

# Visitor Levy (Scotland) Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 75

Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 3

#### Miles Briggs

21 In section 3, page 2, line 8, at end insert—

<( ) The levy must be paid by the visitor only at the overnight accommodation.>

### Section 4

#### Miles Briggs

22 In section 4, page 2, leave out line 27

#### Miles Briggs

23 In section 4, page 2, leave out line 31

#### Miles Briggs

24 In section 4, page 2, line 31, after <sites> insert <where the provision of camping pitches is the primary income of the business,>

#### Miles Briggs

25 In section 4, page 2, leave out line 32

#### Liam McArthur

1 In section 4, page 2, line 32, at end insert—

<( ) accommodation in a vehicle, or on board a vessel, that is undertaking a journey involving one or more overnight stops,>

#### Liam McArthur

2 In section 4, page 3, leave out lines 5 and 6

**Miles Briggs**

26 In section 4, page 3, line 6, at end insert—

- <( ) camping pitches where the provision of camping pitches is ancillary to the income of the main business activity.>

**Miles Briggs**

27 In section 4, page 3, line 6, at end insert—

- <( ) caravan pitches where the provision of caravan pitches is ancillary to the income of the main business activity.>

**Miles Briggs**

28 In section 4, page 3, line 6, at end insert—

- <( ) camping pitches where the provision of camping pitches is for a festival or event.>

**Miles Briggs**

29 In section 4, page 3, line 6, at end insert—

- <( ) caravan pitches where the provision of caravan pitches is for a festival or event.>

**Tom Arthur**

3 In section 4, page 3, line 13, leave out from <local> to <appropriate> and insert <—

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

**Section 5**

**Tom Arthur**

30 In section 5, page 3, line 18, at end insert <and>

**Tom Arthur**

31 In section 5, page 3, leave out from beginning line 19 to <resulting> in line 22 and insert <multiplying that>

**After section 6**

**Ross Greer**

32 After section 6, insert—

### **<Maximum number of nights of overnight accommodation**

- (1) A local authority seeking to introduce a VL scheme may specify that a maximum number of nights may apply in respect of a chargeable transaction for the right to reside in or at that accommodation for a period of consecutive nights.
- (2) A local authority may only specify a maximum number of nights under subsection (1) if it has consulted—
  - (a) such persons as they consider to be representative of communities, businesses engaged in tourism and tourist organisations, and
  - (b) such other persons as they consider appropriate.>

## **Section 8**

### **Miles Briggs**

- 33 In section 8, page 4, leave out lines 28 and 29

## **Section 10**

### **Tom Arthur**

- 4 In section 10, page 5, line 31, leave out subsection (1A) and insert—
- <(1A) Without prejudice to the generality of subsection (1), regulations may specify a maximum number of nights of overnight accommodation for the purposes of applying, where a chargeable transaction is for the right to reside in or at that accommodation for period of consecutive nights, an exemption or rebate to the part of the levy which is attributable to any nights in excess of that maximum.
- (1B) Regulations specifying a maximum number in accordance with subsection (1A) may in particular provide—
- (a) that a maximum number of nights may apply in respect of a single chargeable transaction or more than one chargeable transaction which relate to the right to reside in or at the same overnight accommodation for a number of consecutive nights,
  - (b) the method by which the maximum is to be used to calculate the accommodation portion of a transaction and the amount of the levy (for example by disregarding nights beyond the maximum or by applying an average).
- (1C) Regulations specifying a maximum number in accordance with subsection (1A)—
- (a) may specify different maximum numbers of nights for different purposes, but
  - (b) may not specify different maximum numbers of nights for different areas.
- (1D) 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, and
  - (c) such other persons as they consider appropriate.>

## Section 12

### Tom Arthur

5 In section 12, page 6, line 27, at end insert—

<( ) a statement about the cases and circumstances under the proposal in which the levy (or a sum equivalent to the levy) is not payable or may be reimbursed,>

### Tom Arthur

6 In section 12, page 6, line 33, at end insert—

<( ) in the case of a modification of a VL scheme, the VL forum for that scheme as established by the local authority in accordance with section (*Visitor levy forum*)(1),>

