

Visitor Levy (Amendment) (Scotland) Bill

[AS INTRODUCED]

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THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 79-EN), a Financial Memorandum (SP Bill 79-FM), a Policy Memorandum (SP Bill 79-PM), a Delegated Powers Memorandum (SP Bill 79-DPM) and statements on legislative competence (SP Bill 79-LC).

Visitor Levy (Amendment) (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to amend the Visitor Levy (Scotland) Act 2024 to make further provision about the basis on which the levy is to be charged, chargeable transactions, returns and the operation of Parts 2 and 3 of that Act; and for connected purposes.

PART 1

5 AMENDMENTS TO THE VISITOR LEVY (SCOTLAND) ACT 2024

Basis on which levy is to be charged

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

(1) The 2024 Act is modified as follows.
(2) After section 4 insert—

10 **“4A Basis on which levy is to be charged**

A local authority seeking to introduce a VL scheme 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) a percentage rate (or percentage rates) set in accordance with section 6, or
(b) a fixed amount (or fixed amounts) set in accordance with section 6A.”.
(3) After section 6 insert—

15 **“6A Setting fixed amount of levy**

(1) This section 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.
(2) The local authority must set the amount of the levy to be charged in respect of a chargeable transaction for each night to which the transaction relates.
(3) 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 (see also subsection (5)).
- (4) The amount set under subsection (2) (which may be nil) may be different for—
 - (a) different purposes, or
 - (b) different areas within the local authority's area.
- (5) If the amount referred to in paragraph (b) of subsection (3) is a different amount in relation to different categories of person, that paragraph applies as if there were substituted—
 - “(b) an amount relating to each different category of person that is to be multiplied by the number of persons falling within that category who have such a right on the night.”.
- (6) The Scottish Ministers may by regulations specify the maximum amount which a local authority may set under subsection (2).
- (7) Regulations under subsection (6) may specify different maximum amounts for different purposes.
- (8) Before making regulations under subsection (6), the Scottish Ministers must consult—
 - (a) local authorities,
 - (b) such persons as they consider to be representative of communities, businesses engaged in tourism and tourist organisations, and
 - (c) such other persons as they consider appropriate.
- (9) Regulations under subsection (6) are subject to the affirmative procedure.”.

Chargeable transactions

25 **2 Chargeable transactions: purchases by third parties**

- (1) Section 3 of the 2024 Act (levy to be charged on purchase of overnight accommodation) is modified as follows.
- (2) After subsection (2) insert—
 - “(2A) Subsection (2B) applies if—
 - (a) the right to reside in or at overnight accommodation mentioned in subsection (2) is purchased from the accommodation provider by a third party (“the initial transaction”), and
 - (b) the right is then purchased from the third party (or another person who subsequently purchased the right) by a person who takes entry to the accommodation in exercise of the right (or by a person acting on their behalf) (in this Act, a purchase of the right by any person after the initial transaction is referred to as a “subsequent transaction”).
 - (2B) If this subsection applies—
 - (a) the chargeable transaction for the purposes of this Act is the initial transaction (and not any subsequent transaction), and

(b) the person who takes entry to the overnight accommodation in exercise of the right is to be treated for the purposes of this Act—

(i) as taking entry to the overnight accommodation in pursuance of the initial transaction, and

(ii) as being provided overnight accommodation by the accommodation provider in pursuance of the initial transaction.”.

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(3) After subsection (3) insert—

“(4) In this section—

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“accommodation provider”, in relation to overnight accommodation, means the person who—

(a) provides the overnight accommodation to visitors in pursuance of chargeable transactions, and

(b) is the occupier of the premises at which the overnight accommodation is provided,

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“third party” means a person other than a visitor (or a person acting on behalf of a visitor).”.

Duty to make returns

3 Duty to make returns

(1) Section 26 of the 2024 Act (duty to make returns) is modified as follows.

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(2) In subsection (3)(a), for the words from “section 5” to the end of the paragraph substitute “section 5 or, as the case may be, the VL scheme) that become payable by the liable person during the period.”.

Transitional provisions: chargeable transactions and returns

4 Modification of existing visitor levy scheme

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(1) Subsection (2) applies in relation to a modification of an existing VL scheme made on or after the relevant commencement day that is proposed to take account of the modification of paragraph (d) or (k) of section 14(1) of the 2024 Act by paragraph 9 of the schedule of this Act.

(2) If this subsection applies—

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(a) section 13(1) to (3) of the 2024 Act does not apply in relation to the modification, and

(b) section 14(5) of the 2024 Act is to be read as if for the words from “after” to the end of the subsection there were substituted “by the authority”.

