



OFFICIAL REPORT  
AITHISG OIFIGEIL

DRAFT

# Local Government, Housing and Planning Committee

Tuesday 12 March 2024

Session 6



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Pàrlamaid na h-Alba

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**Tuesday 12 March 2024**

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**LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE**  
**9<sup>th</sup> Meeting 2024, Session 6**

**CONVENER**

\*Ariane Burgess (Highlands and Islands) (Green)

**DEPUTY CONVENER**

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

**COMMITTEE MEMBERS**

\*Miles Briggs (Lothian) (Con)

\*Stephanie Callaghan (Uddingston and Bellshill) (SNP)

\*Pam Gosal (West Scotland) (Con)

\*Mark Griffin (Central Scotland) (Lab)

\*Gordon MacDonald (Edinburgh Pentlands) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Tom Arthur (Minister for Community Wealth and Public Finance)

Jeremy Balfour (Lothian) (Con)

Neil Bibby (West Scotland) (Lab)

Sarah Boyack (Lothian) (Lab)

Daniel Johnson (Edinburgh Southern) (Lab)

Liam McArthur (Orkney Islands) (LD)

Stuart McMillan (Greenock and Inverclyde) (SNP)

**CLERK TO THE COMMITTEE**

Euan Donald

**LOCATION**

The Sir Alexander Fleming Room (CR3)



## Scottish Parliament

### Local Government, Housing and Planning Committee

*Tuesday 12 March 2024*

*[The Convener opened the meeting at 09:32]*

#### Decision on Taking Business in Private

**The Convener (Ariane Burgess):** Good morning, and welcome to the ninth meeting in 2024 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are on silent and that all other notifications are turned off during the meeting.

The first item on our agenda is to decide whether to take item 5 in private. Do members agree to take item 5 in private?

**Members** *indicated agreement.*

## Interests

09:33

**The Convener:** The second item on our agenda is a declaration of interests. I invite Gordon MacDonald to declare any relevant interests.

**Gordon MacDonald (Edinburgh Pentlands) (SNP):** The only relevant interest that I have to declare is that my wife is a local government councillor.

**The Convener:** Thank you very much.

## Visitor Levy (Scotland) Bill: Stage 2

09:33

**The Convener:** The next item on our agenda is stage 2 of the Visitor Levy (Scotland) Bill. We are joined by the Minister for Community Wealth and Public Finance, Tom Arthur, and Scottish Government officials. Ben Haynes is the bill team leader, Laura Wilkinson is from the legal directorate and Ian Shanks is from the parliamentary counsel office. I welcome the minister and his officials to the meeting. I also welcome Stuart McMillan MSP, Liam McArthur MSP, Daniel Johnson MSP, Jeremy Balfour MSP and Sarah Boyack MSP. We expect Neil Bibby to join us shortly. I thank all of you for attending the committee for this agenda item.

*Sections 1 to 3 agreed to.*

### Section 4—Meaning of overnight accommodation

**The Convener:** Amendment 26, in the name of Miles Briggs, is grouped with amendments 18, 1 and 2.

**Miles Briggs (Lothian) (Con):** Amendment 26 seeks to remove camping sites and caravan parks from the bill.

During scrutiny of the bill, it has become quite clear that, rather than a visitor levy, it will be more an accommodation tax. We heard important evidence about camping sites and caravan parks often being used by people on fixed budgets who want to have a lower-priced holiday. It is therefore important that they are not included in what will be a percentage scheme, which would add to costs. That is why I decided to lodge amendment 26.

I move amendment 26.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** At its introduction, the bill included boat moorings and berthings as types of accommodation that are to be covered by a visitor levy. That led to concern in the recreational boating community and a view that the visitor levy should not apply to people using berthings, as a berthing is primarily a safe haven for a vessel, which is a very different scenario from staying in a room or in a hotel. A number of folk said to me that marinas, berthings and moorings are really just car parks for vessels.

Many recreational boaters use their boat to travel to a mooring, then leave their boat and perhaps stay in a local bed and breakfast for the night. Applying a visitor levy to that berth does not seem to be the right approach. There are also

many difficulties with collecting and remitting the levy, given that many moorings are run by small voluntary community groups and sometimes no formal record is made of who has used the berth.

I welcome the committee's recommendation in the stage 1 report that boat moorings and berthings should not be covered by a visitor levy. In my role as the chair of the cross-party group on recreational boating and marine tourism, I arranged for the minister to meet members of the boating community here in the Parliament and in my constituency, to hear their concerns. I know that he has listened carefully to their perspective and is sympathetic to the purpose behind amendment 18, in my name. Therefore, I hope that the Government is able to support it.

**Liam McArthur (Orkney Islands) (LD):** Unlike Miles Briggs and Stuart McMillan, who are trying to crowbar certain visitors out of the bill, I am trying to shoehorn some visitors into it. It is worth putting on the record that the levy will work only if there is sufficient local flexibility that recognises the different ways in which tourism operates in different communities and at different times of the year.

Fundamentally, there needs to be fairness and equity in relation to the way in which the bill applies. As the Convention of Scottish Local Authorities has pointed out in its briefing, cruise traffic is now a significant and growing part of the tourism economy. As the bill stands, there is a risk that tens of thousands of visitors will be exempt from paying the levy.

At a local level, in places such as Orkney, where cruise traffic brings in a significant proportion of the tourist visitors who come to the area each year, there is a risk that, without being able to apply the levy to cruise traffic passengers, the viability of the levy will not be sustainable because the revenues that are raised otherwise would not allow the administration of the levy to wash its face.

In applying the levy to some but not to others, particularly in such a significant part of the tourism sector, local authorities might risk losing public confidence in what they are doing. It is an invidious position in which to place them.

I know that there are issues of competence in relation to applying the levy to cruise traffic. I am grateful to the minister for the engagement that I have had with him in recent weeks. I know that discussions are on-going with local authorities through COSLA on how they get around the issue, but I thought it important at this stage in the scrutiny of the bill at least to allow a debate to take place so that the minister could put commitments and assurances on the record, and to allow colleagues who have similar concerns or issues in

relation to their own parts of the country to put those on the record. I look forward to hearing what they have to say.

**The Convener:** I will speak to Liam McArthur's amendments 1 and 2. I appreciate that he has recognised that those amendments are not the basis for how such provisions might be framed in law.

Greens strongly support a cruise ship levy and we welcome the minister's reassurance that that proposal will be fully developed.

We recognise that the number of motorhomes and camper vans—and, in some cases, the way that they park up overnight—can cause problems in rural areas. The Scottish Government should explore and be open to workable solutions. However, simply adding motorhomes to the bill is not workable, for a number of reasons.

First, if cost is a deciding factor in whether a motorhome or camper van user chooses whether to use a designated site, that is already there in the commercial site charge, so any visitor levy based on a percentage of that charge would not make a decisive difference.

The more general issue with any motorhome or camper van charge is how to implement it. Charging at the point of hire will cover only hire vehicles, not those that are driven by their owners. If a van is hired in Paisley, for example, the income would then go to Renfrewshire Council, although that vehicle might travel through Scotland and stop off in other areas, some of which might have a visitor levy while others might not. The use of number-plate recognition has been suggested, but, given the many thousands of places where a motorhome or camper van might stop, how would that be done and at what cost?

The visitor levy is long awaited, but the Greens are concerned about adding elements to it that do not yet have a clear route towards implementation.

**Liam McArthur:** I absolutely understand the complexity of applying the levy to motorhomes. To go back to my earlier point about flexibility, there would at least be an opportunity to apply it in island communities, where the issue of motorhomes is about their impact not only once they arrive but on the capacity of ferries to and from the mainland. There is an option to apply a levy to motorhomes travelling on ferries, irrespective of where those motorhomes come from or have been leased. The revenue gathered could be allocated to benefit island communities.

As you said, that would not necessarily apply across the board. However, there needs to be recognition that local authorities should be able to apply the levy flexibly.

**The Convener:** My point is about how to make that workable across the board, because there is also the issue of the impact on mainland local authorities. That should be looked at, but probably not as a part of this bill.

I call the minister.

**The Minister for Community Wealth and Public Finance (Tom Arthur):** Good morning. The amendments in the group all relate to the meaning of the term "overnight accommodation" in the bill, which takes a broad approach to the types of overnight accommodation to which a visitor levy could apply. That means that all relevant types of accommodation that are offered for residential purposes—other than as someone's usual place of residence—are covered by the bill. That approach allows a local authority to decide, after the consultation that it must carry out on whether to introduce a visitor levy, whether there are any types of accommodation that it would wish to exclude from that levy.

Amendment 26 seeks to remove camping sites and caravan parks from the list of accommodation types to which a visitor levy can apply. Such sites are an important part of the accommodation sector, especially in rural areas. There is no consensus within local government or the tourism industry that a visitor levy should never apply to a camping site or a caravan park, so I believe that it should be left to local authorities—after consultation—to make decisions on the matter in a way that reflects their judgment about local circumstances. On that basis, the Government does not support amendment 26, so I ask Miles Briggs not to press it.

In relation to amendment 18, I put on record my appreciation and thanks to Stuart McMillan for the work that he has put in on the issue of boat moorings and berthings, which he raised during the course of stage 1 and in the stage 1 debate.

In its stage 1 report, the committee recommended that the bill should not capture boat moorings and berthings. Stuart McMillan's amendment 18 would implement that recommendation. There has been consensus from local government, the tourism industry and the committee on the matter. Therefore, the Government supports the amendment, which will remove moorings and berthings from the types of accommodation that the bill covers.

09:45

I turn to Liam McArthur's amendments 1 and 2. I am grateful to Mr McArthur for lodging the amendments and for bringing his experience as a constituency representative to bear. As the amendments work together, I will speak about both of them.

Amendments 1 and 2 seek to bring within the scope of any visitor levy scheme

“accommodation in a vehicle, or on board a vessel, that is undertaking a journey”.

As I understand it, and as Mr McArthur has highlighted, the intention behind the amendments is to highlight the issues of a cruise ship levy and a motorhome levy. Given their relevance to the bill, I will briefly set out the Government’s position on both those issues before addressing the effects of the amendments.

On a cruise ship levy, the Government’s position, as we announced in October, is that we will seek to give local authorities the power to create such a levy. Therefore, we have been working with the Convention of Scottish Local Authorities and local government to scope out the work that is needed on a levy and to assist them with developing a formal proposal for it.

On Friday last week, COSLA wrote to the Government setting out its formal proposals for a cruise ship levy. In line with the new deal for business, we have committed to a public consultation on such a levy once proposals have reached a suitable stage of development to hear the views of all relevant stakeholders.

If policy work and a consultation can be completed in time and Parliament agrees, we will seek to amend the Visitor Levy (Scotland) Bill to include a cruise ship levy. If that is not possible, we will explore other ways of passing the required legislation. I do not want to delay this important bill by waiting for that policy and consultation work to be undertaken, but neither do I want to rush work on a cruise ship levy to meet the bill’s timescales.

**Liam McArthur:** I am grateful to the minister not only for those comments, but for the engagement that we have had previously.

On the timing, there is a risk that, if one part of the levy is put in place ahead of the other, the unfairness that I talked about will be seen to apply, even if only for a year or two until a cruise ship levy applies. Therefore, the choreography of the way in which the levy will apply will be crucial to most local authorities that rely heavily on cruise line traffic. Has the minister’s engagement with COSLA picked up on the need to ensure that all aspects of the levy can be applied simultaneously, if councils wish to take forward the proposals?

**Tom Arthur:** With regard to the engagement that we have had with COSLA, as I touched on, we received a formal proposal from it only last week. I am conscious of the appetite in local government for the provisions in the bill to come online as soon as possible, hence my not wanting to unduly delay it. However, I recognise that, given the nature of a cruise ship levy, which has some

similarities with but is nonetheless distinct from a visitor levy, it is important that there be proper consultation and engagement to ensure that we get it right.

My hope is that we will be able to amend the bill to enable a cruise ship levy to be captured. However, if we are unable to do that, we will identify an alternative vehicle, and I will be more than happy to keep Parliament and individual interested members up to date on that work.

