

EXPLANATORY NOTES

Visitor Levy (Scotland) Act 2024 (asp 8)

£8.14

These notes relate to the Visitor Levy (Scotland) Act 2024 (asp 8)
which received Royal Assent on 5 July 2024

VISITOR LEVY (SCOTLAND) ACT 2024

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Visitor Levy (Scotland) Act 2024. They do not form part of the Act and have not been endorsed by the Parliament.

2. These Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE ACT: AN OVERVIEW

3. The Act allows local authorities to introduce schemes requiring the payment of a levy on the purchase of overnight stays in certain types of accommodation (referred to in the Act and these notes as "a VL scheme"). The amount of the levy will be a percentage of the cost of the accommodation, with the rate being set by the local authority introducing the VL scheme (subject to any maximum percentage rate set by the Scottish Ministers). The person liable to pay the levy to the local authority is the person who provides the accommodation and who is the occupier of the premises at which the accommodation is provided (referred to in the Act and these notes as "the liable person"), although in practice, the liable person (or a third party acting on their behalf) will be able to collect the amount of the levy from the person who pays to stay overnight in, or at, the accommodation (that person is referred to in the Act and these notes as a "visitor").

4. Part 1 of the Act contains the power for local authorities to impose a levy in accordance with the Act. It also contains an overview of the Act.

5. Part 2 of the Act contains the key concepts underpinning the levy: it sets out the types of accommodation in respect of which a levy may be imposed, how the levy is to be calculated (including provision for a cap on the number of chargeable nights) and confirms that it is the liable person who must pay the levy. It also allows the liable person to delegate the performance of certain functions to a third party. This Part also allows the Scottish Ministers to provide in regulations for the maximum percentage rate, billing of overnight accommodation and exemptions from the levy.

6. Part 3 of the Act deals with the process to be followed by a local authority when introducing a VL scheme, including requirements as to consultation, scheme content, exemptions, accounting and reporting. This Part also requires local authorities to use the net proceeds from a scheme for specific purposes and gives the Scottish Ministers powers to make further provision about the process to be followed by local authorities in connection with a VL scheme. It also deals with the issuing and reviewing of guidance on the VL scheme.

7. Part 4 of the Act deals with returns and payments. It requires the liable person to make returns to the local authority (which must include that person's assessment of the amount of the levy payable) and make payment of the levy due. The requirement to provide returns showing an assessment of the levy or tax due alongside payment of the levy or tax due is a common feature in the assessment and collection of certain taxes (see, for example, section 23 of the Air Departure Tax (Scotland) Act 2014). Returns and payments are to be made quarterly, or in respect of periods specified by the local authority. This Part also allows a local authority to delegate certain functions relating to the collection and enforcement of the levy.

8. Part 5 of the Act deals with enforcement of the levy and includes penalties for non-compliance with the Act's requirements. The provisions in this Part contain powers and penalties similar to those found in Parts 7 and 8 of the Revenue Scotland and Tax Powers Act 2014. Investigatory powers are given to an authorised officer (i.e., a person authorised by the local authority) under Chapter 1 to require the provision of information or production of documents and permitting the inspection of business premises. This Chapter also contains rules on the manner in which these investigatory powers may be carried out. Chapter 2 of Part 5 contains a power for the Scottish Ministers to set out in regulations the circumstances in which local authorities may make or substitute an assessment.

9. Chapter 3 of Part 5 gives local authorities power to impose certain penalties on persons in connection with the levy. Penalties which may be imposed under this Chapter include a penalty for failure to make a return and penalties for failure to pay the levy. Chapter 4 of this Part provides for the recovery of unpaid amounts of levy and penalties by means of an application to a sheriff for a summary warrant. Chapter 5 of Part 5 gives Scottish Ministers powers to make regulations allowing for reviews by local authorities and appeals to the First-tier Tribunal for Scotland as regards decisions taken by a local authority in connection with the operation of a scheme, enforcement action and the imposition of penalties.

10. Part 6 of the Act provides local authorities with a power to set up a register of liable persons and allows local authorities to share information with certain persons (for example, authorised officers who carry out enforcement powers in connection with the levy).

11. Part 7 of the Act contains general provisions about regulation making powers contained in the Act, ancillary provision, commencement and the short title of the Act.

CROWN APPLICATION

12. Section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 provides that the Crown will be bound by an Act of the Scottish Parliament or a Scottish statutory instrument unless the provision expressly exempts it. This Act applies to the Crown in the same way as it applies to everyone else.

COMMENTARY ON PROVISIONS

Part 1 – Visitor Levy

Section 1 – Power for local authorities to impose levy

13. This section contains a power allowing local authorities to impose a levy (to be known as the visitor levy – section 1(a)) on the purchase of "overnight accommodation" (defined in section 4). A levy imposed under this section is to be introduced, administered

and charged in accordance with the provisions of the Act (section 1(b)). This means that a levy may only be imposed under this section as part of a VL scheme introduced by a local authority in accordance with Part 3.

Section 2 – Overview

14. Section 2 provides an overview of the different Parts of the Act, of which there are seven in total.

Part 2 – Key Concepts

Section 3 – Levy to be charged on purchase of overnight accommodation

15. Subsection (1) specifies the type of transaction which may be subject to a levy (a "chargeable transaction") and confirms that the levy becomes payable when a visitor takes entry to the accommodation. The term "chargeable transaction" is defined in subsection (2) to mean a purchase of the right to reside in or at overnight accommodation for a period of one or more nights. Subsection (3) confirms that the reference to a night means any period, including any combination of periods, of 6 or more hours between 12 noon on one day and 12 noon on the following day which includes midnight.

Section 4 – Meaning of overnight accommodation

16. Subsection (1) defines "overnight accommodation" to mean a room or area provided to a visitor for residential purposes at the particular types of accommodation listed in subsection (2); but this does not include accommodation provided to a person as their only or usual place of residence. The types of accommodation which may be subject to a levy do not include a local authority gypsy and traveller site or a registered social landlord gypsy and traveller site (see subsection (3)). Neither do they include accommodation in vehicles or on board vessels that are undertaking a journey involving one or more overnight stops. This will mean, for example, that the provision of a cabin on a ferry or a sleeper train, or the hiring of a campervan, will not typically be subject to a levy. However, the levy would be chargeable on the overnight parking of a campervan at a campsite, meaning that the "accommodation" provided by the liable person is the area of the campsite allocated to the visitor for the purpose of the visitor's overnight stay in the campervan.

17. The list of accommodation types in subsections (2) and (3) can be amended by the Scottish Ministers by way of regulations, by adding or removing a type of accommodation, or varying the description of a type of accommodation (subsection (4)). Subsection (5) requires the Scottish Ministers to consult local authorities and such persons as they consider to be representative of communities, businesses engaged in tourism and tourist organisations, as well as such other persons as they consider appropriate before making any regulations under subsection (4). Regulations under subsection (4) are subject to the affirmative procedure (subsection (6)).

Section 5 – Calculation of levy

18. This section sets out how the levy will be calculated in respect of a chargeable transaction. Subsection (1) provides that the levy which is to be paid in respect of an overnight stay is arrived at by multiplying the percentage rate of the levy (set by a local authority under section 6) by the "accommodation portion" of the transaction. Subsections (2) and (3) define the "accommodation portion" of the transaction to mean the amount charged

for the accommodation, not including any reasonable costs for facilities or services provided such as meals or drinks, entertainment or parking (unless the area used for parking is the "accommodation" provided by the liable person, for example in the case of a campervan parking at a campsite – see paragraph 16 above). The calculation of the levy can be expressed as a simple formula as follows:

- Levy chargeable = Accommodation portion of transaction x % rate of levy.

19. Subsection (4) contains a regulation making power for Scottish Ministers to add to, remove or vary the facilities or services which are not to be treated as forming part of the accommodation portion of the chargeable transaction. Such regulations are subject to the negative procedure (subsection (5)).