(3) In this section—

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“existing VL scheme” means a VL scheme in respect of which, before the relevant commencement day, the local authority concerned has publicised (in accordance with section 15 of the 2024 Act) the proposed date on which the VL scheme is to come into force,

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“relevant commencement day” means the day on which Part 2 of the schedule of this Act comes into force,

“VL scheme” is to be construed in accordance with section 12(1)(a) of the 2024 Act.

5 Amendments of the 2024 Act and reasonable excuse for failure to make return, pay levy or keep records

5 (1) Subsection (2) applies if—

- (a) a liable person fails to comply with section 26, 28 or 29 of the 2024 Act in respect of a relevant chargeable transaction, and
- (b) the relevant local authority considers that the failure may be attributable to a relevant modification.

10 (2) The liable person is to be treated as satisfying the relevant local authority that there is a reasonable excuse for the failure for the purposes of—

- (a) section 51(1) of the 2024 Act where the failure is a failure to comply with section 26 of that Act,
- (b) section 55(1) of the 2024 Act where the failure is a failure to comply with section 15 28 of that Act,
- (c) section 53(1) of the 2024 Act where the failure is a failure to comply with section 29 of that Act.

(3) In this section—

20 “chargeable transaction” is to be construed in accordance with section 3(2) of the 2024 Act,

“liable person” is to be construed in accordance with section 8 of the 2024 Act,

“relevant chargeable transaction”, in relation to a liable person, means a chargeable transaction that is entered into by that person before the day on which the provisions mentioned in section 10(2) of this Act come into force,

25 “relevant local authority” has the meaning given in section 24(2) of the 2024 Act,

“relevant modification” means a modification of the 2024 Act made by section 2 or 3, or Part 2 of the schedule, of this Act.

Power to make further provision

6 Power to make further provision about the operation of the 2024 Act

30 (1) The 2024 Act is modified as follows.

(2) After section 75 insert—

“75A Power to make further provision about the operation of Parts 2 and 3

(1) The Scottish Ministers may by regulations make further provision about the operation of Parts 2 and 3.

35 (2) Regulations under this section may, in particular, make provision about how the levy is to be calculated, charged and paid in particular circumstances or types of case.

(3) Regulations under subsection (1) may modify any enactment (including this Act).

5

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(4) Before making regulations under this section, the Scottish Ministers must consult—

- (a) local authorities,
- (b) such persons as they consider to be representative of communities, businesses engaged in tourism and tourist organisations,
- (c) such other persons as they consider appropriate.

(5) Regulations under subsection (1)—

- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act,
- (b) otherwise, are subject to the negative procedure.”.

PART 2

FINAL PROVISIONS

7

Ancillary provision

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(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.

(2) Regulations under subsection (1) may—

- (a) modify any enactment (including this Act),
- (b) make different provision for different purposes.

(3) Regulations under subsection (1)—

- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act,
- (b) otherwise, are subject to the negative procedure.

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Meaning of “the 2024 Act”

In this Act, “the 2024 Act” means the Visitor Levy (Scotland) Act 2024.

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Consequential and minor modifications

The schedule makes modifications of the 2024 Act that are consequential on the provisions of this Act, and other minor modifications of the 2024 Act.

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Commencement

(1) This Part, except for section 9, comes into force on the day after Royal Assent.

(2) The following provisions come into force at the end of the period of two months beginning with the day of Royal Assent—

- (a) section 2,
- (b) section 3,

- (c) section 4,
- (d) section 5,
- (e) section 9 but only to the extent that it relates to Part 2 of the schedule,
- (f) Part 2 of the schedule.

5 (3) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

(4) Regulations under subsection (3) may—

- (a) include transitional, transitory or saving provision,
- (b) make different provision for different purposes.

10 11 **Short title**

The short title of this Act is the Visitor Levy (Amendment) (Scotland) Act 2026.

SCHEDULE
(introduced by section 9)

CONSEQUENTIAL AND MINOR MODIFICATIONS OF THE 2024 ACT

PART 1

5 CHANGES RELATING TO THE BASIS ON WHICH LEVY IS TO BE CHARGED

1 The 2024 Act is modified as follows.

2 (1) In section 5 (calculation of levy), before subsection (1) insert—

10 “(A1) This section applies where a local authority has introduced a VL scheme under which the levy is to be charged in respect of a chargeable transaction on the basis of a percentage rate.”.

(2) The title of section 5 becomes “**Calculation of levy based on a percentage rate**”.

3 (1) In section 6 (rate for levy)—

(a) before subsection (1) insert—

15 “(A1) This section 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 percentage rate.”,

(b) in subsection (1), for “A local authority seeking to introduce a VL scheme” substitute “The local authority”.

(2) The title of section 6 becomes “**Setting percentage rate for levy**”.