I recognise Mr McArthur’s point about wanting the provisions to come into effect simultaneously, but I must also recognise the appetite of local government to get the provision for a visitor levy in place as quickly as possible, subject to its being agreed by Parliament. Notwithstanding that, I will be happy to continue to engage with Parliament to explore ways in which we can ensure that, once we have a developed and worked-up proposal on a cruise ship levy, there is public consultation and extensive engagement with business and relevant stakeholders so that we will be in a position to introduce it as soon as is practicably possible.

**The Convener:** Minister, before you go on, I want to bring in Stuart McMillan.

**Stuart McMillan:** What you have just said is extremely helpful, minister. You are aware of my interest in a cruise ship levy. I know that it is early in the process, but are you considering primary legislation or delegated powers to introduce any such change in the future?

**Tom Arthur:** Given the significance of creating a new levy power, it would be appropriate to introduce a cruise ship levy through primary legislation, as we are doing with the visitor levy. Should we be in a position to introduce a cruise ship levy by amending the bill that is before the committee, that would provide a means to do that, but if that is not possible, we will look for another vehicle to do that.

As I highlighted, given the significance of introducing such a new discretionary power for local authorities, that would, on balance, make us lean towards the use of primary legislation, although we would, of course, take the views of Parliament on the matter into account.

If I may, convener—

**The Convener:** I am sorry, but I will bring in Mark Griffin, after which we will move on.

**Mark Griffin (Central Scotland) (Lab):** I seek clarification on a cruise ship levy. If there is not enough time to insert such a levy into the Visitor Levy (Scotland) Bill and it is introduced via a different legislative vehicle, will the measures in the bill in relation to timescales and consultation still apply? Will local authorities have to carry out

the same work with regard to a potential cruise ship levy that they have to do with the visitor levy?

**Tom Arthur:** Although a cruise ship levy is related to some of the policy intent and motivation behind the visitor levy, it is distinct, so we would have to consider that on a case-by-case basis.

What has emerged from the work on the visitor levy and what is reflected in the bill as introduced is the importance of engagement between local authorities, business and communities, and the high regard in which that is held. We would consider proposals in partnership with COSLA and business, and we would be more than happy to engage with other members on the development of proposals for a cruise ship levy, which would, of course, be subject to public consultation. That would help to inform the approach that we would take.

Broadly speaking, we would want to be consistent with the principles and the broad approach with regard to engagement and facilitating engagement that we are taking in relation to the visitor levy. The details of a cruise ship levy would follow from our process of engagement and public consultation. As I said, we would be more than happy to engage directly with elected members, COSLA and individual local authorities that have a particular interest in a cruise ship levy.

I want to mention motorhomes. People who use eligible types of accommodation, such as campsites, will be covered by a visitor levy if a local authority chooses to introduce one. The Scottish Government remains open to engagement and discussion with stakeholders on a wider motorhome levy, and it will consider any developed proposals that will work to support the visitor economy.

Discussions with council and land management stakeholders have highlighted significant issues with a levy on motorhomes, with potential difficulties in application, administration and compliance. You highlighted those difficulties in your remarks, convener. Those difficulties are, however—

**Daniel Johnson (Edinburgh Southern) (Lab):** Will the minister give way?

**Tom Arthur:** I am happy to do so.

**Daniel Johnson:** I want to highlight two brief points. First, I recognise the issue of motorhomes, but a basic principle is that it is not always possible to tell who is staying where, regardless of the type of accommodation. We have to assume that people will be honest. I do not consider a motorhome per se to be different from any other type of accommodation.

Secondly, in not making liable for the levy vessels that are moored that provide accommodation, or vehicles that are parked up that provide accommodation, there is a risk that certain types of accommodation will not have the levy applied to them, whereas others will.

Does the minister acknowledge that that potential loophole needs to be thought about at stage 2 and, ultimately, stage 3, to ensure that there are no significant areas in which people can provide accommodation without being liable for the levy?

**Tom Arthur:** I think that you mentioned moorings and berthings. Vessels that can provide residential accommodation that are permanently or primarily situated in one place would be captured, but, as Mr McMillan outlined when he spoke to amendment 18, there are certain categories of event whose capturing would not be consistent with the policy intent of the bill.

I recognise your point about motorhomes. I made reference to the fact that a motorhome would be captured by the visitor levy if it was at a site to which the levy applied.

Although I recognise the difficulties of a motorhome levy, I do not believe them to be insurmountable. However, we need to work to ensure that any tax is robust and that it works for local government, the tourism industry and motorhome users. I am not opposed to the principle of a motorhome levy, but it is a measure on which more detailed work will require to be done. Some of the points in that regard have been highlighted.

**Liam McArthur:** I am encouraged by what you have said about your openness to discussing the issue. As I raised with the convener, there is an opportunity for island authorities to levy any such charge on vehicles that come via ferry. That seems to be an appropriate way to apply the principle that the levy is about supporting infrastructure and services. Are you open to considering whether an option exists for local authorities to apply such a levy through that route—albeit, as the convener said, it could not be applied in a similar way by mainland-based local authorities? In the spirit of allowing flexibility for the measure to be applied in appropriate ways, depending on need and circumstances, that option should, I would have thought, be available to island authorities.

**Tom Arthur:** In principle, I would want to take an approach that recognises that our island communities are unique and have distinct needs and assets, just as, more broadly, in the structure and organisation of delivery of public services, we provide opportunities for islands to have more bespoke arrangements. That speaks naturally to

your point, Mr McArthur. I am therefore more than happy to have exploratory discussions on provisions for a cruise ship levy and a motorhome levy. I caveat that by saying that it is important that what we have in place is robust and that there are no undue burdens around administration and compliance that would, ultimately, undermine the policy intent. In that space, there is an opportunity for further discussion.

On that basis, I will conclude by saying that we have committed to bringing forward a cruise ship levy—I have set out the rationale for that and the underlying approach—and we are open and willing to explore a motorhome levy in more detail.

My final point, for clarity, is that the bill as introduced relates to a taxable event—the purchase of overnight accommodation—that does not easily translate to the very different contexts of booking a cruise ship holiday or hiring a camper van. Levies on those activities are likely to need a different legal framework, involving a different taxable event and different compliance powers. I offer that as a reason for why the Government is unable to support amendments 1 and 2 at this stage, and I ask Liam McArthur not to move them.

**The Convener:** I call Miles Briggs to wind up and to press or withdraw amendment 26.

**Miles Briggs:** The same principles apply to private caravans as apply to Stuart McMillan's mooring amendment. Not having a definition of "overnight accommodation" is at the heart of some of the problems with the bill. That is a difficulty. For example, we still need clarification on whether the proposed levy would apply to a privately owned holiday caravan.

I am happy to work with the minister if he is willing to meet me and representatives to discuss a stage 3 amendment, because, for caravan sites, there is still ambiguity in the bill over who would and who would not be charged. As with moorings, it is important that we look in more detail at who will be captured, especially because, as has been outlined, a payment will need to be made at some point, and we need to know what that will look like for various clients on campsites.

There is also a significant concern about behaviour change. Many colleagues have raised the problems with wild camping, and we need to know what the bill might mean for people who do not want to pay a levy and who, therefore, end up not using an established caravan site or campsite.

**Tom Arthur:** I reiterate that, on any aspect of the bill, if there are concerns about definition and about whether the bill will ensure that the policy intent is met, I am more than happy to have a discussion about refining any of the language ahead of stage 3.

I also note that, in the bill as introduced, flexibilities already exist for local government around exemptions and exclusions.

**Miles Briggs:** Thank you. With that in mind, I will not press amendment 26. I hope to take up the minister's offer to have a conversation on the matter before stage 3.

*Amendment 26, by agreement, withdrawn.*

*Amendment 18 moved—[Stuart McMillan]—and agreed to.*

10:00

**The Convener:** I call amendment 1, in the name of Liam McArthur, and ask Mr McArthur to say whether he wishes to move or not move the amendment.

**Liam McArthur:** In the hope of working with the minister to see whether there are ways forward, either in relation to camper vans or cruise traffic, I will not move amendment 1.

*Amendment 1 not moved.*

*Amendment 2 not moved.*

**The Convener:** Amendment 3, in the name of Pam Gosal, is grouped with amendments 5, 38, 39, 42, 11 and 16.

**Pam Gosal (West Scotland) (Con):** The cost of doing business in Scotland is exceptionally high and recovery remains precarious following Covid and the cost of living crisis. That is further compounded by business rates, VAT, regulations on short-term lets and so on. It goes without saying that the industry cannot get behind the bill in its current shape. For that to happen, we must ensure that the visitor levy is as cost neutral to businesses as possible.

Around 2,000 to 3,000 smaller accommodation operators are not VAT registered. In fact, David Weston from the Scottish Bed & Breakfast Association told the committee that it often hears from its members that they are

"managing their turnover in order to stay below the threshold."

We heard that, anecdotally, it can take a 50 per cent increase in turnover just to cover the cost of going over the threshold. However, only two businesses that operate below the VAT threshold were consulted for the business and regulatory impact assessment.

The Federation of Small Businesses told the committee that one of the main concerns is that members fear

"being pushed above the VAT threshold."—[Official Report, Local Government, Housing and Planning Committee, 24 October 2023; c 22, 4.]

The financial memorandum does not even assess the financial impact on businesses if VAT is applied to the levy, nor has the Scottish Government provided any indication that it intends to revisit the financial memorandum or the BRIA.

My amendment 3 seeks to exclude those small and micro businesses from falling off that cliff edge. I urge members to back amendments 3 and 5 in my name, which would exempt accommodation that has an annual turnover that is below the VAT threshold. Quite frankly, the levy will be a costly and complicated undertaking for all providers, but that is especially the case for small accommodation providers that do not even have an accounting system but instead use books and keep a diary.

Should amendments 3 and 5 be disagreed to, I ask members to support amendment 16 in my name, which would introduce provisions for businesses that operate under the VAT threshold to retain 20 per cent of the total of their first return in order to recover costs for set-up.

Under amendment 11, I have sought to address how net proceeds can be used to improve the tourism offering and, in turn, improve the prospects for accommodation providers that operate in an area. Although I recognise the pressing need to close local government budget gaps, businesses should not suffer as a result. It is important that, where possible, businesses see some return on this onerous undertaking.

As outlined in my amendment, businesses that are located in a local authority area should be included in any decision that the local authority makes as to how the net proceeds of the scheme will be used. That would allow local authorities to maintain freedom over how the net proceeds are spent, accompanied by the expertise and knowledge of local businesses. In the interests of growing the local economy and improving the tourism offering, I cannot see any sensible reason for my colleagues to object to amendment 11 in my name.

I am content to support amendments 38 and 39 in the name of Daniel Johnson. Amendment 38 would require the Scottish Government to

“define what ‘a small accommodation provider’ is”.

I will also be supporting amendment 42 in the name of my colleague Miles Briggs, which would introduce provision for a business impact assessment. Clearly, the business regulatory impact assessment, or BRIA, is outdated and flawed, so I would welcome local authorities conducting their own assessments prior to introducing or changing a visitor levy scheme.

The small accommodation sector runs on tight margins, and it already faces an endless barrage

of regulations. The Parliament runs a real risk of sinking small businesses to fill the gaping black hole in the public finances. I urge members to protect Scotland’s small and micro businesses, which are the backbone of local economies and communities, by supporting amendments 3, 5, 11 and 16 in my name.

I move amendment 3.

**Daniel Johnson:** I remind members of my entry in the register of members’ interests, in that I am a director and sole shareholder in a company that holds retail interests. I know what it is like to have to implement changes and new charges in a small business. Sometimes it is easy, but sometimes it is not so easy.

I wish to make two fundamental points in speaking to amendments 38 and 39. First, we need to consider the practical realities for very small businesses in implementing new charges. There is also an important point about the interaction between the proposed levy and VAT, including the sometimes complex nature of having to comply with VAT rules and, for many small businesses, having to pay VAT. The levy potentially adds to that complexity.

On the first point, as somebody with a retail background, I recall changes in the VAT regime and the introduction of the bag charge. Neither of those things was unwelcome—indeed, the VAT changes were very welcome at the time—but they were not always easy to implement. I remember spending one night until midnight in my shops, trying to get my tills working properly for the next morning, and that was not straightforward; it was also stressful. We should bear that in mind when we are asking for changes to be made not just for businesses but often for activities that sit alongside main businesses. The proposals might well represent a very significant additional administrative burden.

