

# **VISITOR LEVY (AMENDMENT) (SCOTLAND) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Visitor Levy (Amendment) (Scotland) Bill, introduced in the Scottish Parliament on 6 January 2026.
2. The following other accompanying documents are published separately:
  - a Financial Memorandum (SP Bill 79–FM);
  - a Policy Memorandum (SP Bill 79–PM);
  - a Delegated Powers Memorandum (SP Bill 79–DPM);
  - statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 79–LC).
3. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

### **THE BILL**

5. The Bill has 2 Parts.
6. Part 1 modifies the Visitor Levy (Scotland) Act 2024 (“the 2024 Act”) to:
  - require a local authority seeking to introduce a visitor levy scheme (a “VL scheme”) under the 2024 Act to determine whether the levy to be charged is to be on the basis of either a percentage rate (or percentage rates) or a fixed amount (or fixed amounts);
  - clarify what is a “chargeable transaction” on which the levy is chargeable;
  - adjust the requirements relating to chargeable returns made by accommodation providers (referred to in the 2024 Act as “liable persons”);

- confer a regulation-making power on the Scottish Ministers to make further provision about the operation of Part 2 (key concepts) and Part 3 (introduction and administration of the levy) of the 2024 Act; and
- make provision for connected purposes.

7. Part 2 introduces a schedule (which makes consequential and minor modifications of the 2024 Act), and makes provision about commencement and other ancillary matters.

## **PART 1 – AMENDMENTS TO THE 2024 ACT**

### **Basis on which levy is to be charged**

#### ***Section 1: basis on which levy is to be charged***

8. This section inserts new sections 4A and 6A into Part 2 (key concepts) of the 2024 Act.

9. New section 4A provides that a local authority seeking to introduce a VL scheme under the 2024 Act must determine whether the levy to be charged in respect of each chargeable transaction to which the scheme relates is to be on the basis of either: a percentage rate (or rates), or a fixed amount (or amounts). In the 2024 Act, a “chargeable transaction” is a purchase for value of the right to reside in or at overnight accommodation situated within the area to which a VL scheme relates for a period of one or more nights. The levy to be charged in respect of chargeable transactions under the same scheme cannot therefore involve a hybrid of the two bases (with, for example, the levy for some chargeable transactions being based on a percentage rate, and the levy for other chargeable transactions being based on a fixed amount).

10. New section 6A applies where a local authority is seeking to introduce a VL scheme under which the levy is to be charged in respect of a chargeable transaction on the basis of a fixed amount. It requires the local authority to set the fixed amount to be charged in respect of a chargeable transaction for each night to which the transaction relates. The amount is to be either (a) an amount that is chargeable regardless of the number of persons who have a right to reside in or at overnight accommodation in pursuance of the transaction on the night, or (b) an amount that is to be multiplied by the number of persons who have such a right on the night.

11. The amount set under section 6A(2) (which may be nil) may be different for different purposes or areas. Different amounts may be set, for example, by reference to different sizes, types, values or locations of overnight accommodation, different amounts paid to reside there, different categories or numbers of person using such accommodation, or different times of year when chargeable transactions are agreed or when persons otherwise take entry to such accommodation.

12. Where the amount set for a given night is an amount that is to be multiplied by the number of persons who have such a right on the night, and the amount set is different in relation to different categories of person, then the amount set is to be multiplied instead by the number of persons falling within that particular category who have such a right on the night (see section 6A(5)).

13. Section 6A(6) and (7) provide that the Scottish Ministers may by regulations specify the maximum amount that may be set, and the regulations may specify different maximum amounts

for different purposes. Before making any such regulations, the Scottish Ministers must first consult local authorities and such other persons as they consider to be representative of communities, businesses engaged in tourism and tourist organisations. A draft of the regulations must also be laid and approved by the Scottish Parliament, before any regulations can be made.

### **Chargeable transactions**

#### ***Section 2: chargeable transactions – purchases by third parties***

14. This section modifies section 3 of the 2024 Act to add new subsections (2A), (2B) and (4).

15. Under section 12 of the 2024 Act, a local authority may introduce a VL scheme to impose “the levy” for all or part of its area. Section 3 of the 2024 Act provides that the levy is to be charged in respect of a chargeable transaction. In this context, a “chargeable transaction” is a purchase for value of the right to reside in or at overnight accommodation situated within the area to which such a scheme relates for a period of one or more nights. But the levy becomes payable only if and when a person (“a visitor”) takes entry to such accommodation in pursuance of the transaction.

