

Report on the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill

March 2025



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About the Committee

The Committee was established on 26 May 2021. Its remit can be found at www.senedd.wales/SeneddLJC

Current Committee membership:



**Committee Chair:
Mike Hedges MS**
Welsh Labour



Alun Davies MS
Welsh Labour



Laura Anne Jones MS
Welsh Conservatives



Adam Price MS
Plaid Cymru

The following Member attended as a substitute during the scrutiny of the Bill:



Mick Antoniw MS
Welsh Labour

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1. Introduction

On 25 November 2024, the Rt Hon Mark Drakeford MS, the Cabinet Secretary for Finance and Welsh Language (the Cabinet Secretary), introduced the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill¹ (the Bill), and accompanying Explanatory Memorandum² (the EM).

- 1.** The Welsh Government issued a Written Statement on 25 November 2024 on the introduction of the Bill.³ A Statement of Policy Intent for subordinate legislation to be made under the Bill was also issued.⁴
- 2.** On 5 November 2024, the Business Committee referred the Bill to the Finance Committee⁵ and set a deadline of 21 March 2025 for reporting on its general principles.⁶
- 3.** On 26 November 2024, the Cabinet Secretary wrote to the Finance Committee enclosing “indicative additional registration provisions”, stating it was his intention to table these provisions as amendments at Stage 2.⁷
- 4.** On 7 January 2025, the Cabinet Secretary wrote again to the Finance Committee confirming that he also intended to table a number of other amendments at Stage 2; these are detailed in later chapters.⁸

¹ [The Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill](#), as introduced

² Welsh Government, [The Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill, Explanatory Memorandum](#)

³ Welsh Government, [Written Statement: Introduction of the Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill](#), 25 November 2024

⁴ Welsh Government, [Statement of Policy Intent](#), November 2024

⁵ Business Committee, [Timetable for consideration: the Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill](#), November 2024

⁶ Business Committee, [Timetable for consideration: the Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill](#), November 2024

⁷ [Letter from the Cabinet Secretary for Finance and Welsh Language to the Finance Committee](#), 26 November 2024

⁸ [Letter from the Cabinet Secretary for Finance and Welsh Language to the Finance Committee](#), 7 January 2025

Purpose of the Bill

5. In the EM, the Cabinet Secretary sets out the purpose of the Bill as follows:

“A visitor levy will be a new local tax designed in a way that works for local communities, businesses, and visitors to Wales. Local taxes are an investment into our future to fund local expenditure, our public assets today: the roads, visitor centres, clean beaches, parks, leisure centres and urban spaces would not exist without taxes. Local taxes are important revenue streams which ensure the continued sustainability of local services and infrastructure to our communities.

The term ‘levy’ is used as it relates to a direct payment to government non-related to the value of goods and services. The levy is a local tax which will fund local government expenditure.

The Visitor Accommodation (Register and Levy) Etc. (Wales) Bill (“the Bill”) will give local authorities in Wales a power to charge a levy on overnight visitors staying in visitor accommodation in their area. The levy will be discretionary in nature, as it will be for local authorities to decide whether to introduce it, following consultation with their communities and local businesses. It will be a per person per night charge, applying to all people who pay to stay in overnight accommodation. There will be a cap of 31 days on the number of chargeable nights and certain overnight stays will be excluded, not payable or subject to a refund. It will be collected and managed by the Welsh Revenue Authority (WRA).

The Bill also establishes a register of visitor accommodation providers (providers) operating in Wales, which will also detail the type and location of the premises they operate across Wales. Providers are required to register, regardless of whether the local authority area they are operating in has implemented the levy.”⁹

6. The long title to the Bill states that it is a Bill to:

“... establish a register of persons that provide visitor accommodation at premises in Wales; to grant principal

⁹ Explanatory Memorandum, page 3

councils the power to introduce a levy on overnight stays in visitor accommodation in their areas; to make miscellaneous amendments to the Tax Collection and Management (Wales) Act 2016; and for connected purposes.”¹⁰

7. When introducing the Bill to the Senedd, the Cabinet Secretary said:

“The Bill provides a permissive power to local authorities to decide whether or not they want to introduce a visitor levy in their local areas based on their local circumstances. Doing so fulfils a commitment in Welsh Labour’s manifesto, repeated in the programme for government and the co-operation agreement. The power is to be drawn down by participating councils where they wish to be enabled to raise a modest levy on visitors staying overnight in visitor accommodation. The levy is rooted in the principle of fairness. In participating local authorities, the costs of maintaining the public infrastructure and services that make Wales an attractive destination will be shared by all those who use them and who benefit from them. The considerable bulk of these costs will continue to be borne by local residents, but visitors will now also make a small but fair contribution to the development and preservation of the characteristics that drew them to those areas as visitors in the first place. In doing so, there will be a collective effort to secure the long-term sustainability of the tourism sector and its significance to the Welsh economy.”¹¹

The Committee’s remit

8. The remit of the Legislation, Justice and Constitution Committee is to carry out the functions of the responsible committee set out in Standing Orders 21 and 26C. The Committee may also consider any matter relating to legislation, devolution, the constitution, justice, and external affairs, within or relating to the competence of the Senedd or the Welsh Ministers, including the quality of legislation.

9. In our scrutiny of Bills introduced into the Senedd, our approach is to consider:

¹⁰ The Bill as introduced, page 1

¹¹ Plenary, 26 November 2024, RoP [126]

- matters relating to the competence of the Senedd, including compatibility with the human rights protected by the European Convention on Human Rights (the ECHR);
- the balance between the information that is included on the face of the Bill and that which is left to subordinate legislation;
- whether an appropriate legislative procedure has been chosen in relation to the granting of powers to the Welsh Ministers to make subordinate legislation;
- any other matter we consider relevant to the quality of legislation.