There are many forms of very small accommodation throughout Scotland that are important for our mix and our offer as a country. They often consist of just one or two bedrooms, and they are very much not the main economic activity—they might be on a farm, for instance. Those businesses are essentially run from a school exercise jotter and a cash tin. The assumption that is being made in this case, which is often made when Government makes such proposals, is that the change is as simple as adding a button to the till or adding a parameter to a computer system. Sometimes that is the case, but not for the smallest businesses. My amendments therefore seek to create a category, defined either by number of rooms provided or by a turnover threshold, that would exempt such businesses. My amendments would exempt from

the scheme the very smallest businesses, which would find it difficult to administer the levy.

Secondly, as far as we are aware, the levy will be liable to VAT, and we need to be mindful of the interaction with it. Most other countries in Europe do not have VAT levied on accommodation. Pam Gosal's amendments, both in their purposes and in highlighting that interaction with VAT, are therefore very important. I do not think that members should be under any illusion: VAT is not necessarily a straightforward tax, either to administer on behalf of Government or to administer on behalf of businesses. It is often a struggle for people to ensure that they can pay their VAT bill. It requires a degree of cash-flow management, which is a burden that we are placing on businesses. The levy will not just add a charge; there will be 20 per cent on top of it, too. In imposing the levy, we are adding complexity, and we need to consider the smallest businesses.

On Pam Gosal's amendment 16, although we need to be mindful of the time and cost that might be required of businesses, I note that, with other taxes and levies, we do not give money back to businesses. When I was in business, I might have liked it if the HM Revenue & Customs revenue had given me a rebate for the time that it took me to prepare my tax returns—unfortunately, it did not. I wonder what precedent that would set. However, the point about giving consideration to time and cost to businesses is important.

My amendments are probing amendments. I recognise that they might not—

**Pam Gosal:** Will Daniel Johnson take an intervention?

**Daniel Johnson:** Of course.

**Pam Gosal:** Thank you. You said that you do not want to give money back to businesses, so what do you propose? If the visitor levy goes ahead, businesses will have that burden. We know that local authorities will be able to take money out for the work that they do, but businesses will not. They will be taxed. What do you propose?

**Daniel Johnson:** I am not the minister, Ms Gosal—unfortunately.

**Pam Gosal:** I just wanted to know whether you have a proposal.

**Daniel Johnson:** I was merely pointing out that, when it came to preparing my corporation tax and VAT, I was unable to claw back money for that. I really appreciate the point that we need to be mindful about the time and cost that will be required by businesses to prepare for the levy, but we need to ensure that we do so in a consistent manner.

As I was saying, although I recognise that my amendments, as drafted, might not be practical, the principle is about ensuring that we recognise the smallest microbusinesses, give consideration to them and, where appropriate, seek to exempt them.

**Miles Briggs:** I support all the amendments in the grouping, which goes to the heart of who will be impacted by the bill, which is businesses the length and breadth of Scotland.

Our tourism sector is really diverse across many communities in Scotland. Importantly—Daniel Johnson touched on this—the levy will not just be about hotel chains with an information technology department and a bookings team; it will be about individuals who might run their business out of a diary and who, all of a sudden, are turned into a Government tax collector. We have to be mindful of what that will do to businesses and the consequences that they will face for not being able to report on time or collect what might be a complex levy.

On Pam Gosal's amendments on VAT, it is important to note that around 20 per cent of unregistered borderline businesses admit to having taken action to remain below the threshold and outside of VAT systems, so it is important that we consider behaviour change in the industry.

My amendment 42 would make provision to ensure that a business impact assessment is undertaken. After the bill is passed, it could provide an opportunity to address concerns around the potential economic impact of the legislation. I hope that the minister and the committee will see that the introduction of such a provision could be useful in scoping the impact of the legislation.

**Mark Griffin:** I am interested to see the Government's response to the amendments on the VAT threshold. We have heard strong evidence from operators that they operate up to the VAT threshold, because, to recoup the costs of being VAT registered should they go beyond that annual turnover level, they would need to increase their turnover from £85,000 a year to more than £250,000 a year. That is a significant increase in turnover that they would have to achieve to break even due to a levy being imposed on their business. Although the amendments as lodged are good for starting a debate on the issue, I am interested to hear the Government's response to that particular point about the VAT threshold.

10:15

I have a degree of sympathy with the other amendments in the group as well, but it seems that they would increase the administrative burdens on local authorities, and the opportunity to

recoup costs for businesses would take away from the sums that businesses, the tourism sector and the culture sector hope to see being invested in local communities to improve the tourism offer. I am concerned about the unintended consequence of hard-raised funds from visitors going to administration schemes rather than being invested in the attractions that they would want to be invested in.

I am looking to hear the Government's response to the VAT amendments, but I am concerned about the unintended consequences of the remainder of the amendments in the group.

**Tom Arthur:** The amendments form an important group, as they relate to how businesses will be affected by any visitor levy that a local authority seeks to introduce.

Amendments 3 and 5, which were lodged by Pam Gosal, seek to exclude from having to collect and remit a visitor levy any visitor accommodation that is operated by a body with an annual turnover that is below the VAT threshold. I know from my discussions with business organisations that there is a concern about the VAT treatment of a visitor levy, which would be decided by the United Kingdom Government. The Scottish Government cannot decide the position on VAT. The Scottish Government's position is that any local authority that is thinking of introducing a visitor levy will need to consider the potential VAT implications for relevant businesses in its area.

Under the bill as introduced, a local authority, when creating a visitor levy scheme, could choose to create an exemption from the scheme for businesses that are near the VAT threshold. However, I am not persuaded that that should be imposed at the national level. Local authorities are best placed to know their local circumstances and the businesses in their area. I do not want to remove the discretion for local authorities to decide what exemptions work in their area, including in relation to VAT.

For those reasons, the Government does not support amendments 3 and 5, and I ask the committee not to support them.

I understand the motivation behind Daniel Johnson's amendments 38 and 39. The Government continues to listen to businesses, and we will seek to minimise the administrative burden as much as possible for businesses that are implementing a visitor levy. However, I am not persuaded that we should remove from local authorities the flexibility to decide what is right for their local circumstances, or that a national definition of a small business, imposed by ministers in regulations, is the correct approach. A local authority could choose to create an exemption for small businesses in its area if, after

consultation, it was decided that it was right to do so. Given that flexibility in the bill, the Government does not support amendments 38 and 39, and I ask Daniel Johnson not to move them. However, I am happy to continue to have discussions. I think that aspects of the administration and Mr Johnson's well-made points can be captured through the guidance process.

I appreciate the intention behind Miles Briggs's amendment 42. I agree that it is essential that businesses are fully engaged in any decision to introduce or modify a visitor levy scheme. I also agree that any impacts of a visitor levy scheme on a local authority's area should be fully assessed. Section 12 of the bill already requires a local authority to carry out such an assessment, so I do not think that amendment 42 is necessary. The expert group on bringing together business organisations and local government is currently developing national guidance for local authorities on the use of any visitor levy power. I expect the guidance that it produces to cover the impact assessments that it would be good practice for local authorities to produce. I have also lodged amendment 15, which is in a later group, to put the guidance on a statutory footing. If Mr Briggs still feels that further details are needed on the impact assessments to be completed by local authorities, I would be more than happy to meet him and potentially to write to the expert group to ensure that it is taking that important aspect on board.

**Daniel Johnson:** I note the minister's comments about previous amendments. In relation to amendment 42, however, will the Government consider explicitly requiring local authorities, as they develop and deploy their plans for local levies, to consider small businesses and VAT thresholds? Such consideration could be required as part of the impact assessments under the bill.

**Tom Arthur:** As I just touched on, I would be more than happy to meet Mr Briggs, and I would be more than happy to meet Daniel Johnson on that issue. Guidance will be produced and, subject to the committee's agreement to my amendment in a later group, it will be put on a statutory footing, which would give it a strong basis. That would allow for flexibility for local authorities, through consultation with businesses, communities and relevant stakeholders in their area, to determine the best approach for the levy. Through guidance, and by giving clarity, information and support to assist local authorities in implementing a visitor levy, we can minimise administrative burdens and allow the most effective outcomes.

**Sarah Boyack (Lothian) (Lab):** Can you give us a sense of a timescale for that advice and guidance for local authorities being ready to use?

**Tom Arthur:** It is currently under development. We still have to go through the parliamentary bill

process, but we want that advice and guidance to be available at the earliest opportunity. I am more than happy to provide the committee with a written update on expected timescales around the work that the group is undertaking.

For the reasons that I have set out, and expanded on in response to interventions, the Government does not support amendment 42 and I ask Miles Briggs not to move it.

Turning to Pam Gosal's amendment 11, I note that the bill already includes a requirement for a local authority to consult with businesses when it is considering introducing a visitor levy. That includes consulting on the objectives of the proposal and how the local authority will measure and report on the achievement of those objectives. That means that there is already a clear role and opportunity for businesses to engage and make known their views on a visitor levy. For decisions on the use of the funding raised by a visitor levy, the general position is that they should rest with the local authority. Any visitor levy scheme would be introduced by a local authority and it would be democratically accountable.

Nevertheless, section 17 of the bill places a duty on authorities to consult when using the proceeds of a visitor levy, including a specific duty to consult with businesses engaged in tourism. I think that that strikes the correct balance, as opposed to the amendment 11 duty to include businesses in the decisions. However, I am open to ways of ensuring on-going and meaningful engagement on a visitor levy with communities and businesses, and I will consider that further in the weeks before stage 3. Given the democratic accountability of local authorities and the duties around consultation that are already in the bill, the Government does not support amendment 11 and I ask Pam Gosal not to move it.

Finally in this group, I turn to amendment 16, which seeks to allow an overnight accommodation provider to retain 20 per cent of the visitor levy that is raised in the period of their first return to a local authority. The Government does not support amendment 16. Like Daniel Johnson, we are not aware of any precedent in the UK where a business collecting tax is able to extract from their returns a sum to meet the costs of administering a tax. Although we have sought and will seek to keep the administrative costs of a visitor levy as low as possible, we do not think that allowing accommodation providers to retain some of the levy collected to meet administrative costs is the right approach.

There are other issues with amendment 16. The period for a return under the bill could be one month or several months and could fall in low or high season, meaning that the 20 per cent deduction could vary hugely. For all those

reasons, the Government does not support amendment 16, and I ask Pam Gosal not to press it.

**The Convener:** Pam Gosal, please wind up and press or withdraw amendment 3.

**Pam Gosal:** Tourism is one of Scotland's most important sectors. It employs hundreds of thousands of Scots up and down the country. I firmly believe in Scotland's tourism sector and want to see it flourish. Although I can understand local authorities in places that are popular with tourists seeking to generate additional revenue to support local infrastructure and mitigate the impact of tourism on public services, the majority of the Scottish tourism and hospitality sector is financially fragile and still in survival mode. We should look to maximise opportunities for growth rather than creating additional regulatory, administrative or financial burdens.

I am disappointed that the minister has chosen to reject some sensible amendments. I am also disappointed that, instead of making decisions as a member of the Scottish Government, which he has the power to do, he has decided to pass on the VAT situation and say that it is to do with the UK Government and nothing to do with us pushing businesses over the threshold. He looks at exemptions and passes it on to local authorities to consider whether to apply any.

**Tom Arthur:** I draw the committee's attention to the fact that I set out the position on VAT in a factual manner. It is a tax that is ultimately decided on by the UK Government, and I respect that. That is just a statement of fact.

With regard to the position of local authorities, the power to impose a levy is a discretionary power. It will be up to individual local authorities to decide whether to use it. A key principle underpinning the bill is the fiscal empowerment of local authorities. To be clear, that is the rationale for giving local authorities that level of discretion in areas such as exemptions and deciding how best to respond to VAT. Local authorities are best placed to make such decisions, as they will ultimately choose whether to implement a visitor levy and administrate it.

**Pam Gosal:** That is clear and what the minister said was factual. However, the fact is that the minister can make decisions here today, and he has the power to say that amendments can be made.

I will move on to the minister's rejection of amendment 11. He talked about being open to other ways of ensuring engagement under section 17. I welcome the minister's point and I hope that he will do something, if he is not putting it in the bill, to make sure that local authorities are engaging with those businesses. I have said that

2,000 to 3,000 small and microbusinesses will be affected if the bill pushes them over the VAT threshold.

