

Consultation Response

Visitor Levy (Amendment) (Scotland) Bill

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Tax law sub-committee welcomes the opportunity to consider and respond to the Local Government, Housing and Planning Committee's call for views on the Visitor Levy (Amendment) (Scotland) Bill.¹ The sub-committee has the following comments to put forward for consideration.

Questions

1. Allowing for a flat fee to be charged

- Do you believe this change is necessary? Yes/No
- Please explain why

We have no comments.

2. Allowing for a flat fee model to contain different fees for different circumstances such as different geographical locations, times of year or types of accommodation

- Do you believe this change is necessary? Yes/No
- Please explain why

We have no comments.

¹ [Visitor Levy \(Amendment\) \(Scotland\) Bill - Scottish Parliament - Citizen Space](#)



3. Clarification of the point of chargeable transaction in cases where accommodation is sold through a third party, such as online travel agents, digital platforms tour operators, or booking intermediaries. The chargeable transaction is the first sale by the liable person (typically the accommodation provider) to that third party.

- Do you believe this change is necessary? Yes/No
- Please explain why (In your response, please state the advantages and disadvantages for councils and accommodation providers)

We have no comments.

4. Clarification that levy returns should be calculated based on the date of occupancy, not the date of booking or payment.

- Do you believe this clarification is necessary? Yes/No
- Please explain why (In your response, please state the advantages and disadvantages for councils and accommodation providers)

We have no comments.

5. The powers in section 6 of the Bill which Scottish Ministers to amend the operation of parts 2 and 3 of the 2024 Act via regulations.

- Do you believe this change is necessary? Yes/No
- Please explain why

We highlight our comments made in response to the Delegated Powers and Law Reform Committee's inquiry 'Framework Legislation and Henry VIII Powers'.²

² [Call for Views on Framework Legislation and Henry VIII Powers](#)



An appropriate level of parliamentary scrutiny is necessary for the production of good law. Whilst we understand the rationale for the inclusion of the delegated powers to amend the Visitor Levy (Scotland) Act 2024 ("the 2024 Act") further, considering the manner in which this Bill has been introduced and the compressed timescale for consideration, we have significant concerns about the degree of consideration that the Scottish Parliament will be able to give these provisions. We further note from the Policy Memorandum that these powers were not subject to formal consultation.³

We note the requirements in the proposed new section 75A(4) of the 2024 Act in regards to stakeholders that Ministers must consult prior to regulations make further provision about the operation of Parts 2 and 3. However, we strongly urge the Scottish Government to commit to engage in extensive stakeholder consultation regarding any regulations brought forward under these powers and ensure that the regulations go through adequate levels of parliamentary scrutiny, perhaps by amending the Bill to require that where they add to, replace or omit any part of the text of the 2024 Act, these powers are subject to a pre-laying procedure.

6. What is your view on the Scottish Government's engagement with stakeholders prior to the introduction of the new Bill?

We have no comments and address our views on the manner in which the Scottish Government introduced this Bill in our answer to question 7.

7. What is your view on the timescales available for consideration of this Bill?

In regard to the timescale, we consider there to be two issues.

- Amending legislation less than 2 years after the passage of the 2024 Act, despite extensive stakeholder engagement and parliamentary scrutiny of the original legislation, is undesirable.
- The timing of this Bill at the end of the parliamentary term makes it challenging for the Scottish Parliament to conduct rigorous and adequate scrutiny of the Bill's provisions. We specifically note the significantly shorter timescale to respond to the call for views. We refer to our answer to question 5 for further detail on this point but reiterate that appropriate levels of parliamentary scrutiny are necessary for the production of good law.

Whilst we understand from the policy memorandum the Scottish Government's rationale for bringing forward a Bill⁴, we have significant concerns and

³ [Policy Memorandum accessible](#), page 8

⁴ [Policy Memorandum accessible](#), page 3



reservations about the manner in which the Scottish Government has brought forward this legislation for consideration.

We reiterate our comments made previously regarding the need for a process that allows for regular maintenance of, and amendment to, the devolved taxes.⁵ This could form part of the budget process, including formalising a regular timetable and mechanism for stakeholders to give input on any operational and policy concerns with the tax legislation. This includes so-called "care and maintenance" matters as well as substantive changes to tax policy and to rates and bands. We believe that an annual process, perhaps including an annual "fiscal event", would allow for greater transparency and increased opportunity for proposed draft legislation to be considered by stakeholders. Such a process could have avoided the need for introducing a separate Bill to amend the 2024 Act and the compressed timescale for parliamentary scrutiny afforded to the Bill.

8. Is there anything else you wish to tell us about the proposed legislation and accompanying documents?

We highlight two further issues for the Scottish Government's consideration. We suggest that consideration could be given to including in the legislation an exemption from the levy for two categories of individuals:

- 1) Visitors who are compelled to stay in accommodation for the purpose of attending hospital for diagnosis or treatment.
- 2) Visitors who are compelled to stay in accommodation for the purposes of attending a court or tribunal either as a litigant, witness or accused person.

We consider that such exemptions would be in line with the Scottish Government's tax principles of proportionality, efficiency, and fairness. In the case of the latter point, such an exemption would also not pose a barrier to access to justice.

⁵ [Managing Scotland's Public Finances: A Strategic Approach](#)



For further information, please contact:

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