Draft Regulations laid before the Scottish Parliament under section 45(4) of the Visitor Levy (Scotland) Act 2024, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

VISITOR LEVY

The Visitor Levy (Local Authority Assessment) (Scotland) Regulations 2026

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

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 45(1) and 78(1) of the Visitor Levy (Scotland) Act 2024(**a**) and all other powers enabling them to do so.

In accordance with section 45(4) of that Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Visitor Levy (Local Authority Assessment) (Scotland) Regulations 2026 and come into force on 1 April 2026.

Interpretation

2. In these Regulations—

"the 2024 Act" means the Visitor Levy (Scotland) Act 2024,

"the Reviews and Appeals Regulations" means the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026(**b**),

"electronic communication" has the meaning given in section 15(1) of the Electronic Communications Act 2000(**c**),

"the levy" means the visitor levy introduced, administered and charged in accordance with the 2024 Act,

"local authority" means a relevant local authority within the meaning of section 24(2) of the 2024 Act, or, where two or more local authorities are acting jointly in relation to a visitor levy scheme, those authorities acting jointly,

"relevant period" has the meaning given in section 26(4) of the 2024 Act.

(**a**) 2024 asp 8. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(**b**) S.S.I. 2026/XXX.

(**c**) 2000 c. 7. Section 15(1) was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 21).

Circumstances in which an assessment of liability to visitor levy may be made by a local authority

3.—(1) A local authority may make an assessment of the levy payable by a person where the authority has reason to believe that the person is liable to pay the levy, but the person has not made a return to the local authority under section 26 of the 2024 Act by the end of the period of 30 days beginning with the last day of the relevant period.

(2) A local authority may make its own assessment of the visitor levy payable by a person where the authority honestly and reasonably believes that a return that has been made by the person is incorrect by reason of careless or deliberate miscalculation.

Notice of intention of local authority to make an assessment

4.—(1) Before making an assessment a local authority must issue a notice advising the person—

(a) that the local authority intends to make an assessment of the person's liability to pay the levy,

(b) the reason that the local authority intends to make an assessment, including, where relevant, the basis for the local authority's view that the return submitted is incorrect by reason of careless or deliberate miscalculation,

(c) that the assessment will be made using the information available to and obtained by the local authority about the liability of the person.

(2) A notice under this regulation must be issued on or before the last day of the period of two months beginning with—

(a) in the case of an assessment made in accordance with regulation 3(1), the end of the period of 30 days beginning with the last day of the relevant period,

(b) in the case of an assessment made in accordance with regulation 3(2), the day on which the return was sent.

Local authority notice of outcome of assessment

5.—(1) Subject to paragraph (5), a local authority must send to the person notice of the outcome of an assessment made in accordance with regulation 3 on or before the last day of the period of six months beginning with the day on which the notice under regulation 4 was sent.

(2) A notice of the outcome of an assessment made in accordance with regulation 3(1) must set out—

(a) the date of issue of the notice,

(b) the amount of the levy due, if any,

(c) the date by which any amount of the levy due must be paid, determined in accordance with regulation 7(1), and

(d) the timescale for requesting a review of any of the matters set out in regulation 3(2)(b) of the Reviews and Appeals Regulations, as set out in regulation 4(1) of those Regulations.

(3) A notice issued of the outcome of an assessment made in accordance with regulation 3(2) must set out—

(a) the date of issue of the notice,

(b) where the outcome of the assessment is that an additional amount or a lower amount of the levy is due, the difference in the amount as between that set out in the return, and the actual amount payable,

(c) where the outcome of the assessment is that no additional amount of the levy is due, confirmation that the amount of the levy payable is to remain as set out in the return submitted by the person,

(d) the date on or before which any additional amount must be paid, determined in accordance with regulation 7(1), and

(e) the deadline for requesting a review of any of the matters set out in regulation 3(2)(b) of the Reviews and Appeals Regulations, as provided for in regulation 4(1) of those Regulations.

(4) Subject to paragraphs (5) and (6), where the local authority fails to make the assessment by the end of the period described in paragraph (1), the local authority must, within 30 days of the last day of that period, send a notice to inform the person that no assessment will be made by the local authority and that, where relevant, the assessment made by the person under section 26 of the 2024 Act will apply.