### Ross Greer

34 In section 12, page 7, line 6, after <must> insert <, in the view of the local authority,>

## Section 13

### Tom Arthur

7 In section 13, page 7, line 25, at end insert—

<( ) the scheme's objectives,>

### Jeremy Balfour

8 In section 13, page 7, line 28, at end insert—

<(ga) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor or any other person utilising the right to reside in the overnight accommodation is in receipt of benefits, payments or allowances for a disability—

- (i) under section 71 of the Social Security Contributions and Benefits Act 1992 (disability living allowance),
- (ii) specifically for working age people given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018 (disability assistance),
- (iii) under section 64 of the Social Security Contributions and Benefits Act 1992 (attendance allowance),
- (iv) specifically for older people given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018 (pension age disability benefit), or
- (v) under Part 4 of the Welfare Reform Act 2012 (personal independence payment),

(gb) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (ga), including the evidence required and manner in

which it may be demonstrated that a visitor or other person is in receipt of the relevant benefit, payment or allowance,>

**Miles Briggs**

35 In section 13, page 7, line 28, at end insert—

<(ga) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is visiting a family member in hospital,

(gb) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (ga), including the evidence required and manner in which it may be demonstrated that a visitor is visiting a family member in hospital,>

**Miles Briggs**

36 In section 13, page 7, line 28, at end insert—

<(gc) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is visiting a family member in prison,

(gd) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gc), including the evidence required and manner in which it may be demonstrated that a visitor is visiting a family member in prison,>

**Miles Briggs**

37 In section 13, page 7, line 28, at end insert—

<(ge) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is working as an artist or technician at a festival,

(gf) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (ge), including the evidence required and manner in which it may be demonstrated that a visitor is working as an artist or technician at a festival,>

**Miles Briggs**

38 In section 13, page 7, line 28, at end insert—

<(gg) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is providing personal care for a family member,

(gh) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gg), including the evidence required and manner in which it may be demonstrated that a visitor is providing personal care for a family member,>

**Miles Briggs**

39 In section 13, page 7, line 28, at end insert—

<(gi) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is stranded as a result of a ferry cancellation,

(gj) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gi), including the evidence required and manner in which it may be demonstrated that a visitor is stranded as a result of a ferry cancellation,>

**Miles Briggs**

40 In section 13, page 7, line 28, at end insert—

<(gk) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is receiving respite care,

(gl) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gk), including the evidence required and manner in which it may be demonstrated that a visitor is receiving respite care,>

**Miles Briggs**

41 In section 13, page 7, line 28, at end insert—

<(gm) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is on an educational trip for school, college or university,

(gn) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gm), including the evidence required and manner in which it may be demonstrated that a visitor is on an educational trip for school, college or university,>

**Miles Briggs**

42 In section 13, page 7, line 28, at end insert—

<(go) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is on work or business travel,

(gp) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (go), including the evidence required and manner in which it may be demonstrated that a visitor is on work or business travel,>

**Miles Briggs**

43 In section 13, page 7, line 28, at end insert—

<(gq) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is visiting a family member in a hospice or care home,

(gr) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gq), including the evidence required and manner in

which it may be demonstrated that a visitor is visiting a family member in a hospice or care home,>

**Miles Briggs**

44 In section 13, page 7, line 28, at end insert—

<(gs) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is a permanent resident in the same local authority area,

(gt) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gs), including the evidence required and manner in which it may be demonstrated that a visitor is a permanent resident in the same local authority area,>

**Miles Briggs**

45 In section 13, page 7, line 28, at end insert—

<(gu) that the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed in a case where the visitor utilising the right to reside in the overnight accommodation is a permanent resident in Scotland,

(gv) arrangements for the administration of the exemption or reimbursement specified in accordance with paragraph (gu), including the evidence required and manner in which it may be demonstrated that a visitor is a permanent resident in Scotland,>

**Pam Gosal**

46 In section 13, page 7, line 33, at end insert—

<( ) For the purposes of paragraph (g), the VL scheme must specify whether the levy is not payable in relation to accommodation which has an annual turnover below the VAT threshold.>

**Tom Arthur**

9 In section 13, page 7, line 34, after <force> insert <, or on which a significant modification is to take effect,>

**Ross Greer**

47 In section 13, page 7, line 34, leave out <18> and insert <12>

**Ross Greer**

48 In section 13, page 7, line 34, leave out <18> and insert <6>

**Tom Arthur**

10 In section 13, page 7, line 35, leave out <of the local authority's decision to introduce the scheme> and insert <on which the local authority publishes a report under section 12(1)(c) stating that it intends to proceed with the original or modified proposal.