How the money will be spent is also important. I have said many times to the minister that we must do more in the Scottish Parliament to give those powers to local authorities, but we must also ask the powers that be to engage more with small and microbusinesses. Although I welcome what the minister has said on that, there is much more to do.

The minister rejects my amendment 16, which call for money to be given towards the increased burdens that businesses will face. I am a little bit worried about that, because businesses will be facing burdens. I ask the minister to say what solution he will find and how small and microbusinesses will pay for that burden—for the accounting that they will have to do—if that money does not come from the levy.

By rejecting my sensible amendments, the SNP-Greens have once again proven that the new deal for business is nothing but empty rhetoric. The bill is the last thing that the small accommodation and self-catering sector needs at a time when recovery remains uncertain for many. I am certainly with the industry in this and I am disappointed by the minister's decision. I hope that, moving forward, the minister will consider the issues in the Scottish Parliament.

**The Convener:** Are you pressing or withdrawing amendment 3?

**Pam Gosal:** I press amendment 3.

**The Convener:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### For

Briggs, Miles (Lothian) (Con)  
Gosal, Pam (West Scotland) (Con)

#### Against

Burgess, Ariane (Highlands and Islands) (Green)  
Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
MacDonald, Gordon (Edinburgh Pentlands) (SNP)

#### Abstentions

Griffin, Mark (Central Scotland) (Lab)

**The Convener:** The result of the division is: For 2, Against 4, Abstentions 1.

*Amendment 3 disagreed to.*

**The Convener:** The next group is on consultation by ministers and local authorities. Amendment 4, in the name of the minister, is grouped with amendments 7, 40, 41, 43, 44, 8, 47, 48, 12, 13, 49 and 14.

**Tom Arthur:** Amendments 4 and 7 flow from the helpful scrutiny of the Delegated Powers and Law Reform Committee at stage 1 and fulfil a Government commitment to amend the bill in light of the DPLR Committee's comments.

10:30

Amendment 4 would amend the bill so that, before making any affirmative procedure regulations that would change the list of accommodation types in the bill, ministers would be required to consult local authorities and tourism organisations. That is a sensible change, which would mean that the bill would reflect good practice and would ensure that local government and the tourism industry are suitably involved in any potential changes to the list of accommodation types covered by the bill.

Likewise, amendment 7 requires consultation with local authorities and tourism organisations before any affirmative procedure regulations are made to set national exemptions from a visitor levy. That is another change that means that the bill would reflect good practice and is one that I hope the committee will support.

I turn to Neil Bibby's amendments, which all address a similar issue. Amendments 40 and 41 adjust the definition of "local tourism strategy" in section 11 of the bill. That is also relevant to amendment 49, which alters section 17 of the bill so that, when using the proceeds of a visitor levy scheme, a local authority would have to have regard to any local culture and tourism strategy that it had created.

Amendments 43, 44, 47 and 48 propose similar changes and would require culture and tourism organisations and businesses, rather than just tourism ones, to be consulted under section 12 when an authority proposes a visitor levy scheme, and under section 17 when it decides how to use the proceeds of a levy.

Scotland has a vibrant cultural sector and visitors enjoy our many cultural offerings, whether those are formal festivals, museums and galleries or someone playing the fiddle in a village pub. I have concerns about the effects of those amendments. Section 12 of the bill already requires a local authority to consult people who are

"likely to be affected by the proposal"

for a visitor levy, and therefore provides a suitable basis for cultural organisations to have their say and to be involved in decisions on any visitor levy.

The use of funding raised by a levy is also an important issue. On that, I note that section 17 of the bill currently requires proceeds to be spent on

“facilities and services which are substantially for or used by”

visitors. Although there will be a strong overlap between cultural spending and the facilities and services that visitors use, those things will not always be the same. I am therefore wary of making any changes to the bill that would take the focus away from spending that is related to visitors.

I value the role of culture in our society and in the tourism economy. However, the bill already has specific provisions in place on funding and the current consultation requirements cover community representatives, businesses engaged in tourism and tourism organisations. The Government would prefer to keep the focus on tourism businesses, organisations and strategies, while still allowing authorities to consult with such others as they consider to be appropriate. Adding a specific reference to culture would, in our view, move too far away from the tourism focus that reflects the industry feedback that we have had. I therefore ask Neil Bibby not to move his amendments and ask the committee not to support them if he does move them.

My amendment 8 amends section 12 of the bill so that a local authority proposing to introduce or modify a visitor levy scheme, where the scheme area will include all or part of a national park, must consult the park authority for that national park. The amendment reflects evidence heard during stage 1 that the bill should ensure that national parks are engaged and should have a status in the bill that reflects both their statutory basis and their important role in the visitor economy. Amendment 8 ensures that the views of a national park authority—alongside those of the current statutory consultees of community representatives, tourism businesses and tourism organisations listed in section 12—would be sought by local authorities at that stage.

My amendments 12 and 13 make similar changes to section 17. The amendments would require a local authority to consult the relevant national park, from time to time, on the use of visitor levy funds, where any visitor levy scheme area overlaps the area of a national park. That reflects both evidence heard during stage 1 and the legal status of national parks. It creates a proportionate duty on a local authority to engage with any relevant national park authority. I ask committee members to support those amendments.

My amendment 14 also relates to national parks and would mean that, in using the net proceeds of a visitor levy scheme, where the scheme area includes all or part of a national park, a local authority must

“have regard to the National Park Plan”.

Such plans have a statutory basis under the National Parks (Scotland) Act 2000. Making reference to those plans here ensures that a local authority must take account of them when it uses the net proceeds of a visitor levy scheme.

I move amendment 4.

**The Convener:** I call Neil Bibby to speak to amendment 40 and the other amendments in the group.

**Neil Bibby (West Scotland) (Lab):** Good morning to the committee and to the minister. I will speak to my amendments 40, 41, 43, 44 and 47 to 49 in this group.

We have already heard how important Scotland’s tourism industry is to our country, and we all agree on that. I am sure that we all agree, too, on the importance of Scotland’s cultural scene, which is one of the greatest assets that our country has. It enriches the lives of people here, it sells brand Scotland overseas and it is one of the main reasons for people choosing to visit Scotland. As the minister said earlier, many people come here to visit our castles and other sites of historical significance. Other visitors travel here to see sights that they have seen on film and television or to experience, for example, concerts in Glasgow or the festival in Edinburgh. As the minister mentioned, we also have free entry to museums and galleries. We should maintain that approach. We should remember, too, that many international tourists will also visit those museums and galleries.

We are a world leader on cultural offerings, but we cannot take that for granted. As someone put it to me recently, Scotland was once the world leader when it came to shipbuilding. Just because something was once the case does not mean that it will always be so. As Mark Griffin alluded to earlier, culture and the arts require significant public subsidy from not only Government grant-in-aid funding but other sources. We must recognise the difficulties and challenges that the cultural sector in Scotland currently faces on funding, jobs, the cost of living crisis, and recovery after the pandemic. I believe that the sector’s interests must be fully and properly factored into the legislation, the implementation of the levy and the consultation on its operation, which is why I am here to speak to my amendments.

My amendments would make small changes to ensure that culture is referenced alongside tourism in key parts of the bill. Consultation will be absolutely critical to the implementation of the proposed levy. My amendments would require proper and meaningful consultation with the culture sector on that. As the minister said, they would also mean taking cognisance of local cultural strategies as well as tourism strategies.

I have spoken to many people in the cultural sector and the business tourism community who have told me that they support my amendments because they appreciate the importance of joint consultation with those industries. I therefore believe that my commonsense amendments would improve the bill in a small but significant way.

As the minister said, his amendments in the group would ensure appropriate consultation with local councils and tourism organisations. I hear what he said about provisions that include the relevant organisations, but I instinctively believe that we need culture to be specifically mentioned in the bill, to make it clear that cultural organisations in Scotland will be properly consulted and that cognisance will be taken of cultural strategies.

I will reflect on what the minister said. Although, instinctively, I do not agree with him, I will not seek to move my amendments. Instead, I will consider what the minister has said and will engage further with the culture sector and people in the tourism industry who are keen to see something being done in this area.

**The Convener:** Does any other member wish to speak?

**Daniel Johnson:** I will speak in support of the points that Neil Bibby has just made.

There are two fundamental points in this area. The first is that our tourism offer comprises a broad range of business types. Not the least of those are our cultural organisations, which form a critical part of that offer and so must be taken into consideration in assessing how the levy is rolled out and how the funding is used.

I turn to the second and perhaps more fundamental point. We will discuss definitions in the context of later amendments, but I point out here that having an effective consultation process will be vital if we are to give businesses in the sector confidence that the levy will improve the tourism offer rather than simply being another tax that they will have to pay.

Let us take this point head on: frankly, there are fears that this will be just another consultation exercise, that there will be another form to fill in and that it is something that local authorities will perform only in order to levy the tax. Businesses want to be involved in deciding how the money is to be spent.

I would therefore be grateful if, in his concluding remarks, the minister could give his thoughts on how the guidance can be devised and the requirements put in place so there is not only a form on a website, but engagement and co-decision-making with the businesses that are impacted. There must also be consultation about

how the money will be spent so that it genuinely adds to the tourism offer in our towns, cities and rural locations, rather than simply being another fiscal burden on businesses that are already struggling—as Pam Gosal pointed out.

**The Convener:** The cultural offering made in a location is part of what makes it attractive to visitors, so I can see no problem with ensuring that cultural services are part of the range of services that benefit from the bill as it is currently drafted, without needing the amendments.

**Tom Arthur:** I thank Neil Bibby for lodging the amendments and giving us an opportunity to discuss the issue. I agree with him wholeheartedly on the vital role that culture plays in all our lives in Scotland and particularly in making Scotland a world-class tourist destination. I appreciate that he will not move his amendments and I would be happy to meet Mr Bibby ahead of stage 3 to discuss his proposals in more detail.

In the definition of tourism organisations, we want to ensure that we encapsulate the broadest range of stakeholders who are impacted by the visitor economy. It is self-evident to us all that the cultural sector would be a key part of that, but I recognise Mr Bibby's point about providing assurance on that.

Touching on the points that Mr Johnson made with regard to guidance, I note that an amendment in a later group will seek to put the guidance on a statutory footing. VisitScotland, as a convening body, will have the role of working to produce guidance. That can help to address a lot of the concerns. The guidance being on a statutory footing will highlight what best practice would be.

What is crucial, of course, is what happens on the ground. The bill as introduced provides a strong series of mechanisms for engagement ahead of the introduction of the visitor levy, such as the requirements around consultation and the transparency requirements around reporting and review. I recognise, with particular regard to the point that Mr Johnson raised, the asks from industry about how we can strengthen the engagement process. As I touched on when I spoke to an earlier group of amendments, I am actively considering what options we have to enhance the process of consultation, engagement and involvement, and I am very happy to engage with members ahead of stage 3 to explore those options.

We recognise that the levy is a tool that will fiscally empower local government and that locally elected members are democratically accountable to their electors as decision makers. We also recognise the strong desire from business to have involvement that goes beyond consultation prior to the introduction of a visitor levy and that can be

sustained throughout the period. We also recognise that the continued involvement of businesses, tourism stakeholders or communities will be a major asset in helping to ensure that a visitor levy can deliver its full potential.

Fundamentally, I agree that the provision should be viewed as an economic development tool that can boost our local visitor economies. It will be at the discretion of local authorities as to whether they introduce it, and that will be done through a process of collaboration. Ahead of stage 3, I am happy to discuss further how we can provide reassurance around the engagement of the cultural sector—there will be opportunities and avenues to do that through guidance—and around more sustained engagement beyond consultation and what that may look like.

**The Convener:** The question is, that amendment 4 be agreed to. Are we agreed?

*Amendment 4 agreed to.*

*Amendment 5 moved—[Pam Gosal].*

**The Convener:** Amendment 5, in the name of Pam Gosal, has already been debated with amendment 3. The question is, that amendment 5 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### For

Briggs, Miles (Lothian) (Con)  
Gosal, Pam (West Scotland) (Con)

#### Against

Burgess, Ariane (Highlands and Islands) (Green)  
Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
MacDonald, Gordon (Edinburgh Pentlands) (SNP)

#### Abstentions

Griffin, Mark (Central Scotland) (Lab)

10:45

**The Convener:** The result of the division is: For 2, Against 4, Abstentions 1.

*Amendment 5 disagreed to.*

*Section 4, as amended, agreed to.*

### Section 5—Calculation of levy

**The Convener:** We move on to the next group of amendments, which is on rates and charges. Amendment 27, in the name of Miles Briggs, is grouped with amendments 28 to 31, 6, 32 to 36, 45 and 51. I point out that if amendment 34 is agreed to I cannot call amendment 35 due to pre-emption.

