POLICY NOTE

THE AIR DEPARTURE TAX (SCOTLAND) AMENDMENT REGULATIONS 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by section 15, section 42(3)(a) and section 43 of the Air Departure Tax (Scotland) Act 2017 and all other powers enabling the Scottish Ministers to do so. The instrument is subject to affirmative procedure.

Summary Box

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 makes related consequential amendments to the 2017 Act. In addition, these Regulations amend section 9 of the 2017 Act (aircraft used under public service obligation).

Policy Objectives

These Regulations amend the 2017 Act to insert into that Act a new section 7A which makes provision for a non-chargeable passenger exemption (the Highlands and Islands exemption) from Air Departure Tax (ADT). The exemption is intended to support domestic aviation connectivity in a region that experiences geographical challenges that are unique from any other part of Scotland. Assisting travel and connectivity in remote regions, like the Highlands and Islands, is accepted as a legitimate equity rationale for the purpose of the Subsidy Control Act 2022. [1]

The new section 7A specifies that passengers carried in standard class travel on aircraft which are not special category aircraft on flights:-

- departing from an airport in a designated area of Scotland – the Highlands and Islands region – and where the passenger's final destination is an airport in the United Kingdom (UK) (including passengers travelling on connected flights where the first connected flight departs from an airport in a designated area of Scotland and the passenger's final destination is an airport in the UK); and

- departing from any Scottish airport where the passenger's final destination is an airport in a designated area of Scotland (including passengers travelling on connected flights where the first connected flight departs from any Scottish airport and the passenger's final destination is an airport in a designated area of Scotland);

are exempt from ADT.

These Regulations also amend the existing non-chargeable aircraft exemption for flights operated under a public service obligation ("PSO") at section 9 of the 2017 Act. These Regulations amend section 9 to provide that, where a flight that is operated under a PSO is part of a series of two or more connected flights, the aircraft in relation to the PSO flight is to be treated as a chargeable aircraft in relation to any passenger whose final destination is an

[1] https://searchforuksubsidies.beis.gov.uk/scheme/?scheme=SC11564

airport out-with the UK. This amendment is intended to achieve consistency in the approach to both the Highlands and Islands non-chargeable passenger exemption and the PSO non-chargeable aircraft exemption in relation to the tax treatment of flights where the passenger's final destination is a non-UK airport. These Regulations also amend 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.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Air Departure Tax (Scotland) Amendment Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation ran from 29 January to 26 March 2026 on ADT proposals, including questions seeking views on the Highlands and Islands exemption. This was supplemented by two roundtables for the aviation sector and Highlands and Islands stakeholders, each of which was chaired respectively by the then Cabinet Secretary for Transport and the then Minister for Public Finance. Official level meetings with wider stakeholder groups were also held to provide further engagement opportunities.

The consultation analysis report was subsequently published on 15 July 2026. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, including AGS Airports Limited, Edinburgh Airport Limited Highland and Islands Airports Limited, easyJet, KLM, Loganair, Oxfam Scotland and ABTA. A number of stakeholders from the Highlands and Islands region also responded to the consultation, including Highlands and Islands Enterprise, Highlands and Islands Transport Partnership, North Highland Chamber of Commerce, Young Islanders Network and ZetTrans (Shetland's Regional Transport Partnership). The consultation and consultation response are both available on the Scottish Government website.[2]

In addition to the consultation, an Expert Advisory Group for ADT was convened to help inform the introduction of ADT from April 2027. This includes potential taxpayers and other aviation sector expertise to help ensure ADT operates as intended.

[2] https://www.gov.scot/publications/delivering-scotlands-air-departure-tax/

As a result of the consultation and associated engagement, the main concern emerging around the Highlands and Islands ADT exemption was the proposal that the exemption would not apply to international travel from airports in the designated area (in contrast with the existing Highlands and Islands exemption for the current UK-wide Air Passenger Duty regime). However, the consultation response and associated engagement have explained that this is necessary to comply with the Subsidy Control Act 2022. It was therefore decided to proceed with the proposed exemption alongside the implementation of ADT from 1 April 2027.

