POLICY NOTE

THE VISITOR LEVY (AMENDMENT OF RETURNS AND MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by sections 28A(1), 45(1), 69(1) and 78(1) of the Visitor Levy (Scotland) Act 2024. The instrument is subject to affirmative procedure.

Summary Box

These regulations provide for the circumstances and process under which a liable person can seek to amend a visitor levy return after submission. They clarify how penalties under section 52 and interest under section 66 may be applied to any unpaid levy arising as a result of an amended return.

The regulations also clarify how the ability to amend a return interacts with the power under section 45 of the Visitor Levy (Scotland) Act 2024 for a local authority to substitute an assessment of visitor levy liability and with the charging of penalties and interest where the levy calculated under such an assessment has not been paid.

Policy Objectives

Section 28A of the Visitor Levy (Scotland) Act 2024 provides that Scottish Ministers may make regulations to allow for the amendment of a visitor levy return once submitted.

Regulation 2 sets out the circumstances in which a liable person may make a request of a local authority for agreement to amend a visitor levy return which has been submitted, the timings for consideration of such a request, evidence requirements and the handling of the request should additional evidence be sought by the authority but not submitted. The regulations allow for longer return periods to be requested by both parties.

Regulation 3 clarifies how penalties for failure to pay the levy may be applied where aa return has been amended. Penalties applied under section 52 before the return is amended remain payable by the liable person but no further penalties, eg for non-payment at 5 or 11 months may be applied with effect from the day after the day on which the amended return is sent. New penalties may be applied where an amended return has been sent but no payment of the levy due is made along with the return, the local authority has reminded the liable person that payment is due, and a period of 14 days has elapsed since the day the reminder was given.

An exception to penalties applying before the return is amended remaining payable arises where there would have no penalty, had the amount of levy assessed as payable at the time the original return was submitted been the same as the amount assessed as payable under the amended return. This is to cater for the scenario where an amount of levy is withheld where the liable person considered that the amount assessed in the original return was too high.

Regulation 4 clarifies how interest on unpaid levy may be calculated and applied where a return has been amended. Interest on unpaid levy remains calculable against and payable on the amount of levy unpaid under the original return submitted, in accordance with section 66. This interest remains payable but no further interest is accrued with effect from the day after the day on which the amended return is sent. Where a return is amended and levy remains unpaid, interest on unpaid levy is payable on the revised amount due to be paid as a result of the amended return, starting from the day after the day the amended return was sent.

Should the liable person have paid any interest due and on submission of their amended return the interest payable is lower, due to a decrease in the sum owed, the difference should be reimbursed by the local authority, within 30 days of the day the amended return is sent, or such longer period as may be agreed with the liable person.

Regulation 5 makes amendments to the Visitor Levy (Local Authority Assessment) (Scotland) Regulations 2026 ("the Local Authority Assessment Regulations") as amended by the Visitor Levy (Miscellaneous Amendment) (Scotland) Regulations 2026. Regulation 5 substitutes a new regulation 4(2)(b) into the Local Authority Assessment Regulations. This adds three further occasions where a local authority has two months to give notice of its intention to substitute an assessment of visitor levy liability on the basis of alleged careless or deliberate miscalculation. The provision originally related solely to the initial submission of a return by the liable person. This has now been extended to also include where a liable person has submitted an amended return, where a local authority has refused a request to amend a return and where a local authority has the reasonable expectation that a liable person would request to amend their return but no such request has been made. This means that a liable person can seek to have a return amended without the authority losing the ability to substitute a return where it considers that a careless or deliberate miscalculation remains after a return is amended or agreement to amend is not given. Similarly, a local authority can wait to see if a request to amend a return is made by the liable person.

Regulation 5 also amends regulation 8(2) (imposition of penalties) of the Visitor Levy Assessment Regulations and for the words "48, 49 and 50" substitutes "48, 49, 50 and 52". This adds "penalty for failure to pay levy" to the existing list of penalties which remain payable where a local authority substitutes its own assessment of visitor levy payable, on the basis of an apparent careless or deliberate miscalculation in the original return. It does not create any new penalties.

Regulation 5 also clarifies how interest on unpaid levy is calculated where a local authority substitutes an assessment of liability, on the basis of apparent careless or deliberate miscalculation. Where a liable person has submitted a return but not paid the levy due, and the authority subsequently notifies its intent to substitute its own assessment, interest on that unpaid levy continues to accrue until the outcome of the local authority assessment is notified. This interest accrued up until the local authority notifies the outcome of its assessment remains payable by the liable person but no further interest may be accrued on the amount calculated under the original return. Interest may, though, be payable on any unpaid levy due under a local authority assessment, from the day after the day on which the amount due under the local authority assessment is due to be paid. Should the liable person have paid any interest due and the result of the local authority assessment is that the amount of levy payable and, therefore, the amount of interest payable is lower, then the difference should be reimbursed by the local authority, within 30 days of the day on which notice of the outcome

of a local authority assessment is sent, unless a longer time period is agreed with the liable person.

Regulation 6 allows for documents and notices required under regulation 2 to be sent by electronic communication where the recipient has agreed and the documents are, accessible and available for future reference. This is a standard provision to reflect the increased use of electronic communication rather than paper correspondence and documents.

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 Act), the Scottish Ministers certify that, in their view, the Visitor Levy (Amendment Of Returns) (Scotland) Regulations 2026 is 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
While there is no consultation requirement associated with this instrument, local authorities, tourism industry representatives and accommodation providers were asked to comment on the draft provisions over August 2026. The draft provisions were amended to clarify when the 14-day period began when additional evidence had been requested by the authority and submitted by the liable person. A further amendment was made to allow a liable person to request an extension to any timescale in which they are required to act and for the authority to accept or reject that request.

Impact Assessments
A Children's Rights and Wellbeing Impact Assessment has been undertaken and this instrument has a neutral impact. No other impact assessments have been undertaken as there are no relevant impacts as result of these regulations.

Financial Effects
The Minister for Public Finance confirms that no BRIA is necessary as the instrument has no financial effect on the Scottish Government, local government or on business.

Scottish Government
Directorate for Local Government and Communities

September 2026