10. We took oral evidence from the Cabinet Secretary on 20 January 2025.¹² Following the evidence session, we wrote to the Cabinet Secretary with questions not reached during the session.¹³ The Cabinet Secretary responded to our questions on 5 February 2025.¹⁴

11. We also received evidence from British Marine Wales¹⁵ and the Wales Tourism Alliance¹⁶.

Recommendation 1. The Cabinet Secretary should respond to the conclusions and recommendations we make in this report at least two working days before the Stage 1 general principles debate takes place.

¹² [Legislation, Justice and Constitution Committee](#), 20 January 2025

¹³ [Letter to the Cabinet Secretary for Finance and Welsh Language](#), 23 January 2025

¹⁴ [Letter from the Cabinet Secretary for Finance and Welsh Language](#), 5 February 2025

¹⁵ [Written evidence from British Marine Wales](#)

¹⁶ [Written evidence from Wales Tourism Alliance](#)

2. Legislative competence

The Welsh Government is satisfied that the Bill would be within the legislative competence of the Senedd.

12. We considered the Bill under the reserved powers model of legislative competence, as set out in section 108A of the *Government of Wales Act 2006* (the 2006 Act).

13. In her statement on legislative competence, the Llywydd stated that, in her view, the provisions of the Bill would be within legislative competence.¹⁷

14. The Cabinet Secretary states in the EM:

"In my view the provisions of the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill, introduced by me on the 25 November 2024, would be within the legislative competence of Senedd Cymru."¹⁸

15. When the Cabinet Secretary gave evidence to us on 20 January 2025 he confirmed that he was satisfied the Bill was within the Senedd's legislative competence.¹⁹

16. In response to being asked what account the Government had taken of human rights in preparing the Bill, the Cabinet Secretary said:

"Well, again, it's one of the first and most basic considerations that a Minister has to be satisfied on—that the Bill, where it does engage human rights and the European Convention on Human Rights, then that it does so in a way that is proportionate and doesn't cause the Bill to have any infractions of those obligations. The equality impact assessment that accompanies the Bill does deal with that issue. All the advice that I have—and, again, the Presiding Officer raised no issues in relation to compatibility with the human rights convention—is that the Bill is compliant."²⁰

¹⁷ [Presiding Officer's Statement on Legislative Competence: The Visitor Accommodation \(Register and Levy\) Etc. \(Wales\) Bill](#), 25 November 2024

¹⁸ EM, page 1

¹⁹ LJC Committee, 20 January 2025, RoP [5]

²⁰ LJC Committee, 20 January 2025, RoP [7]

17. In our letter to the Cabinet Secretary on 23 January 2025, we asked if the Welsh Government considered that any of the Bill’s provisions require the consent of HM the King or the Prince of Wales.²¹ The Cabinet Secretary responded:

“Officials are of the view that given the property interests of the Duchy of Cornwall in Wales (which revert to the Crown when there is no Duke of Cornwall) that the consent of the Duke of Cornwall and the King will be required in relation to all the provisions in the Bill which deal with registration of visitor accommodation and the creation of a levy on overnight stays in visitor accommodation.

Consent is generally sought following the completion of stage 2 and must be obtained and signified to the Senedd prior to the commencement of stage 4.”²²

Our view

18. We note the evidence in relation to matters of legislative competence from the Cabinet Secretary.

19. We further note that the Cabinet Secretary considers that the consent of the Duke of Cornwall and His Majesty the King will be required in relation to all the provisions in the Bill which deal with registration of visitor accommodation and the creation of a levy on overnight stays in visitor accommodation. We acknowledge it is the responsibility of the Cabinet Secretary to seek and obtain this consent prior to the commencement of Stage 4 proceedings in the Senedd.

20. As part of our scrutiny of the Local Government Finance (Wales) Bill, we asked the Welsh Government about its practice for seeking such consent and whether preliminary discussions take place with the office of His Majesty the King. In response, we were simply told that a process is in place for corresponding with the Royal Household.²³ We acknowledge that some details of this working relationship may not be suitable for public disclosure. Nonetheless, if seeking consent from the Duke of Cornwall or His Majesty the King for provisions in a specific Bill results in the Welsh Government putting forward amendments to the Bill, we believe transparency around these discussions is important and needed.

²¹ Letter to the Cabinet Secretary for Finance and Welsh Language, 23 January 2025, question 9

²² Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 9

²³ Letter from the then Minister for Finance and Local Government, Rebecca Evans MS, 18 January 2024

Recommendation 2. The First Minister should consider providing the Senedd with information and clarity about the process by which consent of the Duke of Cornwall and His Majesty the King is sought by the Welsh Government for provisions in Bills introduced to the Senedd when it is considered that those provisions would affect the prerogative, private interests or hereditary revenues of the Duke of Cornwall or HM the King.

21. We note that Chapter 9 of the EM sets out details of a series of impact assessments which have been completed on the Bill by the Welsh Government as part of its Integrated Impact Assessment.

3. General observations

Development of and need for the Bill

22. In its Programme for Government (2021 to 2026), the Welsh Government committed to ‘introduce legislation permitting local authorities to raise a tourism levy’.²⁴

Consultation

23. In September 2022, the Welsh Government launched a public consultation on proposals to provide discretionary powers for local authorities to apply a visitor levy in their areas.²⁵ The consultation also sought views on a statutory licensing or registration scheme in connection with the advertising and letting of visitor accommodation to support the operation of a visitor levy. A summary of responses to the consultation was published in March 2023.²⁶

24. The Welsh Government also consulted on proposals for a statutory registration and licensing scheme for visitor accommodation in Wales between December 2022 and March 2023²⁷, and has confirmed that it intends to introduce legislation for a licensing scheme during this Senedd term²⁸.