- (2A) In subsection (2), “significant modification” means a modification of a VL scheme which—
- (a) expands the scheme area,
  - (b) increases the percentage rate (or rates) of the levy, or
  - (c) removes from the VL scheme any cases or circumstances in which the levy (or a sum equivalent to the levy) is not payable or reimbursed.
- (2B) Any other modification of a VL scheme may come into force on a date specified after the authority publishes a report under section 12(1)(c) stating that it intends to proceed with the original or modified proposal.>

**Ross Greer**

**49** In section 13, page 7, line 35, at end insert—

- <( ) For the purposes of subsection (2), it is immaterial that the local authority’s decision was made before the Bill for this Act was passed provided that the decision was made no earlier than 24 May 2023.>

**Ross Greer**

**50** In section 13, page 7, line 35, at end insert—

- <( ) For the purposes of subsection (2), it is immaterial that the local authority’s decision was made before this section comes into force by regulations made under section 74, provided that the decision was made after the day of Royal Assent.>

**Tom Arthur**

**11** In section 13, page 7, line 39, at end insert—

- <( ) The Scottish Ministers may by regulations amend subsection (2A) so as to add to, remove, or vary the description of the modifications listed.
- ( ) 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, and
  - (c) such other persons as they consider appropriate.>

**Tom Arthur**

**12** In section 13, page 8, line 1, leave out <subsection (3)> and insert <this section>

**Miles Briggs**

**51** In section 13, page 8, line 1, at end insert—

- <( ) In this section, “family member” means the person’s—
- (a) spouse or civil partner,
  - (b) child,
  - (c) parent,



- (d) sibling,
- (e) aunt or uncle,
- (f) nephew or niece,
- (g) cousin, or
- (h) grandparent.>

**Pam Gosal**

**52** In section 13, page 8, line 1, at end insert—

<( ) In this section, the “VAT threshold” has the meaning given in section 1 of the Value Added Tax Act 1994.>

**After section 14**

**Tom Arthur**

**13** After section 14, insert—

**<Visitor levy forum**

- (1) A local authority operating a VL scheme must—
  - (a) by no later than 6 months after the date of its decision to introduce a VL scheme, establish a forum for the scheme (“the VL forum”) to carry out the functions set out in subsection (2),
  - (b) maintain the VL forum for the duration of the scheme, and
  - (c) ensure that the VL forum—
    - (i) is able to carry out those functions, and
    - (ii) meets on a regular basis, being not less than 2 times in each calendar year.
- (2) The functions of the VL forum are—
  - (a) to discuss and advise the authority and any other person or body consulting the forum on matters having to do with the VL scheme,
  - (b) to discuss and respond to each—
    - (i) consultation on a modification of the VL scheme under section 12(1)(b), and
    - (ii) consultation on the use of net proceeds of the VL scheme under section 17(2), and
  - (c) to discuss and make such representations as are considered appropriate in relation to each—
    - (i) annual report on the VL scheme under section 18, and
    - (ii) report setting out the findings of a review of the VL scheme under section 19.
- (3) The VL forum is to consist of such persons as are appointed to it by the local authority operating the VL scheme.
- (4) The local authority must ensure that the membership of the VL forum—
  - (a) includes such persons as the authority considers to be representative of communities, businesses engaged in tourism and tourist organisations in its area, and

- (b) consists of a reasonable balance of such persons.
- (5) The local authority may appoint one or more of its own members to the VL forum, provided that local authority members do not form a majority of the members of the VL forum.
- (6) If there is more than one VL scheme for different parts of a local authority area—
  - (a) more than one VL forum may be established for the area of a local authority, but
  - (b) a single VL forum may be established for the purposes of this section and the schemes in the different parts of a local authority area.>

### **Section 17**

**Tom Arthur**

**14** In section 17, page 9, line 17, at end insert—

<( ) the VL forum for that scheme as established by the local authority in accordance with section (*Visitor levy forum*)(1),>