Section 6 – Rate for levy

20. This section requires a local authority seeking to introduce a VL scheme to set the percentage rate of the levy chargeable in respect of the purchase of overnight accommodation. Different rates can be set for different purposes or areas (subsection (2)(a)), meaning that a local authority could, for example, set different rates in relation to particular events, such as arts festivals or special conferences. However, different rates may not be set for different types of accommodation (subsection (2)(b)).

21. Subsection (3) gives the Scottish Ministers the power to specify in regulations the maximum percentage rate that a local authority may set under subsection (1). Different maximum percentage rates may be set for different purposes, but not for different areas (subsection (4)). Subsection (5) sets out the organisations and people who must be consulted before making regulations under subsection (3): local authorities, such persons as the Scottish Ministers consider to be representative of communities, businesses engaged in tourism and tourism organisations, and anyone else they consider appropriate. Regulations made under subsection (3) are subject to the affirmative procedure (subsection (6)).

Section 7 – Maximum number of nights of overnight accommodation

22. Section 7 allows a local authority introducing a VL scheme to specify a maximum number of nights that are subject to the levy. The nights must be in one chargeable transaction over consecutive nights. A local authority may only specify a maximum number of nights under subsection (1) after consulting such persons considered to be representative of communities, businesses engaged in tourism and tourist organisations, as well as any other persons as the local authority considers appropriate (subsection (2)).

Section 8 – Person liable to pay levy

23. Section 8 provides that the person liable to pay the levy to a local authority under a VL scheme is the person who provides the overnight accommodation and is the occupier of the premises at which the overnight accommodation is provided (i.e., the liable person); in practice, this is likely to be the owner or tenant of the premises who provides the accommodation. Whilst the liability to pay the levy to a local authority in respect of a chargeable transaction falls on the liable person, that person will be able to recover an amount equivalent to the levy from visitors on the basis of the contract entered into between them for the purchase of the overnight stay.

Section 9 – Third party arrangements

24. Section 9 allows a liable person to arrange for a third party (which could be an online booking agent, for example) to carry out certain functions in connection with the levy on behalf of the liable person. The functions which may be carried out by a third party under such an arrangement are listed in subsection (1) and are: the collection of a sum equivalent to the levy from visitors, the making of a return to the local authority under section 26 (but only if the local authority consents to this – see subsection (2)), and the payment of the levy to the local authority under section 29. Subsection (3) confirms that where a third party carries out functions on behalf of a liable person, the liable person's obligations under the Bill are unaffected; as a result, the obligations to make returns and payments to the local authority under sections 26 and 29 remain the responsibility of the liable person.

Section 10 – Billing of overnight accommodation

25. Subsection (1) gives the Scottish Ministers the power to specify in regulations requirements for the billing of overnight accommodation. These may require providers of accommodation to issue invoices to visitors who purchase accommodation which include a breakdown of the total cost of the accommodation, the amount attributable to the accommodation itself (i.e., the accommodation portion), the percentage rate of the levy and the amount of levy payable (subsection (2)(a)). Regulations made under this section may also require the providers of overnight accommodation to publish the costs of the accommodation available for purchase, including the amount attributable to the accommodation portion, the percentage rate of the levy and the amount of levy payable (subsection (2)(b)). It is noted that subsections (2)(a)(iii) and (b)(i) both contain references to "any deduction made under section 5(1)(b)". However, due to Stage 3 amendments made to section 5(1)(b) of the Bill for the Act there are no such deductions and so these references to what might be included in the regulations are now redundant. Regulations made under this section are subject to the negative procedure (subsection (3)).

Section 11 – Exemptions and rebates

26. Under this section, the Scottish Ministers may, by regulations, create particular exemptions from the liability to pay the levy and provide for cases in which the levy may be reimbursed (subsection (1)(a)). For example, regulations may provide that the levy is not chargeable where a person purchases overnight accommodation for the purpose of accessing hospital treatment in the area in which the scheme operates. Regulations under this section may also provide for the issuing of exemption vouchers to certain categories of persons to allow those persons to demonstrate that they qualify for a particular exemption from the levy (subsection (1)(b)). Taking the example above, exemption vouchers could be issued to persons attending a hospital for medical treatment. These vouchers might then be retained by the liable person to evidence the fact that the transaction was not subject to the levy.

27. The Scottish Ministers, without prejudice to the generality of subsection (1), may also specify a maximum number of nights which are subject to the levy (subsection (2)). The regulations may provide for an exemption from or rebate of the levy in relation to a single or multiple chargeable transactions at the same overnight accommodation for consecutive nights (subsection (3)(a)). Subsection (3)(b) also allows for the Scottish Ministers to specify the method of calculating the relevant amount of the levy given that the method of calculation may change the levy payable. For example, the calculation may disregard nights beyond the

maximum number or use an average nightly cost over the length of the stay (to account for surge pricing). Regulations may specify different maximum numbers of rights for different purposes, but not for different areas (subsection (4)).

28. Before making any regulations under this section, the Scottish Ministers must consult local authorities, such persons as they consider to be representative of communities, businesses engaged in tourism and tourist organisations, as well as such other persons as they consider appropriate (subsection (5)). Regulations made under this section are subject to the affirmative procedure (subsection (6)).

Part 3 – Introduction and Administration of the Levy

Section 12 – Scheme to impose levy

29. This section allows a local authority to introduce a VL scheme or schemes for all or part of its area (subsection (1)(a)). It also allows a local authority to modify or revoke an existing VL scheme (subsection (1)(b) and (c)). It is open to a local authority to make different provision for different purposes or different areas within the local authority's area (subsection (2)). As a result, a scheme may, for example, set different dates when the scheme is to come into force as regards different types of accommodation. This section should be read alongside section 14 which sets out the required content of any VL scheme introduced by a local authority.

30. Different local authorities may work together to introduce a joint VL scheme (subsection (3)), and in such a case, they must act jointly in relation to all aspects of the scheme (subsection (4)(a)). Subsection (4)(b) contains modifications of certain terms used within the Bill where a joint VL scheme is in place.

Section 13 – Prior consultation on scheme

31. This section sets out the steps which a local authority must take before introducing or modifying a VL scheme. The authority must first prepare and publicise an outline of the proposed scheme or the proposed changes to an existing scheme (referred to in subsection (1)(a)(i) as "the proposal"). The authority must also publicise a statement about the cases and circumstances in which the levy is not payable or may be reimbursed, the objectives of the proposal and an assessment of the impact of the proposal in the authority's area (subsection (1)(a)(ii), (iii) and (iv)) (which must include the likely effects of the proposal on persons living within the scheme area and other persons likely to be affected - subsection (3)). The objectives of the scheme must relate to developing, supporting or sustaining facilities and services which are substantially for or used by persons visiting the local authority's area for leisure or business purposes (or both) (subsection (2)). By way of example, the objectives of a particular scheme may include the building of a visitor centre, improvement of convention centres or other local spaces used for business meetings and conferences, and improvement of transport links to a location popular with visitors to the area.

32. The authority must then carry out a consultation exercise on the proposed scheme, with subsection (1)(b) requiring the authority to consult persons who are representative of communities, tourist organisations, businesses engaged in tourism, the National Park authority (if any part of the area covered by the proposed VL scheme has been designated as a National Park), and other persons likely to be affected. If the proposal is that the VL scheme is to be modified, the authority must also consult the visitor levy forum ("VL forum")

for that scheme set up under section 16(1) (subsection (1)(b)(ii)). Following the consultation, the local authority is required under this section to prepare and publicise a report summarising the consultation responses and confirming whether it plans to proceed with the proposal (subsection (1)(c)). See section 14(3) and (5) for the timing implications of the date of publishing a report under section 13(1)(c) stating that the authority intends to proceed.