25. In our evidence session with the Cabinet Secretary on 20 January 2025 we noted that the Bill is, in some respects, an enabling one, and asked why it is needed now. The Cabinet Secretary agreed that “it is an enabling Bill” with permissive power, noting that it will be “for local authorities to decide whether or not to take up that permissive power”²⁹. The Cabinet Secretary also said:

“I think it’s worth me just briefly reminding the committee of the history of the Bill. So, the first time a visitor levy was proposed and discussed in Wales goes back as far as the Holtham commission report in 2009, where Gerry Holtham included it as an example of how a future Senedd might move to revenue raising. When the previous Conservative Government passed

²⁴ Welsh Government, [Programme for Government - Update](#), December 2021

²⁵ Welsh Government, [Consultation on proposals for a discretionary visitor levy for local authorities](#)

²⁶ Welsh Government, [Consultation – summary of responses: Proposals for a discretionary visitor levy for local authorities](#)

²⁷ Welsh Government, [Statutory licensing scheme for all visitor accommodation providers in Wales](#)

²⁸ Welsh Government, [Press release - Plans unveiled for statutory registration and licensing scheme for visitor accommodation in Wales](#), 9 January 2024. See also [Finance Committee](#), 12 February 2025, RoP [112]

²⁹ Legislation, Justice and Constitution Committee, 20 January 2025, RoP [10]

the Government of Wales Act 2017, it included a new power for the Senedd to draw down new forms of taxation in Wales, and the debate about that power included many suggestions from Welsh citizens that a visitor levy could be one of the things that the Government could do. (...)

As a result, a commitment to introduce a visitor levy was included in the manifesto of my party going into the 2021 elections. It was confirmed as a commitment in the co-operation agreement with Plaid Cymru. The Government confirmed our intention in a statement to the Senedd in February 2022. There was a consultation exercise between September and December 2022, and the results published in March of last year, and, alongside it, a series of research reports were commissioned and published by Bangor University, by Cardiff University and by Alma Economics. In many ways, Chair, I think the question that might be asked of the Government is not, 'Why now?' but, 'Why so long?' Why has it taken this long to bring this Bill in front of the Senedd? And that is because of the length of consultation and the attempt to work alongside the sector. It's here now because we're in the final stages of this Senedd term and the Government is keen to fulfil its commitment."³⁰

26. We noted the consultations on proposals for a visitor levy and registration scheme that took place in 2022, and asked what, if any, changes the Cabinet Secretary had made to the Bill since the conclusion of the processes. The Cabinet Secretary told us that the consultation “was decisive in a number of ways” and a clear message was received that “if a visitor levy in Wales were to go ahead, it needed to be as simple and clear as we could make it”.³¹ He went on to say:

“There were concerns raised in consultation about offering too many powers for individual local authorities to shape the levy in the way they would want to, and the preference in consultation was for a national scheme capable of being applied locally. We took that very seriously. In the Bill there's only one power that local authorities have to depart from a national scheme that

³⁰ LJC Committee, 20 January 2025, RoP [11]

³¹ LJC Committee, 20 January 2025, RoP [14]

otherwise applies everywhere, in every part of Wales that decides to adopt it.”³²

27. The Cabinet Secretary also told us that “there were some anxieties expressed in [the] consultation that the Welsh Government was bringing forward a behavioural tax.³³ He added:

“I think we’ve tried to respond to that in the way the Bill is framed to make it clear this is not a behavioural tax, it is a revenue-raising tax in a modest way, designed to support the industry and local authorities in covering costs related to tourism and being able to invest in creating the conditions of future success.”³⁴

28. The Wales Tourism Alliance wrote to us expressing concerns that there are important areas within the Bill that they don’t think have been sufficiently considered. The WTA told us:

“... there are areas of importance where the consequences, let alone practical requirements, have not been sufficiently considered before publication of the Bill.”³⁵

29. The Cabinet Secretary responded:

“How do I put this in the most diplomatic way? Sometimes, Government can find ourselves in the crossfires of two sorts of criticism. There is the sort of criticism that Mick just reflected: the Bill isn’t sufficiently definite, it doesn’t nail down every detail. But the alternative criticism that is made is that Government doesn’t listen enough to the sector, that the Government has made its mind up already. We have done our very best to make sure that we continue to work alongside those voices in the industry, and there have been many of them, who have been willing to help us to shape that legislation.

Sometimes, things are not nailed down in every particular, because you want to make sure that the industry has a continuing opportunity to help us to make sure that the Bill is as workable as possible, as simple and effective as possible.

³² LJC Committee, 20 January 2025, RoP [14]

³³ LJC Committee, 20 January 2025, RoP [15]

³⁴ LJC Committee, 20 January 2025, RoP [15]

³⁵ Written evidence from Wales Tourism Alliance

Sometimes, you need to wait to have those conversations, and to use the powers when they're mature. That's what I think we are trying to do here. So, I don't think it is a fair criticism, and I think if we'd done it the opposite way, you might have had a different criticism from the alliance that we'd gone ahead and legislated without taking into account their views.”³⁶

30. We followed-up on matters related to public consultation and asked the Cabinet Secretary why the Welsh Government did not consult on a draft version of the Bill. The Cabinet Secretary stated that he “didn't think there was a strong case for a draft Bill, given that this is a matter that had been under consideration in the Senedd for over a decade”. He went on to say:

“There was nothing in the Bill that was likely to come as a surprise to the sector, given the nature of the consultation and the engagement that we'd had with it. So, I didn't feel that the case for a draft Bill was made in this case.”³⁷

The Scottish experience

31. We also asked the Cabinet Secretary if the Bill, and the Welsh Government's overall policy approach, had been informed by the experiences in Scotland and the *Visitor Levy (Scotland) Act 2024*. The Cabinet Secretary responded:

“Certainly the Bill has been informed by the Scottish experience, and Welsh Government officials were able to meet with their counterparts in Scotland on a monthly basis during the passage of the Visitor Levy (Scotland) Act. (...)

