

Briefing: What the Railways Bill means for the role of ORR

Monitoring and enforcement

Monitoring GBR's statutory functions

15. At present, ORR monitors whether Network Rail is complying with requirements set out in its network and station licences. In future, by contrast, ORR's monitoring of GBR will be primarily based on how GBR performs its statutory functions (clause 74(2), which inserts a new section 69A into the Railways Act 1993). Under the Bill, (clause 3(1)) GBR's statutory functions which ORR must monitor include, in summary:

- Managing, operating, maintaining, renewing and improving the network;
- Operating most railway passenger services in England, as well as cross-border services in Scotland and Wales; and
- Setting fares, selling tickets, and providing essential systems and services to facilitate the operation of railway passenger services.

16. This includes areas where ORR has not previously had a role, such as monitoring the performance of passenger services. In performing its monitoring role, ORR will be informed by guidance from the Secretary of State which will help to ensure that the monitoring is targeted, proportionate and outcomes focused.

17. When monitoring GBR under the provisions of the Bill, ORR will consider whether and how GBR is delivering the activities set out in its business plan. It will also consider the costs of carrying out those activities, the income GBR has received, and how this compares to the estimates presented

in the business plan. ORR will also consider how GBR is helping to further railway safety.

18. ORR will be able to investigate issues and raise them with GBR for attention. GBR is ultimately accountable to the Secretary of State, so when exercising the monitoring role, ORR will not have enforcement powers. ORR can instead raise issues with the Secretary of State, who can decide whether to take further action (clause 7, clause 9 and clause 74(2)). Scottish Ministers will also have powers to act where Scottish railway activities are concerned (clause 8 and clause 10).

GBR licence

19. As well as monitoring GBR's statutory functions, ORR will monitor and enforce GBR's licence. GBR's licence will be drafted, issued and where necessary amended by the Secretary of State (Schedule 1, paragraph 3, which substitutes section 8 in the Railways Act 1993). Development of GBR's licence is currently underway, led by the Department for Transport (DfT), and will be subject to public consultation. In May 2026, DfT published a policy paper on GBR's licence and its role in the wider accountability framework, including a broad "heads of terms" for the licence. Subject to consultation, GBR's licence will focus on industry obligations and processes that GBR must fulfil or facilitate, and will include requirements relating to passengers (see "Passenger Watchdog" below). Once issued, ORR will also be able to modify GBR's licence with GBR's agreement (Schedule 1, paragraph 6).

20. In general terms, as is the case currently with Network Rail, if ORR suspects GBR may be in breach of any of its licence conditions, ORR will be able to identify and investigate issues, seek early resolution and take enforcement action if necessary. Unlike today, ORR will not be able to issue a financial penalty for a GBR licence breach (clause 75(3)).

21. GBR's licence is expected to focus on a more targeted and specific range of activities than the current Network Rail licence. The targeted nature of GBR's licence means that ORR will no longer be able to take enforcement action in some areas where it has done previously, such as issuing enforcement orders in relation to train service performance. Instead, for matters outside the scope of GBR's licence, ORR would be able to investigate and raise concerns to the Secretary of State via the statutory monitoring role outlined above. It would then be for the Secretary of State to decide on any action.

22. Subject to consultation, the UK Government intends to include in GBR's licence a narrow, outcomes-focused requirement on long-term infrastructure asset stewardship. This will ensure

that ORR can take enforcement action which is effective and proportionate to the long-term risk of asset deterioration. This is an important safeguard in how GBR looks after its infrastructure in an efficient, sustainable way, while ensuring a safe and well-performing railway.

23. In addition, GBR will be a retailer absorbing 14 current train operating companies' ticket retailing operations as well as owning and managing the central systems used by all retailers – including its direct competitors. For this reason, GBR's licence will also contain a new requirement to ensure GBR supports, an open and competitive ticket retail market and treats independent ticket-selling companies fairly.

24. GBR's licence will require it to comply with a Code of Practice (the Retail Code) setting out clear requirements for how it manages industry systems that facilitate the rail retail market and interacts with other market participants (Schedule 1, paragraph 5, which inserts a new section 9A into the Railways Act 1993). The Secretary of State will approve the Code developed by ORR with input from industry and following public consultation. ORR will monitor and enforce compliance through the licence, with ticket retailers able to raise concerns about potential non-compliance directly with ORR. ORR will be required to investigate and, if it considers that GBR has not complied, it will be able to demand corrective action by issuing binding orders on GBR.

Non-GBR licences

25. While GBR's licence will be issued by the Secretary of State, ORR will continue to be responsible for issuing, modifying and enforcing railway licences for other operators and infrastructure managers across Great Britain to ensure they are 'fit and proper' to run a railway and promote effective and efficient working relationships across the sector. Non-GBR licence holders will include devolved, freight, charter and passenger open access train operators; light maintenance depot operators; some non-GBR infrastructure managers' networks such as the Core Valley Lines; and operators of over 800 stations that are expected to remain outside of GBR.

A new Passenger Watchdog

26. A new Passenger Watchdog will be established, grown out of Transport Focus. It is expected to take on some functions currently carried out by ORR in relation to passenger information, accessible travel, complaints, delay compensation and sponsorship of the Rail Ombudsman. The Passenger Watchdog will set requirements on industry through standards and guidance, subject

to agreement by ORR and the Secretary of State (clause 46). Passenger Watchdog standards and guidance are expected to cover areas currently in scope of ORR's consumer policy and monitoring functions on passenger information, accessible travel, complaints handling and delay compensation. The Passenger Watchdog will also be able to set standards in new areas. These will be made binding on the industry via conditions in both GBR and non-GBR operators' licences. The Passenger Watchdog is expected to monitor and publicly report on industry performance against these standards, to seek improvements from industry, and may refer concerns to ORR (clauses 42, 43, 46 and 47).

27. ORR will continue to be responsible for enforcing all licence conditions, including those associated with Passenger Watchdog standards. The Passenger Watchdog may refer a suspected licence breach for ORR to decide on what action to take. ORR and the Passenger Watchdog will agree a memorandum of understanding (MoU) outlining how we will work together to identify and investigate issues, seek early resolution and take enforcement or other formal regulatory action. This will also include detail on the factors that ORR must consider as it determines whether to take enforcement action. ORR will also retain its consumer law powers, which it has previously used in areas such as improving the transparency of fees charged during the ticket buying process. Key issues which matter to passengers, such as train service performance, will also be encompassed in ORR's wider roles monitoring GBR's performance and providing advice to funders on GBR's commitments in its integrated business plan.

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