33. A local authority must publicise in advance any proposed revocation of a VL scheme (subsection (4)).

Section 14 – Required content of a scheme

34. Section 14(1) sets out the elements which a local authority must include in a VL scheme, including the area in which the scheme will operate, the date the scheme is to come into force, the percentage rate of the levy (which is set by the local authority under section 6, and subject to any maximum percentage rate set by regulations under section 6(3)), the scheme's objectives and arrangements for the review of decisions taken by the authority in relation to the scheme. The scheme must also specify when, during the period of the scheme, a purchase of the right to reside in or at overnight accommodation is to give rise to the levy. This might be the whole of the scheme period. Or it might be a different period or periods. For example, it might specify particular dates in a calendar year or seasonal periods (for example, the period 'beginning with the first Monday in April and ending with St Andrew's Day'). The scheme must also specify cases or circumstances where the levy (or a sum equivalent to the levy) is not payable or is to be reimbursed (subsection (1)(h)). While the cases or circumstances in which the levy is not payable or is to be reimbursed are broad and may generally be determined by the relevant authority, subsection (1)(i) imposes a compulsory exemption. Subsection (1)(i) requires the scheme to specify that the levy (or a sum equivalent to the levy) is not payable where the visitor or any other person utilising the right to reside in an overnight accommodation is in receipt of specified disability benefits, payments or allowances (subsection (1)(i)). The specified disability benefits, payments or allowances are:

- The disability living allowance (see Social Security Contributions and Benefits Act 1992, section 71),
- Disability assistance for working age people (see Social Security (Scotland) Act 2018, section 31),
- The attendance allowance (see Social Security Contributions and Benefits Act 1992, section 64),
- The pension age disability benefit for older people (see Social Security (Scotland) Act 2018, section 31),
- The personal independence payment (see Welfare Reform Act 2012, Part 4).

35. In order to facilitate the application of the exemption or reimbursement for the specified disability benefits, payments, or allowances, the scheme must also set out arrangements for the administration of the exemptions or reimbursement, including the evidence required and how it may be demonstrated that the person receives the relevant benefit, payment or allowance (subsection (1)(j)). Subsection (2) requires that for the purposes of subsection (1)(h), the scheme must also specify whether one of the cases or circumstances in which the levy (or a sum equivalent to the levy) is not payable or may be

reimbursed is that the accommodation business has an annual turnover below the VAT threshold (defined by reference to the amount specified in paragraph 1(1)(a) of schedule 1 of the Value Added Tax Act 1994). This is not a required case or circumstance where the levy (or a sum equivalent to the levy) is not payable or may be reimbursed, but it requires the authority to explicitly state whether businesses with annual turnover below the VAT threshold are captured.

36. The effect of subsection (3) is that a local authority may not bring a VL scheme into force or have a significant modification of a VL scheme take effect until at least 18 months after the date on which the local authority decides to introduce or significantly modify a scheme (i.e., 18 months after the date on which a local authority publicises a report under section 13(1)(c) stating that it intends to proceed with the original or modified proposal to introduce or modify a VL scheme). A "significant modification" is defined in subsection (4) as a modification which expands the scheme area, increases the percentage rate(s) of the levy, or removes any cases or circumstances in which the levy (or a sum equivalent to the levy) is not payable or is reimbursed. Any other modifications may come into force on a date specified after the local authority publishes a report under section 13(1)(c) stating that it intends to proceed with the original or modified proposal (subsection (5)).

37. Subsection (6) contains a regulation making power allowing the Scottish Ministers to amend subsection (1) to add to the list of the mandatory elements of a VL scheme, or to remove or vary the list (except paragraph (e) – the percentage rate or rates set by the authority under section 6). The Scottish Ministers may also by regulations amend subsection (4) to add to, remove, or vary the types of modifications which are to be considered significant (subsection (7)). Before making regulations under this section, the Scottish Ministers must consult 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 (subsection (8)). Regulations under this section are subject to the affirmative procedure (subsection (9)).

Section 15 – Publicity for introduction of scheme

38. This section requires a local authority which has, following consultation, decided to introduce a scheme, to notify the Scottish Ministers of its decision (subsection (1)(a)). It must also publicise the decision and the date on which the scheme is to come into force (subsection (1)(b)).

39. This section also contains a regulation making power, subject to the negative procedure, allowing the Scottish Ministers to make further provision about the requirement on local authorities to publicise decisions to introduce a scheme and the coming into force date of the scheme (subsection (2)).

Section 16 – Visitor levy forum

40. This section provides for the establishment of a VL forum for each VL scheme. A local authority operating a VL scheme must within 6 months of its decision to introduce a VL scheme establish a forum (subsection (1)(a)). Subsection (2) contains the functions of the VL forum, which are to:

- discuss and advise the authority and any other person or body consulting on matters to do with the VL scheme (subsection (2)(a)),

- discuss and respond to consultation on modifications or the use of net proceeds of the VL scheme, under sections 13(1)(b) and 19(2) respectively (subsection (2)(b)),
- discuss and make appropriate representations in relation to the reports required by sections 20 (annual report) and 21 (review of VL scheme) (subsection (2)(c)).

41. The local authority must maintain the forum for the duration of the VL scheme (subsection (1)(b)) and ensure that it is able to carry out its functions and that it meets on a regular basis (but at least twice per calendar year) (subsection (1)(c)).

42. The membership requirements of the VL forum are set out in subsections (3) to (5). Subsection (3) states that the VL forum is to be constituted of such persons as are appointed to it by the local authority operating the VL scheme. Under subsection (4), the local authority must ensure membership of the VL forum includes such persons it considers to be representative of communities, businesses engaged in tourism and tourist organisations in its area and that there is a reasonable balance of these groups. Local authority members may be appointed to the VL forum but must not form a majority of VL forum members (subsection (5)).

43. Where there is more than one VL scheme for different parts of the local authority area, more than one forum may be established but a single forum may also be sufficient (subsection (6)).

Section 17 – Transitional provision

44. This section confirms that the levy is not to be charged in respect of purchases of overnight accommodation paid for before the date on which the local authority decides to introduce a VL scheme (subsection (1)). The levy may, however, be charged in respect of purchases of overnight accommodation paid for between the date of the decision to introduce a scheme and the date on which the scheme comes into force, provided the date on which the person takes entry to the accommodation in respect of the purchase is after the coming into force of the scheme (subsection (2)). By way of example, if a local authority decides to introduce a scheme on 1 April 2025 and the scheme comes into force on 1 April 2027, bookings to stay in accommodation subject to the levy made between those dates will be subject to the levy if the date of the stay occurs after 1 April 2027.

Section 18 – Duty to keep separate account for scheme

45. Under this section, a local authority is required to keep a separate account for the VL scheme (subsection (1)) which must, for each financial year, be credited with the monies received under the scheme and debited with the expenses of operating the scheme (subsection (2)). This section also contains a regulation making power, subject to the negative procedure, allowing the Scottish Minsters to make provision in relation to the keeping of accounts by local authorities in connection with their functions under the Act (subsection (3)). The type of provision which can be made under this power includes specifying the form of accounts and making provision about the keeping of accounts where a joint VL scheme is in place (subsection (4)).

Section 19 – Use of net proceeds of the scheme

46. Section 19(1) requires a local authority operating a VL scheme to use the net proceeds of the scheme (defined in subsection (4) as the amount of money by which the gross amount received under the scheme exceeds the expenses of operating the scheme) for certain specified purposes. Those purposes are: facilitating the achievement of the scheme's objectives (as set out by the local authority under section 13(1)(a)(iii)), and otherwise developing, supporting and sustaining facilities and services substantially for or used by persons visiting the local authority's area for leisure or business purposes (or both) (or, in the case of a joint scheme, the area of another local authority which is part of a joint scheme – provided the authority is satisfied that using any share of the proceeds in this way will also benefit some part of its own area – see subsection (3)). By way of example, the objectives of a particular scheme may be to finance the building of a visitor centre, the improvement of convention centres or other spaces used for business meetings or conferences, or to improve transport links to a particular area. In line with subsection (1)(a), the net proceeds of the scheme would first have to be used to facilitate the achievement of those objectives. Surplus net proceeds would then have to be used in line with section 19(1)(b); they could therefore be used, for example, to build and maintain other business or leisure visitor facilities at another location in the local authority area frequented by visitors to that area.