I think you can see both similarities and differences between our approach and the approach in Scotland as a result of that engagement.

In terms of similarities, for example, it's a permissive power in Scotland as it is in Wales. It's just for those local authorities that want to take it up. There are consultation obligations for those local authorities to fulfil before they introduce a local tourism levy. And in Scotland, the Bill makes it clear that funds that are raised through the levy must be reinvested in local facilities and services used by visitors. That's the form of words used in the

³⁶ LJC Committee, 20 January 2025, RoP [61] and [62]

³⁷ LJC Committee, 20 January 2025, RoP [18]

Scottish legislation, and that's paralleled in our obligation on local authorities to reinvest the money in destination management and the tourism experience."³⁸

32. The Cabinet Secretary also highlighted the differences between the Bill and the Scottish Visitor Levy Act. He said:

"So, in Wales, the consultation, as I say, wanted there to be a national scheme, albeit locally delivered. In Scotland, there is simply a local scheme. It's for local authorities to administer, there's no central collection as there will be through the Welsh Revenue Authority in Wales. We set the rates on the face of the Bill. There are no rates in Scotland; it's for each local authority to determine its own rate, and it's not expressed in Scotland as a sum of money—it's expressed as a percentage of the bill that somebody would otherwise be paying.

And it has quite a complex set of possibilities. In Wales, a whole local authority has to opt in. In Scotland, you can opt in and then only parts of a local authority area will be covered by the levy. You can have different rates for different parts of the year. You can have different rates for different parts of a local authority. You can choose different rates for things like the Edinburgh festival if there's a particular event on. And all of this inevitably makes the levy more complex in Scotland, and would cut against the advice that we received in consultation."³⁹

The United Kingdom Internal Market Act 2020

33. In its latest annual report, the Office for the Internal Market (OIM) identified tourism measures (including visitor levies and licensing of short-term lets) as an area of regulatory development that is affecting, or had the potential to affect, the UK internal market.⁴⁰ In our letter to the Cabinet Secretary on 23 January 2025, we asked if he had had any discussions with the OIM on this issue or, if not, what are his views on the OIM's comments. The Cabinet Secretary responded:

"We have not had any discussions with the Office for the Internal Market specifically about the visitor levy. We are proposing is a local discretionary tax power for principal

³⁸ LJC Committee, 20 January 2025, RoP [21] and [22]

³⁹ LJC Committee, 20 January 2025, RoP [23] and [24]

⁴⁰ Office for the Internal Market, [Annual report on the operation of the UK internal market 2023 to 2024](#), March 2024

*councils to use or not use. Local taxes are a devolved matter where we can legislate.*⁴¹

34. The Cabinet Secretary also told us that no concerns had been drawn to his attention that any provisions in the Bill could be impacted by the operation of the *United Kingdom Internal Market Act 2020* (the UK Internal Market Act).⁴²

Balance between the detail on the face of the Bill and delegated powers

35. We believe that the Bill contains 22 powers for the Welsh Ministers to make regulations, orders and guidance. These powers are summarised in tables 5.1 and 5.2 of the EM.

36. As noted in Chapter 1 of our report, the Cabinet Secretary has issued a Statement of Policy Intent which outlines how the Welsh Government currently intends to use the delegated powers contained in the Bill.

37. It is our understanding that there are 14 specific powers proposed in the Bill which may be used by the Welsh Ministers to amend primary legislation ("Henry VIII" powers), as follows:

- section 2(5) permits the amendment of section 2 to vary the meaning of "visitor accommodation" for the purposes of the Bill;
- section 4(5) permits the amendment of section 4(2) to revise the mandatory information to be included in the register of visitor accommodation providers operating in Wales that the Welsh Ministers are obliged to maintain under section 4(1);
- section 5(2) permits the exemption of certain visitor accommodation providers from the requirement to register under section 5(1), and subsection 3(b) specifies that such exempting regulations may amend the provisions of the Bill;
- section 9(5) permits the amendment of section 9 to vary the circumstances in which an overnight stay in visitor accommodation is deemed to take place for the purposes of the visitor levy;

⁴¹ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 10

⁴² Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 11

- section 12(2) permits the variation of rates of the visitor levy specified in section 12(1);
- section 13(4) permits the amendment of which overnight stays are subject to the lower, higher or nil rates of the levy as set out in subsections (1) to (3);
- section 15(6) permits the variation of circumstances in which a person is entitled to request a refund of amounts paid equivalent to the levy (including the list in section 15 of “qualifying” disability benefits);
- section 17(3)(a) permits the variation of the threshold in section 17 at which a visitor accommodation provider becomes required to make quarterly returns to the WRA in respect of the levy (instead of annual returns);
- section 24(4) permits the variation of section 24 in connection with principal council’s reporting obligations in relation to the levy;
- section 31 permits the amendment of any provision made by an enactment relating to the levy about cases where persons carry on business in partnership or as an unincorporated body;
- section 33(1) permits the amendment of any provision made by an enactment relating to the levy about cases concerning death, incapacity and insolvency;
- section 34(1) permits the amendment of any provision made by an enactment in connection with its application to the levy in the circumstances where a business is transferred as a going concern;
- section 40 permits the Welsh Ministers to “extend” the provisions of the Bill relating to registration and the levy “in respect of berths and moorings provided for vessels”; and
- section 41(1) permits the making of incidental, supplementary, consequential, transitional or saving provision in connection with the provisions of the Bill, including the ability to amend any enactment.