Impact Assessments

Equalities and equal opportunities - The Equalities Impact Assessment processes were completed while developing the ADT secondary legislation and concluded that the instrument will have no negative impact on equality issues. This instrument does not unlawfully discriminate in any way with respect to any of the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) either directly or indirectly.

Human rights – This instrument is considered to be compatible with the convention rights under the Human Rights Act 1998. In particular, this instrument is considered to be compatible with the right to the peaceful enjoyment of possessions under Article 1 Protocol 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, in terms of which a State may nevertheless enforce such laws as it deems necessary to secure the payment of taxes

Child rights and wellbeing - A Child Rights and Wellbeing Impact Assessment has been carried out in respect of this instrument and will be published on the legislation.gov.uk website. The overall conclusion was that this instrument will have no impact on children's rights under the UNCRC requirements (as incorporated into domestic law) or on children's wellbeing.

Fairer Scotland – This instrument should not have any direct implications for inequalities arising from socio-economic disadvantage.

Consumer - There will not be any additional impacts on consumers as a result of the provisions in this instrument.

Island communities – This instrument will insert into the 2017 Act an ADT exemption which will apply to the carriage of passengers on flights departing from airports in the Highlands and Islands region (providing that the other conditions for qualifying for the exemption are met). This exemption will provide greater benefits to Island communities in the Highlands and Islands region than the current Air Passenger Duty Highlands and Islands exemption. It is expected that, by inserting this exemption into the 2017 Act, this instrument will (once the tax and this exemption are in force) help to make aviation connectivity cheaper for passengers by removing the tax cost on flights from all Scottish airports to airports in the Islands (where the other conditions for qualifying for the exemption are met), in addition to the current tax exemption on outbound flights from airports in the region where the

passenger's final destination is a UK airport (where the other conditions for qualifying for the exemption are met). It is expected that this will also help to protect marginal routes that serve Island communities and ensure they remain commercially viable for airlines. The instrument is therefore more beneficial to island communities within the Highlands and Islands region in comparison to the rest of Scotland, as air travel from airports in the Highlands and Islands region to destinations within the UK is exempt from ADT (where the other conditions for qualifying for the exemption are met), which is not the case for passengers travelling on flights from Scottish airports out-with the Highlands and Islands to other UK airports out-with the Highlands and Islands (unless another ADT exemption applies, for example, where a route is operated under a public service obligation).

Sustainable development – As this SSI relates to a financial or budgetary plan/programme, no Strategic Environment Assessment ("SEA") is required in respect of this instrument. However, the SEA pre-screening process was completed while developing this SSI and concluded that the instrument is unlikely to impact on sustainable development and is unlikely to have any direct or indirect adverse effects on the environment.

A Business and Regulatory Impact Assessment (BRIA) has been prepared for this instrument and will be published on the gov.scot website.

Privacy impacts – No privacy impacts resulting from this legislation have been identified.

Financial Effects

The Scottish Fiscal Commission (SFC) published their first full forecast of ADT revenues on 25 August 2026.[3] The SFC forecast that the Highlands and Islands exemption will forego approximately £7 million of revenue in 2027-28, rising to approximately £9 million by 2031-32. The cost of foregoing revenue from the carriage of domestic Highlands and Islands passengers will be partially offset by the collection of additional revenue from the carriage of international passengers flying from airports in the Highlands and Islands.

£m	**2027-28**	**2028-29**	**2029-30**	**2030-31**	**2031-32**
Revenue pre-exemption	436	454	478	495	518
Effect of Highlands and Islands exemption	-7	-8	-8	-8	-9
Forecast revenue	428	447	470	487	509

Scottish Government
Directorate for Tax

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[3] https://fiscalcommission.scot/wp-content/uploads/2026/08/Fiscal-Update-August-2026-revised-on-25-08-2026.pdf