47. In making use of net proceeds of a VL scheme, subsection (2) requires a local authority to have regard to its local tourism strategy (if it has one) and, if any part of the area to which the VL scheme relates has been designated as a National Park, the National Park Plan of that Park. Subsection (2) also requires a local authority to consult the VL forum for that scheme, persons who are representative of communities, businesses engaged in tourism and tourist organisations, and the National Park authority (if any part of the area covered by the proposed VL scheme has been designated as a National Park), as well as any other persons the authority considers appropriate.

Section 20 – Annual reporting on scheme

48. This section contains reporting requirements on local authorities operating a VL scheme. The first report must be published by a local authority within 18 months of the introduction of a scheme and annually thereafter (subsection (6)). Subsection (1) provides that reports must contain information about the amount of money collected under the scheme, how the net proceeds have been used, and the extent to which the scheme has met its objectives (as set out by the authority under section 13(1)(a)(iii)). A copy of a published report must be provided to the VL forum for that VL scheme (subsection (3)).

49. This section also contains a regulation making power, subject to the negative procedure, allowing the Scottish Ministers to make further provision about the content of reports required under this section (subsection (4)).

Section 21 – Review of scheme

50. Section 21 requires a local authority operating a VL scheme to review the scheme within 3 years of the scheme coming into force, and within each subsequent 3-year period (subsection (1)), and to publish a report following each review setting out its findings (subsection (2)). A copy of a published report must be provided to the VL forum for that VL scheme (subsection (3)).

Section 22 – Scottish Ministers' power to regulate process

51. This section gives the Scottish Ministers power to make regulations about the process to be followed by local authorities when introducing, administering, reporting on or reviewing a VL scheme (subsection (1)). Regulations made under this section are subject to the affirmative procedure (subsection (2)).

Section 23 – Guidance on visitor levy scheme

52. Section 23(1) requires local authorities to have regard to any guidance issued under this section when exercising a function under Part 3 of the Act (which relates to introducing and administering a VL).

53. A corresponding duty is also created for VisitScotland to prepare and publish guidance about Part 3 of the Act, and to review the guidance from time to time and update the guidance if appropriate (subsection (2)). Subsection (3) sets out what the guidance must cover, including the persons who may be considered to be affected or appropriate for the purposes of consultation duties, the processes an authority might follow before determining the cases or circumstances in which the levy is not payable or to be reimbursed, support that may be provided to liable persons to operate in accordance with a VL scheme, and matters to be considered when setting the objectives of a VL scheme or deciding on the use of net proceeds of a VL scheme.

54. Before publishing new guidance or updated guidance, VisitScotland must provide the Scottish Ministers with a draft of the guidance for approval (subsection (4)). The Scottish Ministers may then approve the draft guidance, reject the draft guidance, or require the draft guidance to be modified (subsection (5)). Subsection (6) allows the Scottish Ministers to modify this section by regulations to either substitute a different body to be responsible for the duties in subsections (2) and (4) or to make more than one body responsible for the duties in subsections (2) and (4). For example, the Scottish Ministers may make themselves responsible for preparing and publishing guidance on the prior consultation requirements in section 13 and VisitScotland responsible for preparing and publishing guidance on the rest of the functions under Part 3. Subsection (7) makes it clear that if the Scottish Ministers are the body designated by regulations under subsection (6)(a) and (b), subsections (4) and (5) do not apply. Regulations may also add to, remove, or vary the list of what guidance must cover in subsection (3) (subsection (6)(c)). Regulations under subsection (6) are subject to the affirmative procedure.

Part 4 - Returns and payment

Section 24 – Delegation of collection and enforcement functions

55. Section 24 allows a local authority which has introduced a VL scheme to delegate the exercise of certain functions under Parts 4 and 5 of the Act. Subsection (1) sets out the functions which may be delegated by a local authority as those arising under sections 26(1) (the receipt of returns made to the local authority under section 26), section 29 (the receipt of levy payments made to the local authority under section 29), section 73 (functions relating to the register of liable persons) and enforcement functions under Part 5 other than section 65 (power of local authorities to reduce, suspend or waive penalties).

56. Subsection (4) confirms that where a person carries out functions on behalf of a local authority under this section, the local authority retains responsibility for those functions and may still exercise them despite their delegation under this section.

Section 25 – Interpretation

57. This section confirms that references in the Act to the making of returns mean the making of returns that comply with the requirements of Part 4, and that references in Part 4 to the relevant period are to the period specified in section 26(4).

Section 26 – Duty to make returns

58. This section places a duty on the liable person to make returns to the local authority setting out their own assessment of the levy due (subsection (1)) within 30 days of the end of each "relevant period" (subsection (2)(b)). "Relevant period" is defined in subsection (4) as meaning each quarter or such other period specified by the local authority; this will allow local authorities to specify the relevant period for the making of returns to suit their own financial arrangements. Returns made under this section must include the liable person's assessment of the total amount of levies chargeable in respect of all of the transactions entered into during the relevant period (subsection (2)(a) and (3)(a)). If the liable person provides overnight accommodation at more than one set of premises within an area covered by a VL scheme, the liable person must include separate assessments for each set of premises (subsection (3)(b)).

Section 27 – Form and content of return

59. This section deals with the required form, content and procedure for making returns under this Part of the Act. It provides that returns must be in the form, and contain such information, as specified by the local authority. Returns must also be made in the manner specified by the local authority.

Section 28 – Duty to keep and preserve records

60. This section requires a liable person to keep any records which will enable them to make returns under section 26 and to preserve those records for 5 years (or such other period specified by the local authority) (subsections (1) and (3)). Subsection (4) confirms that the records which must be kept under this section include details of any chargeable transactions entered into by the liable person and any associated records of payments, receipts and financial arrangements. A local authority can specify other records which must be kept and preserved under this section (subsection (4)(c)). The duty in this section also applies to a person who makes returns on behalf of a local authority as a result of an arrangement under section 9 (subsection (2)).

Section 29 – Payment of levy

61. This section requires the total amount of levies payable for each quarter (or other period specified by the local authority) to be paid to a local authority at the same time as a return is made under section 26 (subsections (1) and (2)). Under section 8, the obligation to pay the levy falls on the liable person (i.e., the occupier of the premises at which the overnight accommodation is provided). Subsection (3) of this section confirms that the levy will be treated as paid if it is paid in a manner which is satisfactory to the local authority.

Part 5 – Enforcement of the levy and penalties

Chapter 1 – Investigatory Powers

Section 30 – Power to obtain information and documents from the liable person

62. This section gives an "authorised officer" (defined in subsection (4)(c) for the purposes of this Part as a person authorised in writing by the local authority which has introduced the VL scheme) power to issue an information notice to a liable person requiring the provision of information or production of a document as specified in the notice (subsections (1) and (3)). A requirement to provide information not contained in documents may relate, for example, to oral information or pictures. An information notice may be issued under this section where (i) the officer reasonably requires the information or document for the purpose of assessing the liable person's liability to pay the levy and any penalties paid or payable by the liable person in connection with the levy, and (ii) it is reasonable for the liable person to be required to provide the information or produce the document (subsection (2)).

63. An example of a circumstance in which this power might be used is where a local authority has cause to believe that an occupier of premises may have been providing overnight accommodation without making returns or payment in accordance with the duties in sections 26 and 29.