20 4 In section 10 (billing of overnight accommodation)—

(a) in subsection (2), in the opening words, for “Regulations” substitute “If the levy to be charged in respect of chargeable transactions is based on a percentage rate (or percentage rates), regulations”,

(b) after subsection (2) insert—

25 “(2A) If the levy to be charged in respect of chargeable transactions is a fixed amount (or fixed amounts) set under section 6A, regulations under subsection (1) may, in particular, require persons to—

30 (a) issue an invoice to a visitor or another person entering into a chargeable transaction or a subsequent transaction, in respect of overnight accommodation, which specifies—

(i) where the levy is chargeable as mentioned in section 6A(3)(a), the amount of the levy chargeable for each night, or

(ii) where the levy is chargeable as mentioned in section 6A(3)(b), the amount of the levy chargeable for each person each night,

(b) publish the amount (or amounts) of the levy chargeable (as the case may be)—

(i) for each night that any number of persons have a right to reside in or at overnight accommodation in pursuance of a chargeable transaction, or

(ii) for each person each night that the person has a right to reside in or at overnight accommodation in pursuance of a chargeable transaction.”.

5 In section 14 (required content of a scheme)—

(a) in subsection (1)—

(i) after paragraph (d) insert—

“(da) the basis on which the levy is to be charged in respect of each chargeable transaction to which the scheme relates in accordance with section 4A,”,

10 (ii) for paragraph (e) substitute—

“(e) either (as the case may be)—

(i) the percentage rate (or rates) of the levy set by the local authority under section 6, or

(ii) the fixed amount (or amounts) of the levy set by the local authority under section 6A,

15

(ea) if the levy under the scheme is a fixed amount (or fixed amounts), the method of calculating the levy chargeable in respect of chargeable transactions,”,

(b) in subsection (4)—

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(i) in the opening words, after “which” insert “does any of the following”,

(ii) for paragraph (b), and the word “or” immediately following that paragraph, substitute—

“(b) in the case of a VL scheme under which the levy to be charged is based on a percentage rate (or percentage rates), increases the percentage rate (or rates) of the levy,

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(ba) in the case of a VL scheme under which the levy to be charged is a fixed amount (or fixed amounts), increases the fixed amount (or amounts) of the levy,

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(bb) changes the basis on which the levy is to be charged from that mentioned in paragraph (a) of section 4A to that mentioned in paragraph (b) of that section (or vice versa),”,

(c) in subsection (6), in paragraph (b), after “(1)(e)” insert “and (ea)”.

PART 2

OTHER CHANGES RELATING TO CHARGEABLE TRANSACTIONS AND RETURNS ETC.

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6 The 2024 Act is modified as follows.

7 In section 10 (billing of overnight accommodation)—

(a) in subsection (1), after “chargeable transactions” insert “and subsequent transactions”,

(b) in subsection (2)(a)—

- (i) in the opening words, after “visitor” insert “or another person”,
- (ii) in the opening words, after “chargeable transaction” insert “, or a subsequent transaction, in respect of overnight accommodation”,
- 5 (iii) in sub-paragraph (ii), for the word “transaction” substitute “accommodation”,
- (iv) in sub-paragraph (iii), the words “and any deduction made under section 5(1)(b)” are repealed,
- (v) in sub-paragraph (iv), for “transaction” substitute “accommodation”,

(c) in subsection (2)(b)—

- 10 (i) in the opening words, after “person” insert “or another person”,
- (ii) in sub-paragraph (i), the words “and any deduction made under section 5(1)(b)” are repealed.

8 In section 11 (exemptions and rebates), in subsection (1)(b), for “enter into” substitute “take entry to overnight accommodation in pursuance of”.

15 9 In section 14(1) (required content of a scheme)—

- (a) for paragraph (d) substitute—
 - 20 “(d) when, during the scheme period, the taking of entry to overnight accommodation in exercise of the right to reside in or at the accommodation is to give rise to the levy (which may be at all times during the scheme period),”,
 - (b) in paragraph (k), for the words “visitor who has (or a category of visitors who have) entered into a chargeable transaction” substitute “person who has (or a category of persons who have) entered into a chargeable transaction or a subsequent transaction”.

25 10 In section 28(4) (duty to keep and preserve records)—

- (a) for paragraph (a) substitute—
 - “(a) details of any overnight stays during the period to which the return relates in respect of which levies become payable by the liable person,”,
- (b) after paragraph (a) insert—
 - 30 “(ab) details of the chargeable transactions in relation to which those levies are payable,”.

11 In section 47(1) (penalty for failure to make returns), after “section 26” insert “(as read with section 25(1))”.

12 In section 76(1) (interpretation of Act)—

- 35 (a) in the definition of “chargeable transaction”, after “section 3(2)” insert “(see also section 3(2A) and (2B))”,
- (b) after the definition of “relevant local authority” insert—
 - ““subsequent transaction” is to be construed in accordance with section 3(2A)(b),”.

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Introduced by: Shona Robison

Supported by: Ivan McKee

On: 6 January 2026

Bill type: Government Bill

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