### **Section 18**

**Tom Arthur**

**15** In section 18, page 10, line 3, at end insert—

<( ) The local authority must provide a copy of the published report to the VL forum for that scheme established by the local authority in accordance with section (*Visitor levy forum*)(1).>

### **Section 19**

**Tom Arthur**

**16** In section 19, page 10, line 21, at end insert—

<( ) The local authority must provide a copy of the published report to the VL forum for that scheme established by the local authority in accordance with section (*Visitor levy forum*)(1).>

### **Section 20A**

**Tom Arthur**

**17** In section 20A, page 10, line 34, at end insert—

<(2A) Guidance published under this section must in particular include guidance about—

- (a) other persons whom a local authority might consider to be affected or appropriate when the authority consults on a VL scheme under section 12(1)(b) or on the net proceeds of a VL scheme under section 17(2),
- (b) the process which a local authority might follow before determining any cases and circumstances in which the levy is not payable or reimbursed,

- (c) support or assistance which a local authority may provide to liable persons to operate in accordance with a VL scheme,
- (d) the matters to be considered by a local authority when deciding the objectives of a scheme, and
- (e) the matters to be considered by a local authority when deciding the use of the net proceeds of a scheme.>

**Tom Arthur**

18 In section 20A, page 11, line 9, at end insert—

- ( ) add to, remove, or vary the description of the matters listed in subsection (2A) which must be included in the guidance.>

**After section 41**

**Tom Arthur**

19 After section 41, insert—

**<CHAPTER**

**ASSESSMENTS WHERE NO RETURN OR INCORRECT RETURN**

**Power to allow a local authority to make or substitute an assessment**

- (1) The Scottish Ministers may by regulations make provision for and in connection with a relevant local authority making an assessment of a levy payable by a person where the relevant local authority—
  - (a) has reason to believe that the person is liable to pay the levy but has not made a return to the authority in relation to that liability by the date required under section 23(2)(b), or
  - (b) is of the view honestly and reasonably that an assessment of the levy in a return made to the authority by the person in pursuance of that person’s duty under section 23 is incorrect by reason of careless or deliberate miscalculation.
- (2) Regulations under subsection (1) may, in particular, make provision for or in connection with—
  - (a) the conditions which must be satisfied for a local authority to—
    - (i) make an assessment of a levy payable by a person where no return has been made,
    - (ii) make an assessment of a levy payable by a person where it is of the view that an assessment of the levy in a return is incorrect,
  - (b) the procedure which a local authority must follow to make an assessment of a levy payable by a person,
  - (c) notices which must be given before or after any assessment,
  - (d) the time limits within which the powers may be exercised,
  - (e) delegation of the authority’s powers under the regulations,

- (f) the effect of an authority's assessment for the purposes of the imposition of penalties under Chapter 2.
- (3) Regulations under subsection (1) must make provision for and connection with—
  - (a) reviews of an assessment made by a local authority and, for the avoidance of doubt, such provision may include in particular the matters mentioned in section 67(2), and
  - (b) appeals to the First-tier Tribunal for Scotland against an assessment after a review has been conducted and, for the avoidance of doubt, such provision may include in particular the matters mentioned in section 68(2).
- (4) Regulations under subsection (1) are subject to the affirmative procedure.>

### **Section 43**

#### **Ross Greer**

- 53 In section 43, page 20, line 36, leave out <of £100> and insert <as determined by a relevant local authority>

### **Section 44**

#### **Ross Greer**

- 54 In section 44, page 21, line 10, leave out <£10> and insert <to be determined by a relevant local authority>

### **Section 45**

#### **Ross Greer**

- 55 In section 45, page 21, line 19, leave out from the second <the> to end of line 21 and insert <to be determined by a relevant local authority.>

### **Section 46**

#### **Ross Greer**

- 56 In section 46, page 21, line 27, leave out from <the> to end of line 29 and insert <to be determined by a relevant local authority.>

#### **Ross Greer**

- 57 In section 46, page 21, line 30, leave out from second <the> to end of line 33 and insert <to be determined by a relevant local authority.>