64. Subsection (4) contains a number of definitions used in this Part of the Act.

Section 31 – Power to obtain information and documents from third parties

65. This section gives an authorised officer power to issue an information notice to a person (other than a liable person) requiring the provision of information or production of a document in respect of a liable person as specified in the notice (subsections (1) and (3)). An information notice may be issued under this section where (i) the officer reasonably requires the information or document for the purpose of assessing the liable person's liability to pay the levy and any penalties paid or payable by the liable person in connection with the levy, and (ii) it is reasonable for the person to be required to provide the information or produce the document (subsection (2)).

66. An example of a circumstance in which this power might be used is where a local authority has cause to believe that a travel booking company may have been providing overnight accommodation on behalf of a liable person, without returns or payment having been made in accordance with the duties in sections 26 and 29.

Section 32 – Complying with information notices

67. This section makes general provision regarding information notices issued under sections 30 and 31. It provides that a person issued with an information notice must provide the requested information or document by the time, and in the manner, reasonably specified in the notice (subsection (1)). Where production of a document is requested, it must be produced at an agreed place or at such a place reasonably specified by the authorised officer (which may not be a place used solely as a dwelling) (subsections (2) and (3)).

Section 33 – Producing copies of documents

68. This section makes general provision regarding information notices issued under sections 30 and 31. It provides that any requirement in an information notice to produce a document may be complied with by producing a copy of the document (subsection (1)).

However, it will not be possible to comply with such a requirement by producing a copy of the document where the notice specifically requires, or an authorised officer subsequently requests, the original document (subsection (2)). Where an authorised officer subsequently requests the production of an original document, subsection (3) requires it to be produced by the time, and in the manner, reasonably requested by the officer.

Section 34 – Further provision about powers relating to information notices

69. This section provides the Scottish Ministers with a power to make regulations regarding the form and content of information notices and the manner and time period for complying with such notices. Regulations made under this section are subject to the negative procedure.

Section 35 – Information notices: general restrictions

70. This section provides for some general restrictions on information notices, including that a person is required to produce a document only if it is in their possession or power (subsection (1)). In addition, an information notice may not require a person to produce a document if the whole of it originates more than 5 years before the date of the notice (subsection (2)).

Section 36 – Types of information

71. This section sets out the types of information that an information notice cannot compel a person to provide or produce. These are: (i) material acquired or created for the purposes of journalism (subsections (1) to (4)), and (ii) information contained in certain types of "personal records" (subsection (5)). Subsection (6) defines "personal records" for the purposes of the exclusion in subsection (5) as including records relating to a person's physical or mental health, or different types of counselling or assistance given to that person. This may, for example, be relevant if an exemption is made under section 11 or 14(1)(h) in relation to visitors staying in overnight accommodation for the purpose of obtaining medical treatment, or for the compulsory exemption in section 14(1)(i) for those in receipt of specified disability benefits, payments or allowances. An information notice may require the production of documents that are personal records but with the personal information omitted, and the provision of any information contained in such records that is not personal information (subsection (7)).

Section 37 – Protection for privileged communications between legal advisers and clients

72. This section provides that an information notice issued under section 30 or 31 does not require a person to provide privileged information or parts of documents that are privileged (subsection (1)). This refers to information or documents that benefit from the confidentiality that arises in information or documents between a professional legal adviser and a client (subsection (2)).

Section 38 – Power to inspect business premises

73. This section provides that an authorised officer can enter a liable person's business premises and inspect the premises (including buildings, structures, land and transport) and business documents on the premises if the officer has reason to believe that the inspection is reasonably required to assess the liable person's liability to pay the levy (subsections (1) and (2)). Subsection (3) confirms that the authorised officer is not able to enter or inspect any part of those premises that is used solely as a dwelling. A person who deliberately obstructs an

authorised officer (or a person authorised by the officer) in the course of an inspection under this section is liable to a penalty under section 56. The terms "business documents", "business premises", "carrying on a business" and "premises" are defined in subsections (4) and (5).

Section 39 – Power to inspect business premises of third parties

74. This section provides that an authorised officer can enter and inspect the business premises (and any "relevant documents" found) of a person who has entered into an arrangement with the liable person under section 9 (which could be an online booking agent, for example), or other persons specified by the Scottish Ministers in regulations (such persons are referred to in this section as an "involved third party") (subsections (1) and (3)). The types of documents which may be inspected by an authorised officer are those specified in regulations made by the Scottish Ministers (subsection (3)). Regulations made under subsection (3) are subject to the affirmative procedure (subsection (5)). Given that the requirement to keep copies of the records mentioned in section 28(4) (details of chargeable transactions entered into, etc.) applies, by virtue of section 28(2), to a person who has entered into an arrangement with a liable person under section 9(1)(b)), examples of documents held by a third party which might be specified as "relevant documents" are those mentioned in section 28(4).

75. The power under this section can be exercised where the authorised officer has reason to believe that the inspection is reasonably required to assess the liable person's liability to pay the levy (subsection (2)). Subsection (4) confirms that the authorised officer is not able to enter or inspect any part of those premises that is used solely as a dwelling. A person who deliberately obstructs an authorised officer (or a person authorised by the officer) in the course of an inspection under this section is liable to a penalty under section 56.

Section 40 – Carrying out inspections under sections 38 and 39

76. This section sets out conditions for inspections of business premises as provided for under sections 38 and 39. Subsection (1) gives the person whose business premises are to be inspected an opportunity to agree a time for the inspection to be carried out, but this may be overridden where the conditions in subsection (2) are satisfied (in which case, the inspection is to be carried out at any reasonable time). Those conditions are that either: (a) the occupier of the premises is given at least 7 days' notice in writing of the time of the inspection; or (b) the authorised officer has reasonable grounds for believing that giving notice of the inspection would seriously prejudice the assessment of the liable person's liability to pay the levy, or the payment of the levy by the liable person (for example, if the officer had concerns that the person was likely to try and destroy or remove important evidence in advance of an inspection).

77. Subsection (3) provides that where an inspection is carried out by virtue of section (2)(b) (i.e., where no notice of the inspection is given), a written notice must be provided to the occupier or someone else who appears to be in charge of the premises at the time. If no one is present at the time, the notice must be left in a prominent place on the premises. Subsection (4) provides that a notice given in advance of an inspection (under subsection (2)(a)) or at the time of an inspection (under subsection (3)) must state the possible consequences of obstructing the authorised officer from exercising the power to carry out the inspection.

Section 41 – Carrying out inspections under section 38 or 39: further provision

78. This section provides further powers, in subsections (2) to (5), available to an authorised officer carrying out an inspection of business premises under section 38 or 39. These include: taking any person(s) with them onto the premises (including a constable where the officer has reasonable cause to anticipate serious obstruction); taking any equipment or materials required for the purpose of the inspection (for example heavy machinery); examining or investigating anything considered necessary in the circumstances of the inspection; directing that the premises (or any part of the premises) be left undisturbed for as long as is reasonably necessary for the purposes of any examination or investigation.

79. The power to take equipment or machinery can be exercised at a time agreed with the occupier or, alternatively, at any reasonable time (subsection (6)). The power can only be exercised without the agreement of the occupier at a reasonable time either: (a) where a notice was issued under section 40(2)(a) informing the occupier in advance that the officer intended to exercise the power; or (b) where the officer considers that there are reasonable grounds for believing that giving advance notice that the power will be exercised would seriously prejudice the assessment of the liable person's liability to pay the levy, or the payment of the levy by the liable person. Subsection (8) applies the requirements in section 40(3) and (4) to the exercise of the power in subsection (3) where advance notice is not given by virtue of subsection (7)(b); as a result, in such a case, written notice must be provided to the occupier or someone else who appears to be in charge of the premises at the time of the inspection (or if no one is present at the time, the notice must be left in a prominent place on the premises) stating the possible consequences of obstructing the authorised officer from exercising the power to carry out the inspection.