38. The majority of these powers will be subject to the draft affirmative scrutiny procedure if used. However, as currently drafted, the Bill will enable the Henry VIII powers in sections 17(3)(a) and 24(4) to be subject to the negative procedure.

39. In addition, section 42(2)(b) provides that any regulation-making power in the Bill includes power to make incidental, supplementary, consequential, transitional or saving provision (which includes the ability to amend any enactment).

40. Given the breadth of considerable powers being delegated to the Welsh Ministers in the Bill, we asked the Cabinet Secretary to confirm what consideration had been given to that balance of power and were there any exceptional reasons for there being so many delegated powers in the Bill. The Cabinet Secretary responded:

“I think there’s a great deal of information on the face of this Bill—the register, the parameters of the Bill, the amount of money that can be charged and so on. All of that is on the face of the Bill. The secondary legislative powers, almost all of which are subject themselves to further Senedd scrutiny, are mostly in the area of futureproofing the Bill. They’re there to make sure that, as we develop this policy, and that policy meets the dynamic nature of the industry, we don’t have to revert to primary legislation every time we need to respond to that sort of development. So, the essential reason why there are ministerial regulation-making powers is to make sure that the Bill continues to be effective into the future while providing the Senedd itself, the legislature, with the ability to scrutinise and vote upon the use of those powers.”⁴³

Indicative additional registration provisions shared with Senedd Committees

41. As we note above in Chapter 1, following introduction of the Bill on 25 November 2024, the Cabinet Secretary wrote to the Finance Committee on 26 November 2024 enclosing “indicative additional registration provisions” stating it was his intention to table these provisions as amendments at Stage 2. In the letter the Cabinet Secretary further states that these provisions, together with the Statement of Policy Intent, “are provided to support the Committee’s scrutiny of the Bill”⁴⁴.

42. The provisions referred to establish a system of financial penalties for visitor accommodation providers failing to comply with the requirement to register in section 5(1) of the Bill or failing to provide information to correct inaccuracies in

⁴³ LJC Committee, 20 January 2025, RoP [57]

⁴⁴ Letter from the Cabinet Secretary for Finance and Welsh Language to the Finance Committee, 26 November 2024

the register. The draft provisions would provide for the calculation of those penalties, their assessment, payment, appeals and further proposed regulation-making powers for the Welsh Ministers to make provision in relation to the penalty amounts or the procedure for their assessment.

43. The Cabinet Secretary told the Finance Committee⁴⁵ that it hadn't been possible to include those additional provisions when the Bill was introduced, so had to be done after the fact.

44. We asked the Cabinet Secretary why the introduction of the Bill was not therefore delayed until such provisions could be fully incorporated into the Bill introduced to the Senedd.

45. The Cabinet Secretary told us there were reasons why the Welsh Government didn't do that. He said the Bill was connected to a further Bill that will create a licensing system, and it was important to him that the second Bill was safeguarded. The Cabinet Secretary added that, in his view, the best way to do that was to move the powers to create the register into this Bill. He told us that it wasn't possible for the Welsh Government to complete all of the work before it sent the Bill to the Llywydd, but that he didn't want to see more delays because that would create problems for the Government in trying to get both Bills through in the time remaining in this Sixth Senedd.⁴⁶

46. As regards the draft Bill provisions shared with the Finance Committee the day after the Bill was introduced, the Cabinet Secretary confirmed his 'thought process', stating he considered it was better for the Finance Committee to see what the Welsh Government had prepared and for the Government to be clear on its intentions.⁴⁷

47. Again as regards the draft Bill provisions, we asked if they have been through the same process of assessment as they would have gone through had they been introduced as part of the original Bill. The Cabinet Secretary told us that the Welsh Government has gone through that process fully, but the work was not reflected in the EM laid with the Bill on its introduction. The Cabinet Secretary confirmed that, should the provisions be accepted if and when tabled during Stage 2 proceedings, the EM would be revised and laid before the Senedd.⁴⁸

48. We noted that, within these draft Bill provisions, is a new proposed Henry VIII power to make regulations providing for the sums of the financial penalties and

⁴⁵ Finance Committee, 5 December 2024, RoP [143]

⁴⁶ LJC Committee, 20 January 2025, RoP [32]

⁴⁷ LJC Committee, 20 January 2025, RoP [33]

⁴⁸ LJC Committee, 20 January 2025, RoP [35]

the procedures related to them. The power would also permit the making of “different” provision in respect of the amounts of penalties and their assessment. We asked the Cabinet Secretary to tell us what scrutiny procedure he is going to recommend for these new powers. The Cabinet Secretary confirmed it would be the draft affirmative procedure.⁴⁹

49. Again, as noted earlier in our report, the Cabinet Secretary has also written to the Finance Committee outlining further amendments in relation to data sharing that he intends to work on ahead of Stage 2, which included a reference to a further regulation-making power in relation to disclosures from the register. We asked why these additional powers are needed, and also asked for confirmation of which of the Senedd’s scrutiny procedures would be applied. The Cabinet Secretary responded that the powers in the Bill will enable data to be shared where it is helpful.⁵⁰ He stated:

“I think the most obvious example is in the relationship between the register and the licensing scheme. Accommodation providers will register now as part of this Bill. You would not want businesses who have gone to the trouble of doing all of that to have to provide exactly the same information for the licensing Bill. So, this will allow the data that is collected for the purpose of this Bill, in those circumstances, to be shared for the other purpose, to avoid businesses having to simply duplicate the information they have provided already.”⁵¹

50. The Cabinet Secretary again also confirmed that the intention is for the draft affirmative procedure to apply to the powers in these proposed Bill provisions.⁵²

Our view

51. We note the Cabinet Secretary’s evidence regarding the development of the Bill. We also note that the Bill’s development has been informed by the Scottish experience, and that a different approach to that contained within the *Visitor Levy (Scotland) Act 2024* is adopted in the Bill.

