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# **Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh**

## **Delegated Powers in the Visitor Levy (Amendment) (Scotland) Bill at Stage 1**



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# Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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# Introduction

1. At its meeting on 13 January 2026, the Delegated Powers and Law Reform Committee considered the delegated powers contained in the Visitor Levy (Amendment) (Scotland) Bill ("the Bill") at Stage 1.
2. The Committee submits this report to the lead committee for the Bill under Rule 9.6.2 of Standing Orders.

# Overview of the Bill

3. This Scottish Government Bill was introduced on 6 January 2026. The lead committee is the Local Government, Housing and Planning Committee.
4. The Visitor Levy (Scotland) Act 2024 (“the 2024 Act”) created a discretionary power for local authorities to introduce a visitor levy applying to the purchase of overnight accommodation within all or part of their area. The 2024 Act responded to longstanding calls from local authorities and the tourism sector for a mechanism enabling local areas to raise revenue to support local services and infrastructure impacted by tourism pressure.
5. Edinburgh’s visitor levy scheme is due to be the first implemented under the 2024 Act. As that scheme has moved towards operational readiness, a number of technical and practical issues have come to light. The Bill seeks to address these, and to give local authorities greater flexibility when setting the form of the levy.
6. The Bill has two principal purposes:
  1. It makes technical corrections and clarifications to ensure that the operation of visitor levy schemes is administratively workable.
  2. It enhances flexibility, specifically by enabling authorities to opt for a fixed-amount-per-night levy as an alternative to the existing percentage-based model.

# Delegated powers

7. The Bill confers four powers to make subordinate legislation on the Scottish Ministers. The Scottish Government has prepared a [Delegated Powers Memorandum](#) which sets out the reasons for taking the delegated powers in the Bill and the procedure chosen.

## Review of relevant powers

**Section 1(3) which inserts a new section 6A(6) into the 2024 Act: Power to set the maximum amount which a local authority may set as the amount of levy to be charged under new section 6A(2) where the levy is based on a fixed amount (or amounts).**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

### Provision

8. New section 6A(6) of the 2024 Act (to be inserted by section 1(3) of the Bill), gives the Scottish Ministers a power to specify in regulations the maximum amount which a local authority may set as the amount of a fixed amount (or amounts) levy. Subsection (7) of the new section provides that the regulations may specify different maximum amounts for different purposes, and subsection (8) imposes a duty on Ministers to consult local authorities, representatives of communities and businesses engaged in tourism and tourist organisations, and other persons as they consider appropriate, before making regulations under subsection (6).

### Committee consideration

9. The Committee accepts that this power is necessary to ensure that Scottish Ministers have the ability, if required, to support the consistent and proportionate application of a fixed-amount visitor levy across Scotland.
10. There is precedent for this approach in the 2024 Act, which contains a similar power to set a maximum percentage rate for the levy. Given that this power allows Ministers to impose a national cap on a local tax, the Committee agrees that the affirmative procedure provides an appropriate level of parliamentary oversight.

11. **The Committee finds the power acceptable in principle and is content with the choice of procedure.**

**Section 6(1) inserting new section 75A into the 2024 Act: Power to make further provision about the operation of Parts 2 and 3 of the 2024 Act.**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative where regulations add to, replace or omit any part of the text of an Act, negative in any other case.**

**Provision**

12. New section 75A(1) of the 2024 Act (to be inserted by section 6(1) of the Bill) gives the Scottish Ministers power to make further provision by regulations about the operation of Parts 2 and 3 of the 2024 Act. Subsection (2) of the new section provides that the regulations may, in particular, include provision about how the levy is to be calculated, charged and paid in particular circumstances or types of case, and subsection (3) provides that regulations may modify any enactment including the 2024 Act.

**Committee consideration**

13. Although cast in wide terms, this power is solely concerned with operational matters such as calculation, charging and payment of the levy. Scottish Ministers require to consult local authorities, representatives of communities, businesses engaged in tourism and tourist organisations, and other persons as they consider appropriate, before making regulations under this power. The Committee is therefore content with this power in principle and with the choice of procedure applicable to its exercise.

14. **The Committee finds the power acceptable in principle and is content with the choice of procedure.**

**Section 7(1): Ancillary provision**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative where regulations add to, replace or omit any part of the text of an Act, negative in any other case.**

**Provision**

15. Section 7(1) gives Scottish Ministers power to make, by regulations, any incidental, supplementary, consequential, transitional, transitory or saving provision that Ministers consider appropriate for the purposes of, in connection with or for giving full effect to the Bill's provisions including any provision made under it. Regulations under section 7(1) may make different provisions for different purposes and may modify any enactment (including the Act resulting from the Bill).

**Committee consideration**

16. This power is drafted in similar terms to the ancillary powers which are taken in most Bills. The power is limited in scope, as it can only be exercised to give full effect to the Bill, as enacted. The power allows the Scottish Ministers to address any ancillary issues that may arise. Without such a power, any changes would require primary legislation, which would be an inefficient use of the Parliament's

time and the Scottish Government's resources.

17. The affirmative procedure applies where the power is exercised to make regulations that amend primary legislation, otherwise the negative procedure applies.

18. **The Committee finds the power acceptable in principle and is content with the choice of procedure.**

### **Section 10(3): Commencement.**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Laid, no procedure**

### **Provision**

19. Section 10(3) confers a regulation-making power on the Scottish Ministers to appoint the day on which sections 1, 6 and 9 (so far as relating to Part 1 of the schedule), and Part 1 of the schedule, come into force. Subsection (4) provides that regulations may include transitional, transitory or saving provision, and may make different provision for different purposes.

### **Committee consideration**

20. This is a standard commencement power. The Committee is therefore content with this power.

21. **The Committee finds the power acceptable in principle and is content that it is not subject to any parliamentary procedure.**