Section 42 – Power to copy and remove documents

80. This section provides a power for an authorised officer to copy, make extracts from and remove documents at a reasonable time (subsections (1) and (2)(a)). What amounts to a reasonable time in subsection (2)(a) will depend on the context and so will vary from case to case. Documents removed may also be retained for a reasonable period of time if the authorised officer considers it necessary to do so (subsection (2)(b)). Subsection (3) allows the person who produced the document to request a receipt for it and a copy of it. The authorised officer must not charge for providing either the receipt or the copy (subsection (4)).

81. Subsection (5) provides that where a document that has been removed is lost or damaged, the relevant local authority is liable to compensate the owner of the document for any expenses reasonably incurred in replacing or repairing the document.

Section 43 – Restriction on inspection of documents

82. This section provides that an authorised officer may not inspect a document during an inspection if an information notice given at the time of the inspection could not require the occupier of the premises to produce the document (for example, if the document is legally privileged).

Section 44 – Electronic records

83. This section deals with the application of the enforcement powers in relation to information and documents which are held electronically. It applies to any provision of this Chapter or Chapter 3 (penalties) of Part 5 which (i) relates to the requirement to provide

information or produce documents, or permits the inspection, copying or removal of documents, or (ii) makes provision about penalties in connection with those matters (subsection (1)). Subsection (2) provides that in any such provisions, references to information are to be read as information held in any form, and references to documents are to be read as anything in which information of any description may be recorded; similarly, references to copies of documents are to be read as anything onto which information recorded in the document has been copied by whatever means.

84. Subsection (3) allows an authorised officer at a reasonable time to obtain access to, inspect, and check the operation of any electronic device or other equipment used in connection with "relevant information" or a "relevant document" (defined in subsection (4) to mean information that someone is required to provide or a document that someone is required to produce, or which may be inspected, copied or removed by an authorised officer). Subsection (5) allows the authorised officer to require the person in charge of the electronic device to provide assistance to allow the officer to gain access to, inspect or check the operation of the device.

Chapter 2 – Assessments where no return or incorrect return

Section 45 – Power to allow a local authority to make or substitute an assessment

85. This section allows the Scottish Ministers to make provision, by regulations subject to the affirmative procedure, for and in connection with a relevant local authority assessing the levy payable by a person (subsection (1)). The relevant local authority may only exercise this power if it has reason to believe that the person liable to pay the levy has not made a return by the date required under section 26(2)(b), or where the local authority is honestly and reasonably of the view that the return is incorrect either because of carelessness or deliberate miscalculation.

86. Subsection (2) lists the matters that regulations may make provision for or in connection with. Regulations may make provision for the conditions that a local authority must be satisfied of before making an assessment of a levy when no return has been made, or where the local authority is of the view that an assessment of a levy in a return is incorrect. In addition, regulations may make provision for the procedure a local authority must follow to make an assessment of the levy payable, the notices that must be given before or after an assessment, time limits for and delegation of the exercise of powers, and the effect of an authority's assessment on the imposition of penalties under Part 5, Chapter 3.

87. Subsection (3) sets out the matters that regulations must make provision for: reviews of an assessment made by a local authority (and may include the matters mentioned in section 71(2)) and appeals to the First-tier Tribunal for Scotland against an assessment after a review has been conducted (and may include the matters mentioned in section 72(2)).

Chapter 3 – Penalties

Section 46 – Power of local authorities to impose penalties

88. This section contains a power allowing a local authority which has introduced a VL scheme to impose penalties on certain persons in accordance with the provisions in this Chapter. This is a discretionary power which allows local authorities to decide whether or not to impose a penalty where liability arises under a particular section in this Chapter.

Sections 47 to 50 – Penalties for failure to make returns

89. Section 47 provides that a liable person who fails to make a return as required by section 23 is liable to a penalty as determined by a relevant local authority. Sections 48 to 50 contain additional penalties as determined by a relevant local authority and which a local authority may impose regarding a failure to make a return in cases where the failure continues for 3 months (section 48), 6 months (section 49), or 12 months (section 50). Liability arises under sections 47 to 50 according to the timeframes mentioned in those sections and so if a liable person has not made a return after 12 months, liability to a penalty, as determined by a relevant local authority, arises under each of sections 47, 48, 49 and 50, and the local authority may choose to impose all, some or none of the penalties set out in those sections.

Section 51 – Reasonable excuse for failure to make returns

90. This section provides that no liability to a penalty arises under sections 47 to 50 where a person who has failed to comply with the duty in section 26 has a reasonable excuse for the failure (subsection (1)). An insufficiency of funds is not a reasonable excuse (subsection (2)(a)), nor is that the person relied on another person to do things (unless the person who failed to comply took reasonable care to avoid the failure – subsection (2)(b)). Examples of things which may qualify as a reasonable excuse include serious unexpected illness, an unforeseen collapse of a third party's IT system (meaning that a return could not be sent), or the liable person's office being destroyed by fire. Where the reasonable excuse ceases to apply, the person who failed to comply with section 26 is still able to rely on the excuse, provided the failure is remedied without unreasonable delay (subsection (2)(c)).

Section 52 – Penalty for failure to pay levy

91. Section 52 provides that a liable person who fails to pay the total amount of the levy as required by section 29 is liable to pay a penalty as determined by a relevant local authority (subsections (1)(a) and (2)). Additional penalties (as determined by a relevant local authority) are payable where any amount of the total amount of the levy remains unpaid after 5 months (subsection (3)) and 11 months (subsection (4)). Liability to pay a penalty under this section only arises where the local authority has issued a reminder that payment is due and 14 days pass without payment being made (subsection (1)(b) and (c)).

Section 53 – Reasonable excuse for failure to pay levy

92. This section provides that no liability to a penalty arises under section 52 where a person who has failed to comply with the duty in section 29 has a reasonable excuse for the failure (subsection (1)). An insufficiency of funds is not a reasonable excuse (subsection (2)(a)), nor is that the person relied on another person to do things (unless the person who failed to comply took reasonable care to avoid the failure – subsection (2)(b)). Examples of things which may qualify as a reasonable excuse include serious unexpected illness, an unforeseen collapse of a third party's IT system (meaning that levy could not be paid), or the liable person's office being destroyed by fire. Where the reasonable excuse ceases to apply, the person who failed to comply with section 29 is still able to rely on the excuse, provided the failure is remedied without unreasonable delay (subsection (2)(c)).

Section 54 – Penalty for failure to keep and preserve records

93. This section provides that a person who fails to comply with the duty in section 28 to keep and preserve records is liable to a penalty as determined by a relevant local authority (subsection (1)). The duty to keep and preserve records under section 28 falls on the liable

person and any person who has entered into an arrangement under section 9 to make returns on behalf of the liable person. But no penalty is incurred under this section if the person provides other documentary evidence of relevant facts to the satisfaction of the local authority (subsection (2)).

Section 55 – Reasonable excuse for failure to keep and preserve records

94. This section provides that no liability to a penalty arises under section 54 where a person who has failed to comply with the duty in section 28 has a reasonable excuse for the failure (subsection (1)). An insufficiency of funds is not a reasonable excuse (subsection (2)(a)), nor is that the person relied on another person to do things (unless the person who failed to comply took reasonable care to avoid the failure – subsection (2)(b)). An example of a reasonable excuse here may be where the liable person's office is destroyed by fire. Where the reasonable excuse ceases to apply, the person who failed to comply with section 28 is still able to rely on the excuse, provided the failure is remedied without unreasonable delay (subsection (2)(c)).