16. In some cases an accommodation provider will sell a right to reside in or at overnight accommodation to a person (a “third party provider”) who intends to sell the right to another person. There may be a chain of one or more such transactions before the right is purchased by a visitor. Whilst each purchase for value of such a right is defined as a chargeable transaction (under existing section 3(2) of the 2024 Act), the levy is payable only if and when a visitor takes entry to accommodation in pursuance of the particular transaction (see section 3(1)(b) of the 2024 Act).

17. Where a third party provider is involved, there could be a chain of two or more chargeable transactions pursuant to which a visitor may take entry to overnight accommodation. In these circumstances, new subsections (2A) and (2B)(a) modify section 3 of the 2024 Act so that the “chargeable transaction” is the initial transaction between the accommodation provider and the third party provider (and not any subsequent transaction, including the final one with the visitor). Additionally, in such cases, new subsection (2B)(b) makes it clear that, for the purposes of the 2024 Act, the visitor is to be treated as taking entry to the overnight accommodation in pursuance of the initial transaction, and that the visitor is to be treated as being provided overnight accommodation by the accommodation provider in pursuance of the initial transaction.

18. New subsection (4) provides definitions for the expressions “accommodation provider”, and “third party” that are used in new subsections (2A) and (2B).

### **Duty to make returns**

#### ***Section 3: duty to make returns***

19. This section modifies section 26(3)(a) of the 2024 Act (duty to make returns).

20. Section 8 of the 2024 Act provides that the person liable to pay the levy under a VL scheme is the person who (a) provides overnight accommodation to the visitor in pursuance of a chargeable transaction and (b) is the occupier of the premises at which the accommodation is provided.

21. Section 26 of the 2024 Act provides that the liable person must make “returns” to the local authority which introduced the scheme. Each return must include an assessment of the amount of the levy payable in respect of each quarter or such other period specified by the local authority.

22. More specifically, existing section 26(3)(a) states that, for this assessment, the amount of the levy payable is the total amount of the levies in respect of chargeable transactions entered into by the liable person during the period. The assessment (included in a return for a period) would therefore need to cover all chargeable transactions entered into during the period, even if a visitor does not take entry to overnight accommodation during the period in pursuance of the transaction.

23. Section 3 of the Bill modifies section 26(3)(a) so that, for each assessment in respect of a period, the amount of the levy payable is the total amount of the levies that become payable during the period. This modification means that a return for a given period would only need to assess the levies due in cases where a visitor takes entry to overnight accommodation during the period in pursuance of a chargeable transaction (rather than also having to anticipate the levies that might arise in cases where a transaction has been entered into but a visitor has not yet taken entry). This modification will also ensure that the assessment of the levies that are due for a given period aligns with the amounts to be paid to the local authority for the period under section 29 of the 2024 Act.

## **Transitional provisions: chargeable transactions and returns**

### ***Section 4: modification of existing visitor levy scheme***

24. This section makes transitional provision in relation to proposed modifications of a VL scheme to take account of changes made to section 14(1)(d) and (k) of the 2024 Act by paragraph 9 of the schedule of the Bill.

25. Paragraph 9 of the schedule modifies existing section 14(1)(d) so that a VL scheme must specify the period when the taking of entry to overnight accommodation is to give rise to the levy (as opposed to the period when the purchase of the right to reside there is to give rise to the levy). It also modifies section 14(1)(k) so that any such scheme must specify arrangements for the reimbursement of the levy (or a sum equivalent to it) to a person who has entered into a chargeable transaction or a subsequent transaction. This modification ensures that the scheme must specify any such arrangements in relation to any person who has entered into such a transaction, and not just a visitor. This would include a person, other than a visitor, who purchases a right to reside in or at overnight accommodation from the accommodation provider or someone else with the intention of selling the right to another person (whether or not to a visitor who intends to take entry to it).

26. If a local authority proposes in the future to modify an existing scheme to take account of the new duties arising from the changes made to section 14(1)(d) or (k) of the 2024 Act, section 4 of the Bill ensures that the local authority will not need to consult on this modification in accordance with existing section 13(1) to (3) of the 2024 Act, and that the modification can come into force on a date specified by the authority (rather than having to wait until after the authority has published a report under that section stating that it intends to proceed with the modified proposal).