**Miles Briggs:** During stage 1, the committee did not take a position on whether it supports a

percentage scheme or a flat rate. However, it was clear that all the businesses that gave evidence to the committee, whether in person or through written submissions, would prefer a flat-rate fee. That was partly because of the simplicity of implementation. A flat rate would make returns far easier to introduce, administer, calculate and submit and, perhaps most important, it would be easier to explain to guests. As the committee heard, the use of a percentage system to calculate a visitor levy could also cause confusion because of the complexity of additional services being provided—for example, meals—which would make it harder to calculate the percentage fee.

Given the concerns that have been voiced with regard to the impact on business, Conservative members believe that, if the bill is passed, a flat-rate fee would be the simplest way of implementing a levy.

I move amendment 27.

**Daniel Johnson:** I should explain the primary purpose of amendment 28, in my name, because it might not be entirely clear.

Amendment 28 caps the number of nights to which the visitor levy would apply. As a member who represents an Edinburgh constituency, the key point for me is that, during the festivals in the summer, a large number of people use accommodation such as hotels but come here to work, provide their services and be part of the festivals. It strikes me that when people use accommodation beyond a certain number of nights, it ceases to be temporary and they cease to be visitors because they are here to work.

A threshold for the number of nights would be a simple way of providing an exemption for people who visit a place semi-permanently to work. It avoids the complexity of trying to come up with definitions and it is just a simple number. Amendment 28 is a probing amendment to explore how we would treat people who are here either for particular purposes or to service the tourism and visitor economy.

I will address the points that Miles Briggs raised. It is fair to say that, among local authorities and the business community, there are mixed views regarding whether a percentage rate or flat fee should apply. I have spoken to business organisations that have said that they have members who argue both sides. However, the arguments that Miles Briggs made have some merit.

There would be a considerable degree of additional simplicity to having a flat fee. When you apply a flat fee, it is simply a matter of multiplying it by the number of rooms that have been occupied over a given period. The complexity of having a percentage is not to be underestimated,

not just for the reasons that Mr Briggs set out around additional charges, but also because the vast majority of accommodation providers will have variable rates, which means that some quite complicated record keeping and administration would be required. That needs to be thought through.

The other point is that there should be a degree of consistency, so that the system is understandable. The last thing that we want is 32 varieties of visitor levy, which would make the situation complicated and confusing for visitors who go to a number of places during their time in Scotland. It is important that there is local discretion around the levy—it should be a levy that is locally devised and implemented—but we should also look at ways to ensure that there is a degree of consistency in order to improve the ease of understanding of the system.

On the flipside of that—because there are opposing views on the matter—I note that the moment that you have a flat fee, you get into the complexity of how that is increased and administered, and all the issues that arise when there are fixed rates in law, such as fiscal drag and so on, which we are all aware of. Having spoken to colleagues in local authorities, I know that they are concerned that, if there were to be a flat rate, they would get into a continual debate—annually, or whenever the issue is reviewed—about what the fee should be. That is the argument for using a percentage rate.

Using percentages is inherently more complicated than other approaches—VAT is a non-trivial tax to collect, administer and police in order to verify that people are paying the correct amount. We should be careful about the complexity that using a percentage fee causes in the system that we are creating.

Finally, we need to think about how we treat people who are here to—

**Miles Briggs:** Could you clarify something? My understanding is that, at the moment, the proposal in the bill is that a charge be made for seven nights of someone's stay, and your amendment would double that, to 14 nights per calendar month. What guidance would be included in the bill in that regard? Perhaps the minister can also comment on that.

**Daniel Johnson:** That may well be an error on my part. Amendment 28 is a probing amendment. The key point is to ensure that we treat people who are here to do work in a different manner to the way in which we treat people who are here to partake in tourism.

**Tom Arthur:** I will speak to all the amendments in the group, including amendment 6, which is in my name.

As we have heard, amendments 27, 30 to 32 and 45, in the name of Miles Briggs, seek to substitute the word “percentage” for “flat”, to ensure that a flat rate is used in calculating the fee. As recommended in the committee's stage 1 report, we have explored whether a consensus can be found on the basis of the charge for a visitor levy. We have not identified a consensus on that point within and among businesses, tourism organisations and local authorities. The Government will continue to explore the issue as the bill progresses, but in the absence of a consensus, the Government's position remains that a percentage charge provides a consistent basis for a visitor levy and would mean that the level of visitor levy that is paid reflects what someone is willing or able to spend on their accommodation. We have heard arguments deployed on the relative merits of both approaches, and I note the points that Mr Briggs raised around the percentage levy and Mr Johnson's points around some of the challenges around a flat rate, such as the fact that it would not take account of inflation or seasonality, and the administrative concerns related to that that he mentioned.

Although the amendments in the name of Miles Briggs have provided an opportunity to consider and discuss again the basis on which the levy is to be calculated, I do not support them, for the reasons that I have outlined, and I ask the committee to reject them, should Miles Briggs press them.

Amendments 29 and 51, in the name of Miles Briggs, are designed to remove section 5 in its entirety. Given that section 5 sets out how the visitor levy is to be calculated, agreeing to those amendments would fundamentally undermine the bill, so the Government does not support them.

Amendments 33 to 36 seek to alter ministers' ability to set out in regulations made under section 9 what accommodation providers in areas with a visitor levy must include in their bills and what they must publish. The amendments would remove key parts of what the regulations might set out, including, for example, a requirement that invoices specify the accommodation portion, or that the accommodation portion of the rate of a levy is published by a liable person. The provisions in section 9 are there to be used, if necessary, to ensure transparency for visitors on the visitor levy that they have been charged and the calculation on which it has been based. As that is an important safeguard for customers, it needs to be kept in the bill, so I ask Miles Briggs not to press or move any of his amendments in this group. If he does, I ask the committee not to support them.

Amendment 28, in the name of Daniel Johnson, seeks to put a cap on the number of nights in one

month—in this case, 14 nights—for which a visitor can be charged the visitor levy. As a point of clarification, I note that there is currently no cap in the bill, although local authorities can choose to put one in place, under the provisions of the bill as introduced. I know that a cap on the number of nights is something that both industry and local government have raised, and it is something that some local authorities that wish to introduce a visitor levy have been considering. The Government does not support amendment 28 as it stands, because it raises practical difficulties around how different local authorities would be aware of how many nights of the levy some visitors had already paid; I am thinking, for example, of a 20-night stay across various parts of Scotland. I am also mindful of the need to give local authorities the flexibility to shape a visitor levy in order to meet local circumstances.

However, given the interest that some local authorities and tourism businesses have shown in a cap, I ask Mr Johnson to meet me between stages 2 and 3 of the bill to see whether there is a proposition that can command support from local government and the tourism industry. With that in mind, I ask him not to press amendment 28.

Amendment 6 relates to the Government's position on the basis of the charge. As I said earlier, in the absence of a strong consensus on the basis of the charge, the Government believes that a percentage charge provides a consistent basis for a visitor levy and means that any visitor levy will be proportional to the amount that someone has chosen to spend on their accommodation. However, in light of industry concerns that there is currently no mechanism in the bill for setting a maximum rate, the Government has lodged an amendment that would give Scottish ministers the power to set a maximum percentage rate for a visitor levy, subject to certain conditions.

If approved, the power could be used only after consultation with local authorities, representatives of businesses that are engaged in tourism, tourism organisations, representatives of communities and any other relevant persons. It would also require Parliament to approve, under the affirmative procedure, any cap before it came into force. The Government feels that that strikes the right balance between local autonomy that allows for local decisions to reflect local circumstances, and the industry's genuine concern that there is no mechanism for limiting the level at which a visitor levy could be set. The new text that is proposed by amendment 6 would provide a mechanism that could be used, if necessary, after consultation and with parliamentary approval. I therefore conclude my remarks by asking the committee to support amendment 6.

**Mark Griffin:** I thank Miles Briggs for lodging his amendments and giving us the opportunity to debate the merits of a flat rate versus a percentage charge. As members will be aware, this was one of the more difficult elements of the legislation that we grappled with, and in the end, we did not take a view on the matter, because there were merits on both sides. A flat rate offers ease of collection, while a percentage rate offers fairness in the way that it scales up according to the cost of accommodation.

I point out to Mr Briggs that there is no consensus among local authorities and operators on the matter, so I ask him to withdraw amendment 27 and not to move his other amendments in the group on the basis that we are continuing to have discussions about it. I thank the member for giving us the opportunity to have this discussion again, but I ask him to allow us not to vote on the amendments, as doing so would prejudice the discussions that will, no doubt, carry on to stage 3.

**Miles Briggs:** The Government's decision to support a percentage rate raises concerns with regard to what that might mean and how it will be interpreted at council level. If the rate is set at 5 per cent—I think that is the rate that the Scottish Government is currently proposing—will that lead to a sliding scale on which different councils can appeal? That might lead, in turn, to different councils deciding to charge different rates, which I think is the concern that has been expressed by two of the key councils for tourism activity—the City of Edinburgh Council and Highland Council. Could the minister clarify that?

11:00

**Tom Arthur:** To clarify, there is no Scottish Government proposal. In the supporting documents to the bill, illustrative examples were provided on costs to assist members and the wider public and stakeholders in engaging with the legislation. However, in the bill as introduced, determining the rate is a matter for local authorities.

What we have proposed through amendment 6 is a power for a national cap mechanism, through regulations and the various associated provisions that have I set out. However, in the bill as it stands, it would be for local authorities to determine what the rate should be.

**The Convener:** I call Miles Briggs to wind up and to press or seek to withdraw amendment 27.

**Miles Briggs:** I heard what the minister had to say. As in our committee work on short-term lets, it is concerning that a framework bill leaves interpretation to councils. We know of two legal challenges that the City of Edinburgh Council has

faced because of its interpretation of that legislation, and the Government's approach sets up the legislation to be potentially problematic, with different councils deciding on different percentages. I will therefore test my amendment 27, to see what support there is for it in the committee.

I press amendment 27.

**The Convener:** The question is, that amendment 27 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Briggs, Miles (Lothian) (Con)  
Gosal, Pam (West Scotland) (Con)

**Against**

Burgess, Ariane (Highlands and Islands) (Green)  
Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
MacDonald, Gordon (Edinburgh Pentlands) (SNP)

**Abstentions**

Griffin, Mark (Central Scotland) (Lab)

**The Convener:** The result of the division is: For 2, Against 4, Abstentions 1.

*Amendment 27 disagreed to.*

*Amendment 28 not moved.*

**Miles Briggs:** In the interests of time, convener, I will not move the other amendments in the group. However, I put on record that, for stage 3, we need far more clarification of how a percentage system would work and the impact that it would have. If that is just in guidance, there will be differentiation across Scotland. Specifically, I hope that the points that Mark Griffin raised will be taken on board by the Scottish Government for stage 3.

*Amendment 29 not moved.*

*Section 5 agreed to.*

### **Section 6—Rate for levy**

*Amendments 30 and 31 not moved.*

*Amendment 6 moved—[Tom Arthur].*

**The Convener:** The question is, that amendment 6 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)  
Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Griffin, Mark (Central Scotland) (Lab)  
MacDonald, Gordon (Edinburgh Pentlands) (SNP)

**Against**

Briggs, Miles (Lothian) (Con)  
Gosal, Pam (West Scotland) (Con)

**The Convener:** The result of the division is: For 5, Against 2, Abstentions 0.

*Amendment 6 agreed to.*

*Section 6, as amended, agreed to.*

*Sections 7 and 8 agreed to.*

### **Section 9—Billing of overnight accommodation**

*Amendments 32 to 36 not moved.*

*Section 9 agreed to.*

### **Section 10—Exemptions and rebates**

**The Convener:** The next group is on exemptions. Amendment 37, in the name of Miles Briggs, is grouped with amendment 19.

**Miles Briggs:** For me, this is the most important set of amendments to the legislation. Throughout the passage of the bill, I have argued that we need to see a stronger set of exemptions put in place. The current voucher scheme is not enough to capture individuals who are staying in accommodation for purposes other than tourism.