Section 56 – Penalties for failure to comply or obstruction

95. A person who fails to comply with an information notice issued under section 30 or 31 or who obstructs an authorised officer in the course of an inspection is liable to a penalty as determined by a relevant local authority (subsections (1) and (2)). The penalty under this section also applies to a person who conceals, destroys or disposes of a document in breach of sections 60 or 61 (subsection (3)).

Section 57 – Daily default penalties for failure to comply or obstruction

96. Where a person receives a penalty under section 56, but the failure to comply or the obstruction mentioned in that section continues, the person is liable under this section to further penalties as determined by a relevant local authority for each day that the failure to comply or obstruction continues.

Section 58 – Reasonable excuse for failure to comply or obstruction

97. This section provides that no liability to a penalty arises under sections 56 or 57 where a person has a reasonable excuse for the failure to comply or the obstruction (subsection (1)). An insufficiency of funds is not a reasonable excuse (subsection (2)(a)), nor is that the person relied on another person to do things (unless the person who failed to comply or was responsible for the obstruction took reasonable care to avoid the failure or obstruction – subsection (2)(b)). While it will depend on the precise circumstances, examples of things which may qualify as a reasonable excuse include serious unexpected illness, an unforeseen collapse of a person's IT system (meaning that information or documents could not be provided), or the person's office being unsafe for the officer to enter (because of damage caused by fire or flooding for example). Where the reasonable excuse ceases to apply, the person who failed to comply or was responsible for the obstruction is still able to rely on the excuse, provided the failure is remedied, or the obstruction stops, without unreasonable delay (subsection (2)(c)).

Section 59 – Penalties for inaccurate information or documents

98. A person who, in response to an information notice issued under section 30 or 31, provides inaccurate information, or produces a document containing an inaccuracy is liable under this section to a penalty as determined by a relevant local authority in respect of each inaccuracy (subsections (1)(a), (6) and (7)). Liability for a penalty only arises where the

inaccuracy is careless or deliberate, or the person knew of the inaccuracy at the time and did not inform the local authority, or discovers the inaccuracy later and fails to take reasonable steps to inform the local authority (subsections (1)(b) and (2) to (5)).

Section 60 – Concealing, destroying etc. documents following information notice

99. This section provides that a person in receipt of an information notice issued under section 30 or 31 must not conceal, destroy or dispose of a document to which the notice relates (subsection (1)). But a person may do so after the document has been produced to an authorised officer (but not if they have been told to continue to make the document available for inspection) (subsection (2)). In a case where section 33 applies (i.e. a person complies with an information notice by providing a copy of the document), the effect of subsection (3) is that a person is free to destroy or dispose of the original document to which the information notice relates, provided they do so at least 6 months after the copy of the document was produced (unless, before then, an authorised officer requests the original document under section 33(2)(b)). The penalty applying to an act of concealing, destroying or disposing of a document in contravention of this section is as determined by a relevant local authority (see section 56(2) and (3)).

Section 61 – Concealing, destroying etc. documents following information notification

100. This section provides that a person must not conceal, destroy or dispose of any document which an authorised officer has notified is to be, or is likely to be, the subject of an information notice (subsection (1)). However, if at least 6 months have passed since that notification was given, the person may conceal, destroy or dispose of the document (subsection (2)(a)). The prohibition in subsection (1) does not apply where an information notice has been given to the person requiring the document to be produced (subsection (2)(b); but in such a case, section 60 will apply to prohibit the person from concealing, destroying or disposing of the document). The penalty applying to an act of concealing, destroying or disposing of a document in contravention of this section is as determined by a relevant local authority (see section 56(2) and (3)).

Section 62 – Assessment of penalties

101. This section deals with the assessment of penalties under this Chapter. Where a person becomes liable for a penalty and the local authority choose to impose it, subsection (1) requires the local authority to assess the penalty (to ascertain the amount of penalty due) and notify the person that the penalty is due. That assessment must be made within 12 months of the person becoming liable to the penalty (subsection (3)), or, as regards a penalty under section 59 (penalties for inaccurate information or documents), within 12 months of the inaccuracy first coming to the attention of an authorised officer and within 6 years of the person becoming liable to the penalty (subsection (5)). But if the penalty is one relating to an information notice which may be appealed, the assessment under section 56 or 57 (penalties for failure to comply or obstruction) is to be carried out within 12 months of the end of any period in which notice of an appeal may be given, or if an appeal is made, within 12 months of the date on which the appeal is determined or withdrawn (subsection (4)). The obligation to pay the penalty does not arise until notification of the penalty is issued under subsection (2)(b).

Section 63 – Enforcement of penalties

102. This section provides that a penalty under this Chapter is to be paid within 30 days of the notification of the penalty.

Section 64 – Failure to comply with time limit

103. This section provides that a person who fails to comply with a time-limited requirement does not become liable for a penalty under section 56 or 57 (penalties for failure to comply or obstruction) if they comply with the requirement within a further period allowed by the authorised officer.

Section 65 – Power of local authorities to reduce, suspend or waive penalties

104. Under this section, a local authority may waive or suspend a penalty, or agree a compromise in relation to proceedings for the penalty, where special circumstances apply (subsections (1) and (3)). But the ability of the person to pay the penalty is not to be regarded as a special circumstance (subsection (2)). Subsection (4) confirms that the power of a local authority under this section applies not only to the penalty, but to any interest in relation to the penalty.

Section 66 – Interest on unpaid levy

105. This section provides that interest is payable on the amount of any unpaid levy from the day after the date on which the levy must be paid under section 29 (subsection (1)). Where an amount of unpaid levy is paid to the local authority, interest is payable only on the remainder of unpaid levy (subsection (2)). The rate of interest applicable is that specified in regulations made under section 68 (subsection (3)).

Section 67 – Interest on penalties

106. This section provides that interest is payable on the amount of any unpaid penalty from the date on which the penalty must be paid until it is paid (subsection (1)). The rate of interest applicable is that specified in regulations made under section 68 (subsection (2)).

Section 68 – Rate of interest

107. The rates of interest which are to apply to unpaid levy or unpaid penalties are to be specified in regulations made by the Scottish Ministers under this section (subsection (1)). Different rates can be specified for different penalties, and provision can be made for the alteration of rates of interest (subsection (2)). Regulations made under this section are subject to the negative procedure (subsection (3)).

Section 69 – Power to change penalty provisions

108. This section gives the Scottish Ministers power to make further provision by regulations about penalties, including making amendments to this Act or other legislation (subsections (1) and (4)). Provision which can be made includes provision about the circumstances in which a penalty is payable, the amounts of the penalties, issuing procedures and enforcement of penalties (subsection (2)), but the power cannot be used to create criminal offences (subsection (3)). Regulations made under this section are subject to the affirmative procedure (subsection (6)).

Chapter 4 – Recovery of unpaid amounts

Section 70 – Summary warrant

109. This section provides that the local authority may apply to the sheriff for a summary warrant where a person does not pay the levy, or a penalty imposed under Chapter 3 (subsections (1) and (2)). The application to the sheriff must include a certificate which states that the person has failed to pay the sum by the due date, a demand for payment has subsequently been issued and the sum due remains unpaid for at least 14 days (subsections (3) and (4)). The sheriff must then issue the summary warrant which authorises the recovery of the sum payable by the means set out in subsection (6). In addition to the sum of levy or penalty due, the person is liable to pay the sheriff officers' fees and expenses reasonably incurred (subsection (7)), other than fees for collecting and accounting to the local authority sums paid to the sheriff officer by that person (subsection (8)).

Chapter 5 – Reviews and appeals

Section 71 – Reviews

110. This section requires the Scottish Ministers to make regulations, subject to the affirmative procedure, providing for the review by a local authority of its decisions in connection with the operation of a VL scheme, enforcement action taken by it, and penalties imposed by it (subsections (1) and (3)). The type of provision which can be made under this section includes the procedure for carrying out reviews and the steps that can be taken by a local authority following the outcome of reviews (subsection (2)).

