Draft Regulations laid before the Scottish Parliament under section 42(1)(a) and (d) of the Air Departure Tax (Scotland) Act 2017 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

AIR DEPARTURE TAX

The Air Departure Tax (Scotland) Amendment Regulations 2026

Made - - - -	*2026*
Coming into force - -	*1st April 2027*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 15, 42(3)(a) and 43 of the Air Departure Tax (Scotland) Act 2017(**a**) and all other powers enabling them to do so.

In accordance with section 42(1)(a) and (d) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Air Departure Tax (Scotland) Amendment Regulations 2026 and come into force on 1 April 2027.

Amendment of the Air Departure Tax (Scotland) Act 2017

2.—(1) The Air Departure Tax (Scotland) Act 2017 is amended as follows.

(2) In section 2(1)(b) (meaning of chargeable passenger), for "7" substitute "7A".

(3) After section 7 (changes of circumstance beyond passengers' control), insert—

"7A Passengers carried on certain flights beginning or ending at an airport in a designated area

(1) A passenger is a non-chargeable passenger in relation to a flight if—

(a) the passenger is carried on the flight in one of the circumstances set out in subsection (2),

(b) the passenger will, according to the agreement for carriage, have standard class travel on every flight covered by the agreement for carriage, and

(c) the aircraft on which the passenger is carried is not a special category aircraft.

(**a**) 2017 asp 2.

(2) The circumstances are that the flight (or, in the case of two or more flights which are connected flights, the first connected flight) begins at an airport—

(a) in a designated area, and the passenger's final destination is an airport in the United Kingdom,

(b) in Scotland, and the passenger's final destination is an airport in a designated area.

(3) In this section, the final destination of a passenger carried on a flight—

(a) is the place where the flight ends (or, if the flight and one or more subsequent flights are connected flights, where the last connected flight ends), and

(b) is to be determined in accordance with subsection (4).

(4) For the purposes of this section, the final destination of a passenger carried on a flight is to be determined—

(a) where the flight is not part of a series of connected flights—

(i) where a ticket is issued for the flight, by reference to the passenger's ticket as it stands immediately before the flight takes off, or

(ii) where a ticket is not issued for the flight, by reference to the passenger's agreement for carriage as it stands immediately before the flight takes off, or

(b) where the flight is part of a series of connected flights, by reference to the passenger's ticket (or tickets) as it stands (or they stand) immediately before the first connected flight takes off.

(5) For the purposes of this section, the designated areas are—

(a) the local authority areas of Highland, Na h-Eileanan an Iar(**a**), Orkney Islands, Shetland Islands and that part of Argyll and Bute which is the area of the former Argyll and Bute District Council and the islands of Arran, Great Cumbrae and Little Cumbrae, and

(b) in the local authority area of Moray, the parishes of Aberlour, Cabrach, Dallas, Dyke, Edinkillie, Forres, Inveravon, Kinloss, Kirkmichael, Knockando, Mortlach, Rafford and Rothes.".

(4) In section 9 (aircraft used under public service obligation)—

(a) in subsection (1), after "public service obligation", insert ", subject to subsection (1A)",

(b) after subsection (1), insert—

"(1A) Where a flight that is operated under a public service obligation is part of a series of two or more connected flights, the aircraft in relation to the flight is to be treated as a chargeable aircraft in relation to any passenger whose final destination is an airport outwith the United Kingdom.",

(c) in subsection (2)—

(i) for "a Member State of the European Union" substitute "the Secretary of State",

(ii) after "air services", insert "in the United Kingdom".

(**a**) Referred to as the Western Isles in Part 1 of schedule 1 (New local government areas) of the Local Government etc. (Scotland) Act 1994 (c. 39).

(5) In section 44(1) (interpretation), in the definition of "exemption", in paragraph (a), for "7" substitute "7A".

(6) In the table in schedule 3 (index of defined expressions)—

(a) after the entry for "deregistered (for the tax)", insert—

"designated area	section 7A(5)",

(b) in the entry for "final destination (of a person on a flight)", in the second column, after "section 16(5)", insert "(and section 7A(3), which applies for the purposes of section 7A)".

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Air Departure Tax (Scotland) Act 2017 ("the 2017 Act") to make provision concerning who is a non-chargeable passenger in respect of certain flights which begin or end at an airport in a designated area of Scotland and related consequential amendments to the 2017 Act. In addition, these Regulations amend section 9 of the 2017 Act (aircraft used under public service obligation).

Regulation 2(3) inserts a new section 7A into the 2017 Act. Section 7A provides for a non-chargeable passenger exemption in respect of Air Departure Tax in connection with passengers carried on certain flights which begin or end at an airport in a designated area of Scotland, provided that the conditions specified in section 7A(1) are met. Section 7A(5) defines the designated areas of Scotland for the purposes of this exemption. Where a passenger is a non-chargeable passenger in relation to a flight under the terms of the new section 7A, an aircraft operator may carry that passenger on an aircraft without incurring Air Departure Tax. Regulation 2(2), (5) and (6) make consequential amendments to the 2017 Act to reflect the new section 7A, the introduction of the new defined term for a "designated area" and the introduction of a definition for the term "final destination" which applies for the purposes of the new section 7A.

Regulation 2(4) amends section 9 of the 2017 Act. It provides that, where a flight that is operated under a public service obligation is part of a series of two or more connected flights, the aircraft in relation to the flight is to be treated as a chargeable aircraft in relation to any passenger whose final destination is an airport outwith the United Kingdom.

Regulation 2(4)(c) updates the definition of the term "public service obligation" at section 9(2) of the 2017 Act to refer to the assimilated law version of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the United Kingdom.

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