I welcome the fact that the Scottish Government has listened to concerns with regard to under-18s being captured and has moved to withdraw them from the scope of the bill. However, as we heard earlier, we need more than just guidance. A list of people who we do not think should pay a tourist levy when they stay in hotels or other accommodation should be set out in the bill.

Amendment 37 includes a list of those who I believe should be exempt, including parents who are staying in a hotel while their children are in hospital, people visiting family members in prison and people who are undertaking work, such as in rural areas or in the renewables sector. The list would also include people who are providing medical support; for example, our national health service has a number of people who work across the country and who are visiting not as tourists but as working professionals.

Amendment 37 is really a probing amendment, because I hope that there will be some consensus on it.

**Daniel Johnson:** There is a lot of merit in the proposal to exempt people who are doing useful things, both economically and socially, and people who are vulnerable or who are having to use accommodation through no fault of their own. However, my concern is about how the exemption would work and be policed, enforced and verified. Would we ask people to prove their reason for

staying? What would stop people saying, “Just tick the box when you register because no one’s going to ask”? My concern is that the exemption would be exploited by people who do not have good intentions. I absolutely recognise that the amendment has good intentions, but I worry about people who do not.

**Miles Briggs:** During the work that we have done as a committee, similar concerns have been raised, specifically around the booking system. We are creating a situation in which accommodation providers become tax collectors. Under the voucher scheme, they would need to ask for evidence, so we must look at whether that is provided post or pre-booking. It is important that we consider how that provision of the bill will work. Having exemptions in the bill would make it easier for the systems that will be created to administer the scheme than it would be if we leave it completely open to what seems to be a voucher that is provided post-accommodation to allow individuals to reclaim the tax. The Government has not provided any real clarification on how that will work.

I am also concerned about leaving the matter up to guidance for councils. It would be unacceptable if someone who visits a child in the sick kids hospital in Edinburgh does not pay the levy but someone who visits a person in hospital in Inverness in Highland does. The Government needs to take on board the variation that could take place. I have not heard anyone arguing that such individual cases should not be exempt from the levy.

I hope that amendment 37 gives the committee an opportunity to properly consider not just a voucher scheme but a set of exemptions. In the time before the levy comes into force, the sector can work to ensure that systems are put in place for people to provide the exemptions and that the scheme is not abused.

I move amendment 37.

**Jeremy Balfour (Lothian) (Con):** Good morning, minister and colleagues. Amendment 19 is specifically on people with disability but, before I go on to that, I will add one comment to my colleague’s remarks on amendment 37. In Edinburgh, we have Ronald MacDonald House, which is attached to the sick kids hospital and allows parents to stay for a number of months. Without an exemption as proposed by Miles Briggs, either the charity would have to pick up the charge or parents who are going through a stressful period would have to do so. I am interested in whether that is the Scottish Government’s intention or whether it wants to prevent charities or vulnerable parents from having to pay the levy.

On amendment 19, we know from all the information that we get in the Parliament that people with disability are often in the poorest categories of our society. They have extra costs when travelling because of what they have to bring and because they often have to bring a carer with them for a trip, whether it is a short or long trip—it is often short—and wherever they go in the UK. Any extra cost for a disabled person will put them off having a break that they and perhaps their family require.

I am seeking to ensure that anyone who is on a benefit from the Department for Work and Pensions or, in Scotland, through Social Security Scotland, is exempt from the levy. I understand from reading the stage 1 report and from conversations with others that there is concern in the industry about how to implement that—Daniel Johnson has picked up that point already. However, such a scheme works in many places already. For example, if you go to the Festival theatre or the Playhouse in Edinburgh, when you turn up to book your ticket, you show your letter from either Social Security Scotland or the Department for Work and Pensions, which shows that you receive an award, and then you get an exemption. The system works in many other sectors. If you go to Alton Towers, Euro Disney or similar venues, they all have that in place, and it is easily managed.

Quite a lot of reporting has been done on the issue. Very little fraud takes place around the scheme, and it is easy for the people who have to implement it. Each year, the DWP or Social Security Scotland issues a letter to confirm that someone is on an award for disability benefit. People could then show that to the accommodation provider.

I appreciate that the minister might want to consider the matter further, so I would welcome him saying whether he is willing to meet me to discuss the issue before stage 3. If he is willing to do that, and unless he is minded to accept amendment 19 today, I will not move it, to allow for further discussion.

11:15

**Tom Arthur:** Amendments 37 and 19 relate to exemptions. An important point has been raised about exemptions during the bill’s passage. The Government considers that it is best for local authorities to decide on and put in place arrangements that reflect local circumstances. Where there is strong consensus between local authorities, businesses and Parliament, the Government is open to putting in place national exemptions, which can be done through regulations under section 10. COSLA, in its recent briefing for members, and the expert group, in its

letter to me that was copied to the convener, have been clear that they do not support specific national exemptions being established at this point. I cannot ignore the clear message from both local government and the tourism industry that national exemptions would be unwelcome and should be avoided at this time.

I would also highlight that, under the bill, local authorities will be able to create local exemptions that are developed together with communities and businesses. That approach is in line with the Verity house agreement and the overarching policy intent behind the bill of seeking to empower local government with a new fiscal measure.

However, I have sympathy with the motivation behind amendments 37 and 19, so I offer to meet Miles Briggs and Jeremy Balfour to discuss the issue further between stages 2 and 3 and to work to see whether I can facilitate agreement between all the stakeholders that are involved in this important issue.

On that basis, I ask that Miles Briggs does not press amendment 37 and that Jeremy Balfour does not move amendment 19.

**The Convener:** I call Miles Briggs to wind up, and to press or withdraw amendment 37.

**Miles Briggs:** I welcome the minister's comments on the issue. I have met many in the sector who have pointed out to me how the bill, as drafted, could complicate matters in this regard. I think that it is important that we have in place the exemptions that are in amendment 37 and that they do not get left to guidance and variation.

I am happy to take up the minister's offer of a meeting ahead of stage 3. I hope that the bill can be amended. As I said, some of the guidance for exemptions exists, such as for short-term lets, but councils do not necessarily know whether they can use that power. I am concerned that the bill would lead to interpretation council by council across Scotland among those that decide to introduce a visitor levy.

I will not press amendment 37 but will bring back a new amendment at stage 3, I hope.

*Amendment 37, by agreement, withdrawn.*

*Amendment 7 moved—[Tom Arthur]—and agreed to.*

*Amendments 38 and 39 not moved.*

*Section 10, as amended, agreed to.*

#### **After section 10**

*Amendment 19 not moved.*

#### **Section 11—Scheme to impose levy**

*Amendments 40 and 41 not moved.*

*Section 11 agreed to.*

#### **Section 12—Prior consultation on scheme**

**The Convener:** Amendment 42, in the name of Miles Briggs, has already been debated with amendment 3.

**Miles Briggs:** In light of what the minister has said and his amendment 15, which we will be supporting, I will not move amendment 42. That will enable further conversations to take place ahead of stage 3.

*Amendment 42 not moved.*

*Amendments 43 and 44 not moved.*

*Amendment 8 moved—[Tom Arthur]—and agreed to.*

**The Convener:** We move to the next group of amendments, which is on scheme details—purpose and proceeds.

Amendment 20, in the name of Sarah Boyack, is grouped with amendments 21, 9, 46, 22 to 25 and 10.

I remind members about the pre-emptions in this group.

**Sarah Boyack:** I have had a strong interest in seeing a visitor levy enabled in Edinburgh in order to raise vital funding to enable our council to promote, and to deal with the impact of, tourism.

My amendments are mostly probing amendments. I want to test them. I have met the minister, and I also want to hear his comments on his amendments in this group. I have lodged the amendments because I seek clarity about the impact of the bill as currently drafted.

My aim is to support the reduction of complexities for local authorities in the setting of objectives for their scheme. As members will be aware, the amendments are similar to amendments that I have lodged in relation to later sections about how local authorities can use the proceeds in partnership with local stakeholders.

Amendment 20 would take out the word “substantially” in line 28, because I have concerns that the use of that word could make it overburdensome for local authorities to determine what expenditure would be allowable or not allowable under the legislation. If you look at dictionary definitions of the word, “substantially” can mean to a great or significant extent, or for the most part.

The challenge for us in Edinburgh is that visitors use a number of the same services and facilities

as local residents, but they impact on them, and they can do so dramatically. Proving that they are used to a great or significant extent could be difficult. Because services are efficient, in that they can be used for both resident and visitor needs, it could also potentially stifle innovation or ways of moving forward.

I know from talking to the City of Edinburgh Council that it is concerned that, if we get into legal arguments, it would not be good for anyone. That also picks up on the points that Miles Briggs made earlier about short-term lets. We really do not want to get into legal arguments about what proceeds are being used for and how to define whether the “substantially” test is being met.

I want to test how the legislation will work, and how it is intended to work, in our discussions. I suggest that removing the word “substantially” would reduce complexity in relation to consulting on how the proceeds are to be used, and would enable councils to get on and use the funds. I am interested in the minister’s comments about how he would define “substantially”.

Amendment 24 would achieve the same thing by ensuring that the bill is consistent in section 17 so that the complexity is removed for councils and they can get on and use the proceeds from a visitor levy, in consultation with stakeholders. Amendments 25 and 23 are worded differently and aim to achieve the same thing through different means. I have put on the table two different options that could be used to make the use of proceeds less restricted.

There is a debate about councils’ concerns that the bill will ring fence the proceeds, which is counter to the Verity house agreement. There will be different circumstances, and different councils will have different tourism challenges, so it is about enabling flexibility.

Amendment 25 would only remove the words “for leisure purposes”. I suggest that removing those words would give councils the flexibility and freedom to spend the net proceeds on the range of services and facilities that serve the tourism sector. I am interested in what is meant by “leisure”. Investing in our arts and culture, our tourism infrastructure and our festivals is absolutely critical to Edinburgh’s success; it is important in supporting a successful tourism economy that is all year round in our city. That would also benefit our communities.

We are a capital city, so we have national infrastructure. If we take, for example, the issue of the police presence in our city, we already have major challenges with that. It is the capital city, so we have the Parliament and Government buildings, we have our airport and we have areas of significant interest. If there is a match at

Murrayfield, Easter Road or Tynecastle, or if there is a demonstration in the city centre, the ability to ensure a police presence is stretched further. To what extent can a visitor levy enable the council to support the additional police services that we need but that are not there?

There is the issue of how to define the type of expenditure of net proceeds that falls under “leisure purposes”, which could unnecessarily restrict councils. Amendments 24 and 25 would increase the flexibility for local authorities to enable them to address local needs in relation to supporting tourism, but without creating unnecessary restrictions on using the net proceeds.

It is really important to try to achieve flexibility, and I stress that it is not just me that sees that. In an *Edinburgh Evening News* article in which the First Minister commented on the tourism visitor levy, he was clear that he was a supporter of the levy and that it could help many parts of Scotland but that he saw the advantages for Edinburgh, in particular. He said:

“I’ve been to many European cities where you pay a few extra euros and it’s not a disincentive to going to those places, so I don’t accept that argument people use against it. I think it would be wise to allow local authorities as much flexibility in relation to that spend. I’m in favour of allowing local authorities to decide how that money should be spent.”

I am very much in line with that direct quote from the First Minister.

Let us move on to consider how other councils around the world have operated tourism levies. I want to focus on the timescale issue.

Amendment 22 in my name would reduce the period of time that is currently in the bill, to give local authorities a bit more flexibility. This issue was discussed in the committee’s stage 1 report on the bill. It is important to get on the record—this is the point of stage 2—the fact that the timescale in section 13(2) must be after consultation with stakeholders and not inclusive of that consultation. That is key. If we take Edinburgh as an example, we see that a huge amount of consultation is already on-going about how the legislation could benefit the city, how it would impact the business community, on the principles and details and, critically, on how to support small businesses, in particular, which my colleague Daniel Johnson mentioned earlier.

It will be a challenge from day 1, which means that a lot of support must be in place now and there must be a lot of discussion of the details. I am conscious that how a visitor levy scheme works in practice is critical, and that discussion does not start after a scheme is proposed; it starts now—indeed, it has started already.