Section 72 - Appeals

111. This section requires the Scottish Ministers to make regulations, subject to the affirmative procedure, providing for appeals to the First-tier Tribunal for Scotland against decisions by a local authority in connection with the operation of a VL scheme, enforcement action taken by the authority, and penalties imposed by the authority (subsections (1) and (4)). The type of provision which can be made under this section includes the time limits for bringing an appeal and the steps that can be taken by a local authority following the outcome of an appeal (subsection (2)). As a result of subsection (3), regulations made under this section must require a review to have been carried out (under regulations made under section 71) before an appeal can be brought in relation to the decision, enforcement action or penalty.

Part 6 – Registers of Liable Persons and Information Sharing

Section 73 – Registers of liable persons

112. This section allows a local authority to establish and maintain a register containing the names of all liable persons offering overnight accommodation, the addresses of all places at which overnight accommodation is provided, and other information the authority considers necessary.

Section 74 – Power to share information

113. This section provides that a local authority may disclose relevant information to certain persons where it is necessary for the performance of a function or in connection with the operation of a VL scheme. The information which can be disclosed is listed in subsection (4) and includes the name and address of liable persons offering overnight accommodation. The persons to whom information can be disclosed under this section are (i) another local

authority with whom the disclosing authority has entered into a joint VL scheme, (ii) a person to whom a local authority's functions have been delegated (under section 24) and (iii) a local authority's authorised officer (subsection (1)(a) to (c)). Information disclosed to an authorised officer or a person to whom local authority functions have been delegated must only be used for the purpose of performing the function conferred on that person. An example of a circumstance in which information may be disclosed under this section is where the local authority provides an authorised officer with the name and address of a liable person to allow them to issue an information notice to that person.

Part 7 – Final Provisions

Section 75 – Report on operation of Act

114. Section 75(1) requires the Scottish Ministers to review the operation of the Act and prepare a report on that review as soon as reasonably practicable after the end of the reporting period. The reporting period, defined in subsection (4), is the period beginning on the day of Royal Assent, and ending on the day three years following the day on which the first VL scheme comes into effect, or any other earlier day determined by the Scottish Ministers after the first VL scheme comes into effect. The report must, in particular, assess the impact of VL schemes on businesses and communities, the processes followed by local authorities when introducing, administering, reporting on, and reviewing VL schemes, how the net proceeds of VL schemes have been used, exemptions or rebates, any guidance issued under section 23, the use of compliance and enforcement powers in Part 5, and any other matters the Scottish Ministers consider appropriate (subsection (2)).

115. As soon as reasonably practicable after preparing the report, the Scottish Ministers must publish the report and lay the report before the Scottish Parliament (subsection (4)).

Section 76 – Interpretation of Act

116. Section 76 lists a number of important terms used throughout the Act and refers to the places in the Act where these are defined or described.

Section 77 – Regulation making powers

117. Section 77 allows regulations made under the Act to make different provision for different purposes.

Section 78: Ancillary provision

118. Section 78 allows the Scottish Ministers, by regulations, to make stand-alone ancillary provision in relation to the Act or any provision made under it. Any ancillary provision amending primary legislation will be subject to the affirmative procedure; otherwise, ancillary provision will be subject to the negative procedure.

Section 79 – Commencement

119. Section 79 makes provision in relation to when all of the provisions of the Act would take effect as the law. The final provisions come into force automatically on the day after the Bill becomes an Act. The other substantive provisions will come into force in accordance with regulations made by the Scottish Ministers. This is customary in Acts, particularly those such as this where various practical steps need to be taken in order to ensure that those principally affected by the Act's provisions can be ready when it takes effect.

Section 80 – Short title

120. Section 80 provides that the Act may be cited as the Visitor Levy (Scotland) Act 2024.

PARLIAMENTARY HISTORY

121. The following is a list of the proceedings in the Scottish Parliament on the Bill for the Act and significant documents connected to the Bill published by the Parliament during the Bill's parliamentary passage.

Proceedings and reports	*Reference*
INTRODUCTION	
Bill as Introduced (24 May 2023)	SP Bill 28 (Session 6 (2023))
Policy Memorandum (24 May 2023)	SP Bill 28 – PM (Session 6 (2023))
Explanatory Notes (24 May 2023)	SP Bill 28 – EN (Session 6 (2023))
Financial Memorandum (24 May 2023)	SP Bill 28 – FM (Session 6 (2023))
Statements on Legislative Competence (24 May 2023)	SP Bill 28 – LC (Session 6 (2023))
Delegated Powers Memorandum (24 May 2023)	SP Bill 28 – DPM (Session 6 (2023))
STAGE 1	
Local Government, Housing and Planning Committee (lead committee)	
Evidence session (20 June 2023)	Official Report (cols. 2 to 21)
Consideration in private (20 June 2023)	Minutes of proceedings (LGHPC/S6/23/18)
Consideration in private (3 October 2023)	Minutes of proceedings (LGHPC/S6/23/23)
Evidence session (24 October 2023)	Official Report (cols. 2 to 46)
Consideration in private (24 October 2023)	Minutes of proceedings (LGHPC/S6/23/24)
Evidence session (31 October 2023)	Official Report (cols. 2 to 45)
Consideration in private (31 October 2023)	Minutes of proceedings (LGHPC/S6/23/25)
Evidence session (7 November 2023)	Official Report (cols. 3 to 59)
Consideration in private (7 November 2023)	Minutes of proceedings (LGHPC/S6/23/26)
Evidence session (14 November 2023)	Official Report (cols. 3 to 40)
Consideration in private (14 November 2023)	Minutes of proceedings (LGHPC/S6/23/27)
Consideration in private (12 December 2023)	Minutes of proceedings (LGHPC/S6/23/30)
Consideration in private (19 December 2023)	Minutes of proceedings (LGHPC/S6/23/31)

Proceedings and reports	***Reference***
Stage 1 report (21 December 2023)	SP Paper 502, 10th Report, 2023 (Session 6)
Delegated Powers and Law Reform Committee	
Consideration in private (19 September 2023)	Minutes of proceedings (DPLRC/S6/23/25)
Consideration in private (24 October 2023)	Minutes of proceedings (DPLRC/S6/23/28)
Report on delegated powers provisions in the Visitor Levy (Scotland) Bill at Stage 1 (31 October 2023)	SP Paper 458, 61st Report, 2023 (Session 6)
Whole Parliament	
Stage 1 debate (16 January 2024)	Official Report (cols. 37 to 83)
STAGE 2	
Marshalled list of amendments for Stage 2	SP Bill 28 – ML (Session 6 (2024))
Groupings of amendments for Stage 2	SP Bill 28 – G (Session 6 (2024))
Meeting on amendments (12 March 2024)	Official Report (cols. 3 to 54)
Bill as amended at Stage 2	SP Bill 28A – amended Bill (Session 6 (2024))
Revised Explanatory Notes	SP Bill 28A – EN (Session 6 (2024))
Supplementary Delegated Powers Memorandum	SP Bill 28A – DPM (Session 6 (2024))
Consideration in private (23 April 2024)	Minutes of proceedings (DPLRC/S6/24/13)
Report on delegated powers provisions in the Visitor Levy (Scotland) Bill after Stage 2 (26 April 2024)	SP Paper 575, 29th Report, 2024 (Session 6)
STAGE 3	
Revised marshalled list of amendments for Stage 3	SP Bill 28A – ML (Revised) (Session 6 (2024))
Timed groupings of amendments for Stage 3	SP Bill 28A – G (Session 6 (2024))
Consideration of amendments and debate (28 May 2024)	Official Report (cols. 21 to 118)
Bill as passed (28 May 2024)	SP Bill 28B (Session 6 (2024))
ROYAL ASSENT	
Royal Assent (5 July 2024)	Visitor Levy (Scotland) Act 2024 (asp 8)

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