***Section 5: amendments of the 2024 Act and reasonable excuse for failure to make return, pay levy or keep records***

27. This section makes transitional provision in relation to modifications of the 2024 Act that are to be made by sections 2 and 3, and Part 2 of the schedule, of the Bill.

28. This provision applies if a person liable to pay the levy under a VL scheme fails to comply with the requirements of section 26 (duty to make returns), section 28 (duty to keep and preserve records) or section 29 (payment of levy) in respect of a relevant chargeable transaction, and the local authority considers that the failure may be attributed to any such modification of the 2024 Act. In this context, “relevant chargeable transaction” means a chargeable transaction that is entered into by the liable person before the day on which the provisions mentioned in section 10(2) of the Bill come into force (i.e. before the day on which those provisions make any modification of section 2 or 3, or Part 2 of the schedule, of the 2024 Act).

29. In these circumstances, the liable person is to be treated (for the purposes of sections 51(1), 55(1) and 53(1) of the 2024 Act) as satisfying the local authority that there is a reasonable excuse for the failure to comply with section 26, 28 or 29 of the 2024 Act (as the case may be).

***Section 6: power to make further provision about the operation of the 2024 Act***

30. This section inserts a new section 75A into the 2024 Act.

31. New section 75A provides that the Scottish Ministers may by regulations make further provision about the operation of Parts 2 and 3 of the 2024 Act.

32. Part 2 of the 2024 Act makes provision about the basis and calculation of the levy and about exemptions and rebates, and Part 3 makes provision about the introduction and administration of the levy. Regulations under the new section may therefore make further provision about how these aspects of the 2024 Act are to work and, in doing so, they may modify the 2024 Act itself. For example, regulations under the new section may, in particular, make provision about how the levy is to be calculated, charged and paid in particular circumstances or types of case.

33. Before making regulations under the new section, the Scottish Ministers must consult local authorities and such other persons as they consider to be representative of communities, businesses engaged in tourism and tourist organisations. If the regulations amend the text of primary legislation, a draft of the regulations must be laid and approved by the Scottish Parliament, before they can be made. In other cases, the regulations are subject to the negative procedure.

**PART 2 – FINAL PROVISIONS**

***Section 7: ancillary provision***

34. This section enables the Scottish Ministers to make ancillary provision, by regulations, to give full effect to the Act that will result from the Bill (if enacted) or any provision made under it. This includes a power to modify other enactments (including the Act itself). Regulations under

this section that amend the text of primary legislation are subject to the affirmative procedure. Otherwise, regulations under this section are subject to the negative procedure.

***Section 8: meaning of “the 2024 Act”***

35. This section provides that references in the Bill to the “the 2024 Act” are to be read as references to the Visitor Levy (Scotland) Act 2024.

***Section 9: consequential and minor modifications***

36. This section introduces the schedule which contains consequential and minor modifications of the 2024 Act.

***Section 10: commencement***

37. This section provides that sections 7, 8, 10 and 11 come into force on the day after Royal Assent, and that sections 2, 3, 4, 5 and 9 (to the extent that it relates to Part 2 of the schedule), and Part 2 of the schedule, come into force at the end of the period of two months beginning with the day of Royal Assent.

38. Sections 1, 6 and 9 (to the extent that it relates to Part 1 of the schedule), and Part 1 of the schedule, require to be commenced by regulations under section 10(3) of the Bill. Regulations under section 10(3) may provide for different provisions to come into force on different dates. Such regulations may also include transitional, transitory or saving provision. Any such commencement regulations are not subject to any parliamentary procedure (other than laying).

***Section 11: short title***

39. This section provides that, if enacted (in 2026), the short title of the Act which will result from the Bill will be “Visitor Levy (Amendment) (Scotland) Act 2026”.

**SCHEDULE – CONSEQUENTIAL AND MINOR AMENDMENTS OF THE 2024 ACT**

**Part 1 – Changes relating to the basis on which levy is to be charged**

40. Part 1 of the schedule makes changes to the 2024 Act that are consequential on section 1 of the Bill as follows.

41. Paragraph 2 modifies section 5 of the 2024 Act (calculation of levy) so that it applies only where a local authority has introduced a VL scheme under which the levy is to be charged on the basis of a percentage rate. It also modifies the section title to make this clear.

42. Paragraph 3 modifies section 6 of the 2024 Act (rate for levy) so that it applies only where a local authority is seeking to introduce a VL scheme under which the levy is to be charged on the basis of a percentage rate. It also modifies the section title to make this clear.