(5) In relation to an assessment due to be made in accordance with regulation 3(1) or (2), where paragraph (6) applies, the local authority must send notice of the outcome of the assessment as soon as reasonably practicable after the end of the period provided for in paragraph (1).

(6) This paragraph applies where the local authority reasonably considers that it has been unable to send the notice of the outcome of the assessment within the period provided for in paragraph (1), as a result of the failure of the person subject to the assessment to co-operate with the exercise of investigatory powers under Chapter 1 of Part 5 of the 2024 Act.

Alteration of outcome of an assessment and replacement notice

6.—(1) The outcome of a local authority assessment may only be altered as a result of a review requested under regulation 3 of the Reviews and Appeals Regulations or an appeal brought under regulation 7 of those Regulations, or to correct an error made by the local authority in the notice of the outcome of the review as originally issued.

(2) Where an alteration takes place in accordance with paragraph (1), a replacement notice of the outcome of the assessment must be issued.

(3) The replacement notice will supersede the original notice.

Deadline for paying or reimbursing an amount of visitor levy due as a result of an assessment

7.—(1) Where a notice issued under regulation 5 requires payment of an amount of the levy, that amount must be paid on or before the last day of the period of 30 days beginning with the day on which the notice is received, or the last day of such longer period as may be agreed with the local authority.

(2) Where a notice issued under regulation 5 indicates that a lesser amount of the levy is due, the local authority must reimburse the amount owed on or before the last day of the period of 30 days beginning with the day on which the notice is issued.

Imposition of penalties

8. For the avoidance of doubt, the making by a local authority of an assessment under these Regulations does not prevent the imposition of a penalty under section 47, 48, 49, 50 or 52 of the 2024 Act, nor the application of section 51 or 53.

Electronic communication

9. Any notice or document required by these Regulations to be sent may be sent by means of electronic communication where—

(a) the person consents either—

(i) implicitly by using electronic communication in communications with the local authority in relation to the levy, or

(ii) explicitly by giving notice in writing to the local authority, and

(b) any notice or document sent by electronic communication—

(i) is capable of being accessed by the recipient,

(ii) makes the information it contains available to the recipient to no lesser extent than it would be if sent as a document in printed form, and

(iii) is sufficiently permanent to be used for subsequent reference.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the carrying out by local authorities of assessment of visitor levy payable, in accordance with section 45 of the Visitor Levy (Scotland) Act 2024 ("the 2024 Act").

Regulation 3 sets out the circumstances in which an assessment may be carried out by a local authority, namely where there has been a failure by a person to submit a return within 30 days of the end of the relevant period as provided for in section 26(4) of the 2024 Act, or where a return has been submitted, but is honestly and reasonably considered to contain a miscalculation of a careless or deliberate nature.

Regulations 4 and 5 make provision for notification of persons that an assessment is to be made, and issuing of notice of the outcome of the assessment. Provision is also made for the local authority to notify where there is a failure to carry out the assessment within the prescribed timescale, and for the consequences of such a failure. In general, where the local authority does not complete the assessment within the required period, no assessment may be made and any return submitted by the person remains effective, even if it appears to contain a careless or deliberate miscalculation. The only exception is where the local authority reasonably believes that it was prevented from carrying out the assessment within the required time as a result of the person's failure to comply with the exercise of investigatory powers. In those circumstances, notice of the outcome of the assessment must be given as soon as reasonably practicable after the end of the period specified in regulation 5(1).

Regulation 6 sets out the circumstances in which the outcome of an assessment may be altered after the assessment is made.

Regulation 7 provides the deadline for payment or reimbursement of an amount of visitor levy that is due to be paid or reimbursed as a result of an assessment by a local authority.

Regulation 8 makes clear that the fact a local authority makes an assessment does not prevent the imposition of a penalty under section 47, 48, 49, 50 or 52 of the 2024 Act, nor the application of section 51 or 53. These relate to penalties for failure to make a return or to pay the levy, and reasonable excuse for failure to make a return or to pay the levy.

Regulation 9 makes provision for documents or notices required by these Regulations to be sent by electronic communication where the recipient impliedly consents by using electronic communication in correspondence with the relevant local authority in connection with visitor levy, or expressly consents by giving notice of consent in writing.

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