52. We acknowledge that the Welsh Government undertook public consultations on its proposals to provide discretionary powers for local authorities

⁴⁹ LJC Committee, 20 January 2025, RoP [39]

⁵⁰ LJC Committee, 20 January 2025, RoP [41]

⁵¹ LJC Committee, 20 January 2025, RoP [42]

⁵² LJC Committee, 20 January 2025, RoP [43]

to apply a visitor levy in their areas and on proposals for a statutory registration and licensing scheme for visitor accommodation in Wales.

53. The Cabinet Secretary will be aware of the Committee’s longstanding preference for government to consult on draft legislation, as opposed to singularly consulting on policy proposals; policy proposals which, in this case, were not all subject to public consultation. Consultation on a draft Bill would have given stakeholders and Members of the Senedd the opportunity to assess how the Welsh Government planned on translating policy proposals and changes into legislative provision. In our view, consulting on a draft Bill is equally as important as consulting on the policy intentions; they represent different but important components of developing legislation and should be built into the Welsh Government’s legislative timetable. Consulting on a draft Bill should result in better, more fully thought through legislation, which in turn should enhance the likelihood of delivering the Welsh Government’s desired policy outcomes.

54. We note that, in its latest annual report, the OIM identified tourism measures (including visitor levies and licensing of short-term lets) as an area of regulatory development that is affecting, or had the potential to affect, the UK internal market. While we acknowledge that no concerns have been drawn to the Cabinet Secretary’s attention concerning whether any provisions in the Bill could be impacted by the operation of the UK Internal Market Act, we also note that the Cabinet Secretary has not had any discussions with the OIM specifically about the visitor levy. Given the OIM’s known view about the regulatory development concerning tourism measures, including visitor levies, we are unclear why the Cabinet Secretary has not held specific discussions with the OIM about the Bill to ensure the legislation is effective in delivering its objectives.

Recommendation 3. The Cabinet Secretary should confirm whether, in preparing the Bill for introduction, the Welsh Government considered the Office for the Internal Market’s Annual report on the operation of the UK internal market 2023 to 2024, specifically its views that tourism measures (including visitor levies and licensing of short-term lets) are an area of regulatory development that is affecting, or has the potential to affect, the UK internal market.

55. As we highlight above, we believe the Bill contains 22 powers for the Welsh Ministers to make regulations, orders and guidance; it is our understanding that 14 of these are Henry VIII powers. In our view, the breadth of powers being delegated to the Welsh Ministers in the Bill is considerable.

56. We note the Cabinet Secretary’s comments that the delegated powers “are mostly in the area of futureproofing the Bill”. The Cabinet Secretary will again be

aware of the Committee's long-standing view that seeking delegated powers in a Bill for the purpose of future-proofing for unknown reasons is not, in and of itself, an appropriate justification to take executive powers. The intentions of the current Welsh Ministers will be taken into consideration when the Senedd is assessing powers being sought in a Bill, but the Cabinet Secretary will know that the Committee always considers how any future government may use such powers.

57. We discuss specific delegated powers in the Bill in more detail in Chapter 4 of our report.

58. We note that, the day after the Bill was introduced, the Cabinet Secretary wrote to the Finance Committee enclosing draft Bill provisions relating to registration which he intends to table as amendments should the Bill reach Stage 2. We also note that the Cabinet Secretary wrote again to the Finance Committee in January, outlining further amendments in relation to data sharing that he intends to bring forward at Stage 2.

59. We acknowledge the spirit within which the draft provisions for Stage 2 amendments have been shared with Senedd Committees and welcome the Cabinet Secretary's good intentions. Nonetheless, we are concerned that the Welsh Government's legislative programme has become dysfunctional and that this is impacting negatively on Senedd scrutiny of proposed primary legislation. Our reasoning for reaching this conclusion is set out below.

60. In our view, it is clear that the Welsh Government was not ready to introduce the Bill to the Senedd.

61. As a result of significant policy decisions not being reflected in the legislation on introduction, the Bill instead contains wide powers, some of which the Cabinet Secretary has conceded will be removed from the Bill or altered at Stage 2. We are concerned that this approach denies the Senedd its role in fully considering all relevant matters and a coherent package or reforms during Stage 1 scrutiny. Furthermore, it limits the opportunity for stakeholders to respond to the Government's proposals.

62. The Cabinet Secretary told us that he did not want to see more delays to this legislation because he was concerned it would create problems for the Welsh Government in trying to get this Bill and the second Bill that will create a licensing system through in the time remaining in this Sixth Senedd.

63. Unfortunately, the timing pressures now facing the Welsh Government as a whole - which it is responsible for - are leading to sub-optimal and under-developed proposals in government Bills and, as a consequence, directly

impacting Senedd scrutiny of government-proposed legislation. We understand that the Cabinet Secretary likely shared the draft provisions as a way of potentially mitigating these impacts on the Stage 1 scrutiny process. However, we believe the Senedd's legitimate role in scrutinising legislation proposed by the Welsh Government would be best served by having fit-for-purpose, fully-formed Bills introduced to the Senedd.

64. We are of the view that introducing a Bill to the Senedd which is not fully formed - as is particularly noticeable with sections 7, 37 and 40 - represents poor practice.

65. This is a Bill that covers matters of taxation. We have set out our views on such matters in our reports on the Welsh Tax Acts etc. (Power to Modify) Bill⁵³ and the Local Government Finance (Wales) Bill⁵⁴; we draw these to the attention of the Senedd.

66. There are a number of provisions in the Bill that will be impacted by the unsatisfactory approach taken by the Welsh Government. We discuss these issues in more detail in Chapter 4.