43. Paragraph 4 modifies section 10 of the 2024 Act (billing of overnight accommodation) so that section 10(2) applies only where the levy to be charged is based on a percentage rate. It also

inserts new subsection (2A) to make it clear that, where the levy to be charged is a fixed amount (or fixed amounts) set under section 6A, the regulation-making power in section 10(1) may, in particular, require persons to issue an invoice setting out the amount of the levy chargeable or require persons to publish this amount.

44. Paragraph 5(a) modifies section 14(1) of the 2024 Act (required content of a scheme). In particular, it requires a VL scheme to specify the basis on which the levy is to be charged in respect of each chargeable transaction to which the scheme relates in accordance with new section 4A (inserted by section 1 of the Bill). It also requires any such scheme to specify the percentage rate (or rates) or, alternatively, the fixed amount (or fixed amounts) of the levy. In addition, if the levy under the scheme is based on a fixed amount (or fixed amounts), it requires the scheme to specify the method of calculating the levy chargeable in respect of chargeable transactions.

45. Paragraph 5(b) modifies the meaning of a “significant modification” in section 14(4) of the 2024 Act so that it includes any modification of a VL scheme that increases the fixed amount (or amounts) of the levy (see inserted paragraph (ba)), or changes the basis on which the levy is to be charged from a levy based on a percentage rate to a fixed amount (or vice versa) (see inserted paragraph (bb)). Any such modification cannot take effect until 18 months after the date on which a local authority publishes a report under section 13(1)(c) of the 2024 Act stating that it intends to proceed with a VL scheme with the modification.

46. Paragraph 5(c) modifies the regulation-making power section 14(6) of the 2024 Act so that the Scottish Ministers cannot use this power to modify the requirement in new section 14(1)(ea) (inserted by paragraph 5(a)(ii) of the schedule of the Bill) that a VL scheme must, if the levy under the scheme is a fixed amount (or fixed amounts), specify the method of calculating the levy chargeable in respect of chargeable transactions.

## **Part 2 – Other changes relating to chargeable transactions and returns etc.**

47. Part 2 of the schedule makes some changes to the 2024 Act that are consequential on other provisions of the Bill, and makes other minor changes to the 2024 Act, as follows.

48. Paragraph 7 modifies section 10 of the 2024 Act (billing of overnight accommodation) to add references to “subsequent transactions” (defined in new section 3(2A)(b) of the 2024 Act – to be added by section 2(2) of the Bill) in addition to “chargeable transactions”. It also amends that section to remove redundant references to deductions made under section 5(1)(b) of the 2024 Act as that provision was removed during the parliamentary passage of the Bill for that Act.

49. Paragraph 8 modifies section 11 of the 2024 Act (exemptions and rebates) in light of changes made to section 3 of the 2024 Act by section 2 of the Bill.

50. Paragraph 9 modifies section 14(1) of the 2024 Act (required content of a VL scheme). It modifies paragraph (d) to reflect that it is the taking of entry to accommodation that results in the levy being payable (under section 3(1)(b) of that Act). It also modifies paragraph (k) so that it also refers to the reimbursement of a levy (or an equivalent amount) to persons who have entered into subsequent transactions (in addition to chargeable transactions), as a result of section 2 of the Bill.

51. Paragraph 10 modifies section 28 of the 2024 Act (duty to keep and preserve records) in consequence of the changes made to section 26 of that Act by section 3 of the Bill.

52. Paragraph 11 modifies section 47(1) of the 2024 Act (penalty for failure to make returns) so that the obligation to make a return in accordance with section 26 of the 2024 Act is to be read with section 25(1) of that Act. This makes it clear that the returns to be made in accordance with section 26 must also comply with other obligations on liable persons under Part 4 of the 2024 Act. These other obligations include the requirements in section 27 of the 2024 Act that the return must be in the form specified by the relevant local authority, and that the return must contain the information, and be made in the manner, as may be specified by the relevant local authority.

53. Paragraph 12 modifies section 76(1) of the 2024 Act to adjust the meaning of “chargeable transaction” and to define “subsequent transaction” in consequence of section 2 of the Bill.

## **CROWN APPLICATION**

54. Section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. As such, this Bill applies to the Crown in the same way as it applies to everyone else. However, where the Bill amends an existing enactment, it makes no change to the application of the enactment to the Crown.



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