or if it is not granted. Without this, existing issues could persist.

Some aspects of the Bill provide sufficient accountability measures. However, further amendments could be made to increase accountability and transparency with regard to the IRB's licensing conditions. This could include requiring detail on how the IRB has met its licensing conditions for the previous year in the annual report.

Question 4: Are the arrangements set out for the granting and amendment of the IRB's licence and the inclusion of specific conditions within that licence appropriate?

The specific conditions below that are currently outlined in schedule 1, paragraph 4 of the draft Bill should be amended to also explicitly include that the IRB is 'to make appropriate provision of passenger rail'.

Clarity is also needed about how the IRB must 'have regard' for accessibility requirements and environmental impact as noted in the new subsection (3B)(b) and (3B)(c) and how they will be held accountable. For example, the IRB may be required to work with environmental specialists and rail infrastructure professionals to meet (3B)(c). See our response to question three for a suggestion on how to increase accountability.

“(3B) Conditions included by virtue of subsection (1)(a) in a network licence held by the IRB may include provision about the exercise of any of the IRB's functions and must, in particular, require the IRB—

(a) to make appropriate provision for services for the carriage of goods by railway,

(b) to have regard to the accessibility requirements of persons who are disabled,

(c) to have regard to the effect on the environment of activities connected with the provision of railway services, and

(d) to maximise, so far as practicable within the resources available to the IRB, the social and economic benefits resulting from the operation of the railway network in Great Britain.”

Question 5: What will be the effect of the requirement on the IRB to prepare an annual report setting out what it has done to increase private sector involvement in the running of railway services?

Annual reporting requirements on what the IRB has done to increase private sector involvement:

- will ensure the IRB remains transparent about private sector participation, enabling public scrutiny and democratic accountability;
- may increase innovation by encouraging private investment to be sought, which could help to propel the sector towards its long-term goals that will require significant public and/or private investment such as decarbonisation.

However, greater private sector involvement could risk reduced coordination across the system. Alternatively, the focus on private investment in the Bill could be removed and instead require the IRB to produce a system-wide strategy as outlined in our response to question two.

Question 6: What arrangements should be put in place for scrutiny of the IRB's business plan?

Currently, Network Rail is subject to independent regulation by the Office of Rail and Road and the board of directors is responsible to the Secretary of State for Transport.¹ There is also an agreement between the Department for Transport and Network Rail that sets out how the two will interact, which states that Network Rail must gain the agreement of the Department and Secretary of State before strategic business or delivery plans are published/adopted.²

This approach should be maintained to ensure effective governance and financial management.

Question 7: Are there further elements of the Government’s aims for the IRB that should be given a statutory footing?

More emphasis on decarbonisation is needed to help ensure the rail sector continues making significant progress towards UK’s net-zero commitment.

Although rail has low carbon emissions, UK rail’s carbon emissions are amongst the world’s highest. This is because the UK operates what is, probably, the world’s most intensive diesel passenger service; with diesel providing respectively 56% and 96% of the energy for UK passenger and freight trains.³

Full decarbonisation of the rail network should be a priority that is given statutory footing. Primarily, this will involve electrification of the main network and “last mile” to freight sidings via a national rolling programme of engineering works. Where electrification is infeasible, or costs are prohibitive, direct replacements for diesel locomotives (e.g. battery or hydrogen) should be mandated with a clear deadline.

Other provisions

Question 8: Are the interests of passengers and freight users sufficiently promoted by the provisions of the draft Bill?

Whether or not the interests of passengers and freight users are sufficiently promoted by the draft Bill will largely depend on the social and economic benefits that are maximised by the IRB, as outlined in the IRB’s conditions of licenses in schedule 1, paragraph 4 of the draft Bill in the new subsection (3B)(d). Clarity on this is critical but some suggestions for social and economic benefits that promote the interests of passenger and freight users could include health, safety, customer satisfaction, employment opportunities and the system’s value for money. The legislation should also be clear on how conflicting priorities will be resolved, for example when the social and economic benefits contradict each other.

However, the Bill generally provides the opportunity for greater coordination and investment across UK rail, which will support the industry to realise benefits for passengers and freight users.

Question 9: Does the draft Bill make effective provision for the role of the Office of Rail and Road?

The following amendment to the Office of Rail and Road’s duties in clause 4(2) of the draft Bill could stifle innovation if other investment opportunities are not incentivised accordingly, particularly if the decarbonisation of UK rail is to be achieved as this will require funding of a large-scale electrification programme. If a short, medium and long-term capital programme were to be

¹ Network Rail. (n.d.). *How we’re governed and managed*. <https://www.networkrail.co.uk/who-we-are/how-we-work/how-were-governed-and-managed/>

² Department for Transport. (2019). *Framework Agreement Between the Department for Transport And Network Rail*. <https://assets.publishing.service.gov.uk/media/5fa9693a8fa8f5788e288d20/network-rail-framework-agreement-document.pdf>

³ Shirres, D., Keenor, G., Dolphin, N., & Hooper, P. (2021). *Why Rail Electrification?* Railway Industry Association. https://riagb.org.uk/RIA/Newsroom/Publications%20Folder/Why_Rail_Electrification_Report.aspx

developed it would encourage the supply industry to invest in ways and means to deliver more efficiently.

[to promote competition in the provision of railway services for the benefit of users of railway services] “so far as such competition does not unreasonably increase the cost to public funds of providing railway passenger services”.

Question 10: What assessment should be made of the draft Bill’s provision that the Scottish and Welsh governments may arrange for the IRB to exercise their devolved franchising powers?

No response.

Question 11: What will be the effect of the implementation in UK law of the Luxembourg Rail Protocol? Is the range of powers granted to the Secretary of State in clause 15 necessary to achieve the aims of the Protocol?

Maximum value for money will accrue from investments that maintain our alignment with EU standards – so that the IRB benefits from the common market in railway system components and that UK rail industry benefits from aligned innovation (preferably supported by UK government seed-funding) by being able to export to the EU market (and beyond; EU standards are increasingly being adopted internationally).

The Luxembourg Protocol may support this as it could make private sector financing of railway rolling stock both easier and cheaper internationally, if this is the desirable funding approach. It will be critical that any funding opportunity (public or private) can be capitalised on quickly by ensuring that the IRB has a plan in place that has been agreed by stakeholders to avoid the current misalignment between new fleets and infrastructure.

General

Question 12: Are the delegated powers envisaged by the draft Bill necessary and sufficient to meet its aims?

No response.

Question 13: What lessons should be learned from previous legislative changes to the institutional architecture of the rail sector?

No response.

Question 14: Are there further provisions within the draft Bill that the Committee should focus its scrutiny on?

No response.