⁵³ Legislation, Justice and Constitution Committee, [Report on the Welsh Tax Acts etc. \(Power to Modify\) Bill](#), April 2022

⁵⁴ Legislation, Justice and Constitution Committee, [Report on the Local Government Finance \(Wales\) Bill](#), March 2024

4. Specific observations on particular Parts and sections of the Bill

67. The Bill comprises 45 sections and a Schedule, and it is split into four Parts.

Part 2 – Register of visitor accommodation providers

68. Part 2 of the Bill (sections 4 to 7) provides for the mandatory registration of visitor accommodation providers in Wales and requires the Welsh Ministers to keep a register of those providers.

69. Section 5 of the Bill places a duty of visitor accommodation providers to be registered. During the Committee’s discussion with the Cabinet Secretary on 20 January 2025 we were told that, should a visitor accommodation provider exclusively offer stays of more than 31 nights in duration, such a provider would not be subject to the mandatory registration requirement in section 5(1) of the Bill in respect of that accommodation.⁵⁵

70. In our letter to the Cabinet Secretary on 23 January 2025, we asked the Cabinet Secretary to explain whether and how section 5(1) of the Bill, when read with section 2(1), adequately captures this policy intention, given that the types of visitor accommodation listed in paragraphs (a) to (d) in the definition of “visitor accommodation” in section 2(1) do not explicitly reference being made available for stays of 31 nights or less.⁵⁶ The Cabinet Secretary responded:

“The visitor accommodation listed in sections (a)-(d) are ‘typical’ visitor accommodation. They have the typical characteristics of visitor accommodation and are generally provided to visitors. We recognise that these visitor accommodation types are unlikely to provide stays longer than 31 nights (and if they do it would often be by exception), and therefore it was not necessary to apply the ‘short-term basis’ criteria to (a)-(d).”⁵⁷

71. The categories listed under paragraphs (e)-(g) in section 2(1) are likely to offer longer-term accommodation and may only provide this type of longer-term accommodation. For example, visitor accommodation in a room share provided to someone who is working in an area for a prolonged period. This may be the

⁵⁵ LJC Committee, 20 January 2025, RoP [94] and [95]

⁵⁶ Letter to the Cabinet Secretary for Finance and Welsh Language, 23 January 2025, question 1

⁵⁷ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 1

only type of accommodation which is being provided and without application of the short-term basis criteria there would be a requirement to register, even though the visitor in this sense is occupying the accommodation on a more permanent basis.⁵⁸

72. Section 6 makes provision enabling the Welsh Ministers to publish information that is derived from the register “in such manner as they consider appropriate”.

73. We asked whether information regarding people providing accommodation in their own homes - Airbnb’s, for example - would be noted in the public register. The Cabinet Secretary responded:

“No. It’s a good question. The register will be a public document, but not everything will be included in it publicly. Especially when people provide accommodation for people in their own homes, I don’t think that will be something that we’ll want to make publicly available to everyone. So, the majority of the register will be public, and people will be able to see it, but for certain things that are more specific to individuals, we will have exemptions for those kinds of pieces of information. They won’t be publicly available to everyone.”⁵⁹

74. An official accompanying the Cabinet Secretary added:

“In terms of the full data, part of the goal of the register is to have that data. That’s one of the key aspects right now. I think we reference it quite a lot in the explanatory memorandum and regulatory impact assessment that the data isn’t great about the accommodation sector, and the value added by the register is that we will have accurate data. But in terms of what components of that become public, we’re really conscious of, obviously, not providing too much private information, and so there’s going to be a fairly thoughtful way of making sure that we’re not revealing too much private information, but at the same time being able to use that data for policy purposes is really important. So, we’re trying to strike that balance.”⁶⁰

⁵⁸ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 1

⁵⁹ LJC Committee, 20 January 2025, RoP [45]

⁶⁰ LJC Committee, 20 January 2025, RoP [48]

75. Section 7 contains an extensive regulation-making power for the Welsh Ministers to make registration provision, including registration procedure, disclosure of information and enforcement. Given the Welsh Government is developing further provisions in relation to enforcement in readiness for Stage 2, we asked the Cabinet Secretary to provide clarity as regards section 7 as currently drafted. The Cabinet Secretary responded:

“... the Government has published, made available, clauses that we will intend to introduce as Stage 2 amendments. If those amendments succeed, then, instead of the regulation-making power that is currently in the Bill and is there, let’s be frank, as a placeholder, because unless you have a reference to these matters on the face of the Bill, you’ve got nothing to amend—. But the Government’s intention is to amend those powers to put these matters on the face of the Bill, rather than to deal with them by regulation.”⁶¹

76. The Cabinet Secretary went on to say:

“I know that some of the concerns that have been raised are that, as the Bill currently is drafted, it might give Ministers the power by regulation to introduce criminal offences where the register requirements are not complied with. Just to be clear with the committee that the clauses that the Government intends to introduce at Stage 2 will not create criminal offences. My decision has been that you need to make the penalty proportionate to the nature of the harm, and that it is better that where these provisions are not complied with you must have a penalty, but it will be a civil penalty, it will be a monetary penalty and will not, if the Stage 2 amendments succeed, result in a criminal offence having been committed.”⁶²

77. In our letter to the Cabinet Secretary on 23 January 2025 we asked him, should the Bill be passed and enacted, when does he envisage the registration provisions in Part 2 of the Bill and the accompanying subordinate legislation being fully in force. The Cabinet Secretary responded:

“Part 2 of the Bill shall come into force via orders made by statutory instrument. We intend to commence Part 2 by principal council area so that we can phase the introduction of

⁶¹ LJC Committee, 20 January 2025, RoP [64]

⁶² LJC Committee, 20 January 2025, RoP [65]

registration across Wales, prioritising those areas that intend to use a visitor levy first and then areas which have a higher proportion of visitor accommodation. We aim to have completed the registration roll out by 2028.”⁶³

Part 3 – Visitor levy

78. Part 3 of the Bill (sections 8 to 38) grants principal councils in Wales the power to introduce in their areas the levy on overnight stays in visitor accommodation, and introduces Schedule 1 to the Bill.