If you look at other countries, globally, and at localities in those countries, you will see that they have been able to implement similar levies in less than 12 months, although that is not what I am suggesting. I suggest 12 months. Others have done it differently. In Rome, for example, they managed to do it in a matter of months to raise support for their city. I understand that a number of Scottish rugby fans paid a levy of €10 just this weekend. However, on current assumptions, in reality, the City of Edinburgh Council is looking at a best-case scenario for a levy being introduced of late 2026, or possibly later. Those Italian fans who come to our city for the six nations tournament in 2027 will probably not pay a levy to visit Edinburgh, so the need to get going on this is critical.

I have put forward a proposal for a timescale just to create some clarity and test what colleagues around the table think. Amendment 22 would change the minimum time from decision to implementation from 18 to 12 months. It would still be a minimum, and it would still be up to local authorities. However, I stress that that time period would be after the formal decision that would be required by a local authority. The provision would enable a decision to go ahead with a scheme that had already been widely consulted on. It would enable local authorities to get going on such a scheme and to deliver the benefits from it.

I turn to the other amendments in the grouping. I think that amendment 9 in the minister's name seeks to achieve similar aims to my amendment 25, so I will be interested to hear his comments on that. I welcome the fact that I have already had discussions with the minister, but getting things on the record today is key.

I recognise that the minister's amendments in this group would take on board feedback from the Edinburgh Hotels Association in relation to business customers, but I do not believe that they would change the situation that I described in my earlier example, nor would they take into account day visitors.

11:30

I am looking for some reassurance from the minister in his comments. I am looking to get some clarity on the record on what we are doing to empower our councils to get on in order to maximise the opportunity for visitors coming to our country, particularly to our capital city of Edinburgh, to have a fantastic tourist experience. That would allow us to invest in our city, in culture and in the arts, noting the practicalities of making our tourist visits as successful as possible while getting investment on the go from day 1.

I move amendment 20.

**Tom Arthur:** Before I focus on the amendments related to funding, I will make some general points on that issue. In developing the proposals in the bill, the Government consulted and engaged with local authorities and the tourism industry. It was and is the very clear position of the tourism industry that funds raised by a visitor levy should be invested in the visitor economy. The bill therefore will ensure that that is the case, by putting in place a measure to give local authorities the freedom to use the funding that is raised as they believe appropriate to support the visitor economy in their areas.

The current wording in the bill has been carefully crafted to mean that the use of net funding raised by a visitor levy shall be spent on facilities and services with a strong connection to the visitor economy. If there are things linked to the visitor economy that members believe the current wording would preclude a local authority from funding, I am open to constructive suggestions from the committee or other members on how to address that, and I would be happy to consider refining the wording as necessary ahead of stage 3.

It will be for a local authority, following consultation with local communities, tourism businesses and local tourist organisations, to decide how the funding that is raised by a visitor levy is spent. Local authorities will want to use the funding in a way that best supports their local visitor economy. I am aware that those needs will differ across the country—ranging from improving street dressing to supporting work to promote a destination, investing in relevant regeneration and, potentially, supporting affordable housing projects, recognising that tourism businesses can struggle to retain and recruit staff due to accommodation issues, as part of the wider pressures on local housing markets.

I should make it clear that it will not be for the Government to permit or exclude any particular use of the funding. Within the broad parameters in the bill, that is rightly a decision that will be made at a local level, after local consultation. This is an area that I would expect the national guidance that is currently being developed by local government and the tourism industry—and that is to be given a statutory basis under amendment 15—to address.

In that context, I now turn to amendments 20 and 24 from Sarah Boyack. They relate to the objectives that a local authority sets for a visitor levy scheme, under section 12, and the use to which the funding raised by a visitor levy can be put, under section 17. The Government's position is that funding raised by a visitor levy should be used on facilities and services that have a clear link to the visitor economy. The wording in section 12 requires scheme objectives to

“relate to developing, supporting or sustaining facilities or services which are substantially for or used”

by visitors. Section 17 requires scheme proceeds to be used to further those objectives or otherwise to be used for

“facilities and services which are substantially”

for visitors.

As I outlined earlier, I am open to constructive suggestions from members if the current wording in the bill would preclude a local authority from funding something related to the visitor economy. However, the Scottish Government believes that simply removing the word “substantially” would weaken that aspect of the bill. It is there to ensure that there is a clear link to the visitor economy in respect of the use of revenue that is raised from a visitor levy. That has been a consistent ask of the tourism organisations and the accommodation providers that would collect and remit any visitor levy. On that basis, I ask Sarah Boyack not to press amendment 20 or move amendment 24.

**Sarah Boyack:** I think that that is a constructive approach, but I want to put on the record the fact that there are days in the year in which tens of thousands of additional people can come, not just for the festivals. If people come at the same time, that can deliver major challenges. Policing, for example, is not about leisure or culture, but it is critical to success and safety in our tourism economy. I hope that the minister will accept that point.

**Tom Arthur:** I appreciate the point that Sarah Boyack has made. I highlight that the power is a discretionary power for local government to implement after consultation and engagement and the points that I touched on earlier about looking at how we can strengthen the process of engagement ahead of stage 3. It will be for the process of local engagement and consultation with businesses, tourism organisations and community organisations in a particular area to best determine how revenue that is raised through a visitor levy can be best applied to support the visitor economy. That is why I make the point that, if there are concerns that the current drafting of the bill would preclude what would be regarded as use to support the visitor economy in a particular area, I am happy to have discussions about that ahead of stage 3 and to consider how we can refine the wording in partnership with local government and, crucially, the tourism sector.

Amendments 21 and 25, in the name of Sarah Boyack, would remove the words “for leisure purposes” from sections 12 and 17 of the bill so that the objectives of a visitor levy scheme would no longer have to relate to facilities or services that are

“substantially for or used by persons visiting the scheme area for leisure purposes”,

and funding would also no longer be linked to those visiting an area for leisure purposes. I understand Sarah Boyack’s wish to expand the objectives of a visitor levy beyond just those visiting for leisure purposes. However, the Government has responded to that point, and it lodged amendments 9 and 10. As I said earlier, uses such as for housing and regeneration are not precluded if a local authority chooses those. The Government believes that amendments 9 and 10 are a better option on that issue, so I ask Sarah Boyack not to move amendments 21 and 25.

Sarah Boyack’s amendment 23 would alter the permitted use of proceeds by removing section 17(1)(b) from the bill. In contrast to Sarah Boyack’s other amendments, it would mean that a local authority could use the proceeds only for facilitating a visitor levy scheme’s objectives. If those objectives were met, a local authority could not use any money raised in another way that is related to the visitor economy. The amendment would remove a sensible measure and restrict local government in the use of the funding raised by a visitor levy. It would tie the hands of local authorities to only being able to use money raised by a visitor levy in a way that would be unhelpful as circumstances change and new opportunities arose. I note that amendment 23 contradicts the position in Sarah Boyack’s amendments 20 and 24, but I appreciate that she is exploring a variety of approaches to those sections of the bill. For those reasons, the Government does not support amendment 23, and I ask Sarah Boyack not to move it.

The committee’s stage 1 report highlights the

“calls for the Bill to be amended so funds can be invested in services or facilities used by visitors travelling for business purposes as well as by those doing so for leisure.”

In response, the Government considered that issue and lodged amendment 9, which is in my name. Amendment 9 relates to section 12, which sets out the steps that a local authority must take before introducing or modifying a visitor levy scheme. Those steps include preparing a statement of the objectives of a visitor levy scheme. As mentioned, section 12 requires the objectives to

“relate to developing, supporting or sustaining facilities or services which are substantially for or used by persons visiting the scheme area for leisure purposes.”

Amendment 9 would change that requirement in relation to a scheme’s objectives so that it would refer to facilities or services used for leisure or business purposes or both.

Amendment 10, in my name, deals with the same issue at section 17 of the bill. It would place

a duty on a local authority in relation to business visitors and the use of proceeds of a scheme.

As we have heard, section 17 requires the proceeds to be used for the scheme's objectives or for

"facilities and services which are substantially for or used by persons visiting ... for leisure purposes."

Amendment 10 would amend section 17(1)(b) so that the other purposes refer to facilities or services used for leisure or business purposes or both. That reflects a sensible enlargement of the purposes for which funding raised by a levy could be used, with the support of local government and the tourism industry. I therefore ask the committee to support amendment 10.

I note that Miles Briggs's amendment 46 would amend the bill so that a local authority setting up a visitor levy scheme would have to specify the manner in which it would decide that

"any net proceeds raised in a specified area"

could

"only be used in that specified area".

The question of limiting the use of visitor levy-raised funding to the area where it was raised was considered by the committee at stage 1. The committee's stage 1 report noted that such an approach would

"fail to provide for ambitious, strategic, long-term investment",

and the Government endorses that point. We want to give local authorities the freedom to make the strategic investments in their visitor economy that the levy can facilitate. I therefore ask Miles Briggs not to move amendment 46 and, if he does, I ask the committee not to support it.

Finally in this group, Sarah Boyack's amendment 22 would reduce the 18-month implementation period to 12 months. The Government believes that there is a strong case for the 18-month implementation period. Eighteen months provides adequate time for local authorities and businesses to put in place systems and train staff to effectively collect and administer a levy.

In our 2019 public consultation on the levy, 82 per cent of respondents supported a timeframe of at least one financial year following the conclusion of consultation and engagement activities. That was also supported by 16 of the 18 local authorities that responded to the question. Eighteen months is also the timeframe recommended by the European Tourism Association.

The Government therefore does not support amendment 22. I ask Sarah Boyack not to move it

and, if she does, I ask the committee not to support it.

**Miles Briggs:** Amendment 46 is a probing amendment. It comes from some of the evidence that we took from communities that are part of larger council areas. They are concerned. Businesses that operate in Skye and Arran raised concerns about significant tourism activity on those islands and whether they would secure a fair share of that funding once the local authority that they are part of takes decisions over where that would be distributed. I want to probe ministers on how the money that is raised is reported and what role they would play in where that money is spent. That important principle has not been pursued in the bill.

As with other amendments, I am happy to discuss that further with the minister. When substantial tourism activity takes place in parts of a council area, it is important that businesses in those areas benefit and that any money raised does not just go into the council's wider pot.

**Tom Arthur:** Mr Briggs raises an important point. I would be happy to consider how the existing provisions in the bill around reporting, transparency and review mechanisms, not to mention the consultation that precedes the introduction of a visitor levy and the guidance that will be produced, can strengthen those processes to give greater clarity and certainty.

I recognise that it is important that local authorities have the flexibility to invest as they see fit following that process of consultation, but I also recognise that there might be concern around transparency, and I would want to provide assurance on that point. We can probably address that effectively through the guidance that will be provided.

I am happy to engage further with the member on that basis before stage 3.

**Miles Briggs:** I welcome that. There may be another amendment for stage 3 on who from tourism representative bodies in a wider council area would then be involved in that decision making on expenditure. I am happy to take that on board.

Turning to the other amendments in the group, I welcome many of Sarah Boyack's amendments. However, other council areas, though perhaps not Edinburgh and Highland, which have both long advocated for a tourist levy, are concerned about it being established. We need to take into account the many concerns that have been expressed about the set-up period and the systems that businesses would use. Therefore, we do not support amendments 21 and 25, but we support Sarah Boyack's other amendments in the group.

I will not be moving amendment 46, convener.

**The Convener:** I see that no other members wish to speak to the amendments in this group, but I will speak to Sarah Boyack's amendments.

11:45

With regard to amendment 21, on "leisure purposes", Scottish Greens believe that the bill should, as part of its purpose, give councils scope to use the revenue for a range of purposes. One such example, which we strongly support, is housing. There is a significant connection between the visitor economy and the housing sector—for example, in the provision of accommodation for visitors that does not reduce access to housing for residents, and in recognising that the visitor economy itself requires accommodation for the many staff who work within it. The supply of affordable housing is already a foundation of a thriving visitor economy, which is why we strongly welcome the minister's assurance that investment for housing and regeneration purposes is a legitimate use of revenue.

On amendment 20, which seeks to remove the word "substantially", I am concerned that it would do the opposite of what is intended in terms of reducing complexity, and that it could narrow the scope of how the revenue could be used.

On amendment 22, on the consultation period, Scottish Greens have pushed for a visitor levy for many years and are proud to be in a Government that is finally making it happen. Although we understand the appetite to reduce the lead time as much as possible, we accept that the choice of 18 months finds a middle way. If the passage of the bill stays to time and councils are ready with their consultation processes, visitor levy schemes could be in operation as soon as spring 2026.