### **Section 48**

#### **Ross Greer**

- 58\* In section 48, page 22, line 21, leave out <of 5% of the unpaid levy> and insert <as determined by a relevant local authority>

**Ross Greer**

- 59 In section 48, page 22, line 23, leave out <of 5% of that amount> and insert <as determined by a relevant local authority>

**Ross Greer**

- 60 In section 48, page 22, line 25, leave out <of 5% of that amount> and insert <as determined by a relevant local authority>

**Section 50**

**Ross Greer**

- 61 In section 50, page 23, line 4, leave out <not exceeding £3,000,> and insert <as determined by a relevant local authority,>

**Section 52**

**Ross Greer**

- 62 In section 52, page 23, line 26, leave out <of £300> and insert <as determined by a relevant local authority>

**Section 53**

**Ross Greer**

- 63 In section 53, page 23, line 34, leave out <not exceeding £60> and insert <as determined by a relevant local authority>

**Section 55**

**Ross Greer**

- 64 In section 55, page 24, line 29, leave out <not exceeding £3,000> and insert <as determined by a relevant local authority>

**After section 55**

**Ross Greer**

- 65 After section 55, insert—

*<Surcharge for repeat failures to comply*

**Surcharge for repeat failures to comply**

- (1) The penalty charge payable in respect of a first penalty is the amount specified as determined by a local authority under section 42.
- (2) The surcharge payable in respect of a second penalty is the amount specified as determined by a local authority under section 42.

- (3) The surcharge payable in respect of a third penalty is the amount specified as determined by a local authority under section 42.
- (4) The surcharge payable in respect of a fourth penalty is the amount specified as determined by a local authority under section 42.
- (5) The surcharge payable in respect of a fifth and any subsequent penalty is the amount specified as determined by a local authority under section 42.
- (6) This section applies where a person is found liable to pay any penalty charge under this Chapter.
- (7) In this section—
  - “first penalty” means the first occasion in which a person is liable to pay a penalty under this Chapter,
  - “second penalty” means the second occasion in which the same person as in the first penalty is liable to pay a penalty under this Chapter,
  - “third penalty” means the third occasion in which the same person as in the first penalty is liable to pay a penalty under this Chapter,
  - “fourth penalty” means the fourth occasion in which the same person as in the first penalty is liable to pay a penalty under this Chapter,
  - “fifth and any subsequent penalty” means the fifth and any subsequent occasion in which the same person as in the first penalty is liable to pay a penalty under this Chapter,
  - “surcharge” means an additional amount to be paid in addition to the penalty.>

## **Section 65**

### **Ross Greer**

**66** In section 65, page 27, line 19, at end insert—

<( ) about the procedure for repeat failure to comply, including the amounts of any surcharges,>

## **Before section 71**

### **Tom Arthur**

**20** Before section 71, insert—

#### **<Report on operation of Act**

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of the reporting period—
  - (a) review the operation of this Act, and
  - (b) prepare a report on that review.
- (2) The report must, in particular, set out an assessment of—
  - (a) the impact of VL schemes introduced under this Act on businesses and communities,

- (b) the processes followed by relevant local authorities when introducing, administering, reporting on and reviewing VL schemes,
  - (c) how the net proceeds of VL schemes have been used by relevant local authorities,
  - (d) any exemptions or rebates applying to the payment of the levy under VL schemes,
  - (e) any guidance which has been issued in accordance with section 20A,
  - (f) the use of the compliance and enforcement powers under Part 5, and
  - (g) any other matters as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must, as soon as reasonably practicable after preparing the report—
- (a) publish the report, and
  - (b) lay the report before the Scottish Parliament.
- (4) In this section, “the reporting period” is the period beginning with the day of Royal Assent and ending on—
- (a) the day which is three years after the day on which the first VL scheme comes into effect, or
  - (b) such earlier day which is after the day on which the first VL scheme comes into effect as may be determined by Ministers.>

#### **Section 74**

##### **Ross Greer**

- 67** In section 74, page 32, line 8, after <regulations> insert <, which must be a date no later than 6 months after the day of Royal Assent.
- <( ) Where the Scottish Ministers do not make regulations under subsection (2) bringing into force the other provisions of this Act within 6 months of Royal Assent, they must report their reasons for not doing so to the Scottish Parliament.>





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