I ask Sarah Boyack to wind up and say whether she wishes to press or withdraw amendment 20.

**Sarah Boyack:** I have said that my amendments are mostly probing amendments, and I want to get some comments on the record today. I welcome the minister's assurance that the bill would not preclude investment of the revenue in housing and regeneration, in particular given Edinburgh's housing emergency. I declare an interest in that respect, given my previous employment.

I have made some points about the huge impact of tourism, which is very beneficial but also poses challenges, so a bit more thought and flexibility would be welcome in that regard. I will not move amendment 21 in my name—I will leave that for today and engage in conversation with the minister.

On timing, we in Edinburgh have been in discussions for a long time already, as I know certain other councils have too, because this is a now issue. City of Edinburgh Council is already working in consultation with a range of tourism and business-related organisations in advance of a potential visitor levy, and to support those businesses. Personally, therefore, I am disappointed that there does not seem to be support for reducing the lead time from 18 months to 12 months. I want to put that on record, and highlight that that period would begin after a scheme proposal had been agreed, which could be a long way down the track.

However, I recognise the feedback from other members today. I seek permission to withdraw amendment 20, and I will not move the other amendments in my name.

*Amendment 20, by agreement, withdrawn.*

**The Convener:** I call amendment 21. I point out that if amendment 21 is agreed to, I cannot call amendment 9. I ask Sarah Boyack to say whether she wishes to move amendment 21.

*Amendment 21 not moved.*

*Amendment 9 moved—[Tom Arthur]—and agreed to.*

*Section 12, as amended, agreed to.*

**The Convener:** At this point, I suspend the meeting briefly for a break.

11:49

*Meeting suspended.*

11:58

*On resuming—*

### **Section 13—Required content of a scheme**

*Amendment 45 not moved.*

**The Convener:** Amendment 46, in the name of Miles Briggs, has been debated with amendment 20. I ask Miles Briggs to move or not move amendment 46.

**Miles Briggs:** In light of the minister's comments, I will not move amendment 46.

*Amendment 46 not moved.*

*Amendment 22 not moved.*

*Section 13 agreed to.*

*Sections 14 to 16 agreed to.*

### **Section 17—Use of net proceeds of scheme**

**The Convener:** Amendment 23, in the name of Sarah Boyack, has already been debated with

amendment 20. I remind members that if amendment 23 is agreed to, I cannot call amendments 24, 25 and 10.

*Amendment 23 not moved.*

**The Convener:** Amendment 24, in the name of Sarah Boyack, has already been debated with amendment 20. I ask Sarah Boyack to move or not move the amendment.

**Sarah Boyack:** I will not move amendment 24, and I will reflect on the minister's comments from our discussion.

*Amendment 24 not moved.*

**The Convener:** Amendment 25, in the name of Sarah Boyack, has already been debated with amendment 20. I remind members that if amendment 25 is agreed to, I cannot call amendment 10.

*Amendment 25 not moved.*

*Amendment 10 moved—[Tom Arthur]—and agreed to.*

12:00

**The Convener:** Amendment 11, in the name of Pam Gosal, has already been debated with amendment 3. I ask Pam Gosal to move or not move the amendment.

**Pam Gosal:** On the minister's comments about the need for sustained engagement—in particular, in response to my colleague Neil Bibby's reference to the culture sector—I hope that he will also include businesses in that engagement. I will not move amendment 11.

*Amendment 11 not moved.*

*Amendments 47 and 48 not moved.*

*Amendments 12 and 13 moved—[Tom Arthur]—and agreed to.*

*Amendment 49 not moved.*

*Amendment 14 moved—[Tom Arthur]—and agreed to.*

*Section 17, as amended, agreed to.*

*Sections 18 and 19 agreed to.*

### After section 19

**The Convener:** The next group is on review of the act. Amendment 50, in the name of Miles Briggs, is the only amendment in the group.

**Miles Briggs:** I hope that amendment 50 will be helpful. Given all the concerns that we have heard and the evidence that we have taken during the bill's passage, it is important that a review be conducted a year after a scheme comes into force

in council areas that decide to move forward with one. The amendment therefore sets out that

“Scottish ministers must, no later than 1 year after”

a scheme comes into place, review its impact. We need to look at the impact of a scheme not only on different sizes of businesses but in respect of behavioural change, which I have addressed in various other amendments. We need to consider the impact of such change not only on the sector but on our economy.

I move amendment 50.

**Mark Griffin:** I do not object to the principle of a review—in fact, I think that it is sensible—but the only point that I will make to Miles Briggs is that we might not get any meaningful information from a review only a year after a scheme's introduction.

Moreover, what if some authorities introduce a scheme but others do not? I know that amendment 50 points directly to a review in areas where a scheme has been in place for a year, but I think that having a review with potentially very few other schemes being in place after the first is introduced might make any learning and data that we get less meaningful than it could be. Given that, perhaps the member could reflect on the length of time before which there should be a review.

**Miles Briggs:** I take on board Mark Griffin's concern that we might not necessarily have a full picture after a year, but it might be more important that Parliament is able, if we become acutely aware of any negative impacts that the legislation might have on various parts of the tourism sector, to act to remove those impacts from the legislation. It is important that we have live information as soon as possible in the council areas concerned—I think that the City of Edinburgh Council and Highland Council have already said that they are moving forward with schemes—but there will be learning for other council areas, too. I am open to amendments at stage 3 on when reviews would take place, but I think that it is important that we take stock of a scheme's impact on an area within a year of a council's bringing it in.

**Tom Arthur:** Amendment 50 relates to the evaluation of the legislation, which the committee raised in its stage 1 report. As the Government noted in its response, the bill already contains provisions requiring individual councils to report on and review their visitor levy schemes. Under section 18, a local authority will have to report each year on its visitor levy scheme. Under section 19, a local authority will have to review its scheme within three years and publish a report of its findings.

A national-level evaluation would need to happen in partnership with local government and would best take place once many visitor levy schemes had been established and had operated for a length of time that was suitable to enabling a longer-term assessment of their impacts and of behavioural changes among tourists across Scotland.

Mark Griffin made a point about ensuring sufficient time before consideration of the overall impact and outcomes of the operation of multiple visitor levies. Therefore, although I understand the motivations behind Miles Briggs's amendment 50, the Government cannot support it.

I also note that regulation-making powers in the bill cover a range of areas. That will allow the Parliament to respond as circumstances develop and change. However, I recognise the committee's interest in the issue of review, which was touched on at stage 1. I am keen to explore how the Government can facilitate the wider process of review once a number of visitor levy schemes are up and running, in order to identify how different schemes are operating in different parts of the country, and what their impacts and outcomes are. I am happy to consider how we can provide more assurance around that process.

I am conscious that we have a number of items to discuss at a meeting so, if Miles Briggs or any other member who is interested is content to add that issue to the agenda, I will be happy to explore it.

As Mark Griffin suggested, review after one year would be premature. Ultimately, the bill is about fiscal empowerment of local government. There are mechanisms for local government for review after three years. We would not want to duplicate reviews that local government had already carried out. However, I recognise the interest in the aggregate impact of multiple visitor levies operating across Scotland. The committee has raised a fair point. I am keen to discuss whether the solution to that should be by legislative or other means, and to come to a consensus on that ahead of stage 3. On that basis, I ask Miles Briggs not to press amendment 50.

**The Convener:** I call Miles Briggs to wind up and press or seek to withdraw amendment 50.

**Miles Briggs:** I would welcome that further discussion. One of the concerns—across the parties—is the need to review the framework nature of bills; however, the mechanism by which problems might be resolved is not clear.

I return to the short-term lets legislation. By and large we, across parties, do not now believe that home sharing should be included in it. Most council areas are looking to the Government for a solution; however, the Government says that it is

for councils themselves to bring forward solutions. Passing a framework bill and having councils decide for themselves creates a complex picture.

**Sarah Boyack:** That takes me to the point about guidance—it is important and helpful, but we do not want it to take so long that it delays implementation of the legislation. Timing is critical, as are engagement and consultation.

**Miles Briggs:** I absolutely agree, but interpretation of guidance can differ.

Given what the minister has said, I am happy not to press amendment 50, and to have further conversations.

*Amendment 50, by agreement, withdrawn.*

*Section 20 agreed to.*

### After section 20

**The Convener:** We move on to the group on guidance. Amendment 15, in the name of the minister, is the only amendment in the group.

**Tom Arthur:** Amendment 15 would insert a new section on guidance on a visitor levy scheme for local authorities. It would create a duty on VisitScotland to prepare and submit to ministers guidance on a visitor levy, and to review it “from time to time”. The Scottish ministers would have the power to approve, reject or require modifications to the guidance. When introducing and administering a visitor levy, a local authority would be under a duty to “have regard to” that guidance. The amendment would also allow Scottish ministers, through regulations, to substitute another body for VisitScotland, if they wish to do so in the future.

As committee members might recall, the expert group that brings together local authorities and tourism industry bodies is working to produce guidance for local authorities on a visitor levy. I welcome that co-working in the spirit of the new deal for business, and I look forward to seeing the guidance that the group will produce. Amendment 15 will give national guidance formal legal status once it has been agreed by ministers. That will give local authorities clarity on the good practice that they should follow as they consider how best to consult on, introduce and administer a visitor levy. I ask the committee to support the amendment.

I move amendment 15.

**The Convener:** As no other member wishes to speak to the amendment, I invite the minister to wind up.

**Tom Arthur:** I have no further comments, convener.

*Amendment 15 agreed to.*

*Sections 21 and 22 agreed to.*

### **Section 23—Duty to make returns**

*Amendment 51 not moved.*

*Section 23 agreed to.*

#### **After section 23**

*Amendment 16 moved—[Pam Gosal].*

**The Convener:** The question is, that amendment 16 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

#### **For**

Briggs, Miles (Lothian) (Con)  
Gosal, Pam (West Scotland) (Con)

#### **Against**

Burgess, Ariane (Highlands and Islands) (Green)  
Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Griffin, Mark (Central Scotland) (Lab)  
MacDonald, Gordon (Edinburgh Pentlands) (SNP)

**The Convener:** The result of the division is: For 2, Against 5, Abstentions 0.

*Amendment 16 disagreed to.*

*Sections 24 to 35 agreed to.*

### **Section 36—Power to inspect business premises of third parties**

**The Convener:** The next group of amendments is on inspections. Amendment 17, in the name of the minister, is the only amendment in the group.

**Tom Arthur:** Amendment 17, in my name, will make a change to section 36 in response to the Delegated Powers and Law Reform Committee's scrutiny of the bill at stage 1.

Section 36 sets out some of the inspection powers of a local authority in relation to business premises and documents found there where it is

“reasonably required for the purpose of assessing the liable person's liability to pay the levy.”

Under the section, ministers may, by regulation, add to the definition of an “involved third party”, and therefore the premises that a local authority or other authorised officer can inspect. The regulations can also specify the type of documents that can be inspected there.

The DPLR Committee believes that any such regulation should be subject to the affirmative procedure. The Government has lodged amendment 17 to fulfil that committee's recommendation, so I ask the committee to support it.

I move amendment 17.

**The Convener:** As no other member wishes to speak to amendment 17, I invite the minister to wind up.

**Tom Arthur:** I have no further comments, convener.

*Amendment 17 agreed to.*

*Section 36, as amended, agreed to.*

*Sections 37 to 75 agreed to.*

*Long title agreed to.*

**The Convener:** That ends our consideration of the bill at stage 2. I suspend the meeting briefly to allow the minister and his officials to leave the room.

12:13

*Meeting suspended.*

12:14

*On resuming—*

## **Subordinate Legislation**

### **Building (Fees) (Scotland) Amendment Regulations 2024 (SSI 2024/46)**

### **Local Government Pension Scheme (Scotland) (Amendment) Regulations 2024 (SSI 2024/37)**

**The Convener:** The next item on our agenda is consideration of two instruments that are subject to negative procedure. There is no requirement for the committee to make any recommendations on such instruments.

No member has indicated that they wish to comment.

Does the committee agree that we do not wish to make any recommendations in relation to the instruments?

**Members indicated agreement.**

**The Convener:** We previously agreed to take the next agenda item in private, so that was the last agenda item in the public part of our meeting.

12:15

*Meeting continued in private until 12:21.*

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