79. Schedule 1 to the Bill makes a series of amendments to the *Tax Collection and Management (Wales) Act 2016* (“the TCMA”). The TCMA established a framework for the collection and management of devolved taxes in Wales by the Welsh Revenue Authority (WRA), which became operational in April 2018. The provisions in Schedule 1 extend the functions of the WRA so that its remit also includes collection and management of the levy.

80. Section 9 defines an overnight stay in visitor accommodation. Subsection (5) contains a Henry VIII regulation-making power for the Welsh Ministers to amend the circumstances in which an overnight stay in visitor accommodation takes place and whether the levy is chargeable. We asked the Cabinet Secretary why he thinks this power is necessary and appropriate. The Cabinet Secretary responded:

“In general... you need to futureproof the operation of the Bill. There are two powers in the Bill that are closely related, but different. The power to which Laura Anne Jones refers is where you would want to make sure that where there is existing accommodation the people occupying it are not made subject to the visitor levy. So, if I could give you just one practical example with which I was very familiar, since Russia declared war on Ukraine, we have had thousands of people come to live here in Wales. It was the view of the Welsh Government, and, indeed, the view of the Senedd, that we should do everything we could to welcome those people to Wales and to create circumstances in which they could be resettled here in the most helpful way. One of the ways that we did that at the height of the numbers of people coming to Wales was to take over a number of holiday parks across Wales, holiday parks with self-contained accommodation, and to use that

⁶³ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 12

*accommodation for the reception of people coming to Wales from Ukraine. Now, in the normal course of events, people staying in a holiday park, in a self-contained chalet, for example, will be subject to a visitor levy, but you wouldn't want people coming from elsewhere in the world for purposes of resettlement to be charged a visitor levy. So, what this power does is it would allow you to redesignate existing visitor accommodation as not being subject to the levy should you need it in those sorts of circumstances. So, it's a futureproofing part of the Bill, and it's designed to make sure that we can respond to changing uses of existing accommodation."*⁶⁴

81. Section 12 of the Bill sets out the rates of the levy, as follows:

- a. the lower rate is £0.75,
- b. the higher rate is £1.25, and
- c. the nil rate is £0.

82. Subsection (1) also provides for these rates to be subject to a premium rate' provision for which is made in section 14. Subsection (2) enables the Welsh Ministers to amend the lower and higher rates using regulations subject to the draft affirmative scrutiny procedure.

83. In written evidence to the Committee, the Wales Tourism Alliance suggests that the Welsh Government should not use proposed powers to change the rates of the levy for a set period to allow the system to bed in.⁶⁵ We asked the Cabinet Secretary whether he would be willing to seek to amend the Bill to give effect to that suggestion. The Cabinet Secretary said:

"... I'm willing to listen carefully to what the committee says on that. It's not the intention of the Government that those sums of money should be changed rapidly. There'll come a point, if you don't change them, when inflation will erode them and their real value will be reduced and you will need to uprate them in line with inflation. And inflation itself can happen more quickly than was anticipated. But if the committee feels that there is a strong case for a short set period in which those sums of money

⁶⁴ LJC Committee, 20 January 2025, RoP [69]

⁶⁵ Written evidence from Wales Tourism Alliance

could not be changed, then I'm very happy to listen carefully to what the committee concludes.”⁶⁶

84. In relation to the power in section 12(2), the Cabinet Secretary added:

“The intention of the power, as drafted, is to allow us simply to keep the current levels, to sustain their real value, not in order to be able to increase them.”⁶⁷

85. Section 13 makes provision relating to determining which rate will apply to an overnight stay in visitor accommodation.

86. Section 13 contains a Henry VIII regulation-making power for the Welsh Ministers to vary the types of overnight stay that will attract the lower, higher or nil rate of the levy. We asked the Cabinet Secretary to explain why these powers are necessary. The Cabinet Secretary told us that section 13 looks to the future and gives powers to the Ministers to respond to the possibilities that new things will arise. He said that section 13 gives powers to the Welsh Ministers to respond to the nature of the business when the nature of that business changes.⁶⁸

87. An official accompanying the Cabinet Secretary added:

“The intention with the lower rate, for example, is to try and have the lower rate for those types of accommodation that are the lowest cost, and, in the future, there might be some other accommodation; we might get policy evidence that's coming through that there might be other accommodation that might fall into that category, and it might be an appropriate thing to include, therefore, that type of accommodation within that lower rate category. Or, for example, there might be situations where we're understanding about how, potentially, homeless people are housed in certain ways, and we want to make sure we're accommodating those within the nil rate category, where the intention is not for homeless people who are housed by local authorities in certain situations to be subject to the visitor levy. So, we want to allow for some flexibility to futureproof in those circumstances, and so that's what the intention is with that. It's also related to documentation that the Welsh Revenue Authority may need, and that's also included in this. So, there

⁶⁶ LJC Committee, 20 January 2025, RoP [75]

⁶⁷ LJC Committee, 20 January 2025, RoP [78]

⁶⁸ LJC Committee, 20 January 2025, RoP [81]

might be situations where the Welsh Revenue Authority may require different types of documentation, and that's also included in the regulations."⁶⁹

88. Another official accompanying the Cabinet Secretary added:

"I suppose it's the concept of visitor accommodation not being used as you would normally expect visitor accommodation to be used. So, the key nil rate we've got in the Bill at the moment relates to those homelessness-related stays, but, of course, in the future, there may be other uses that we simply can't account for at this moment in time where we would wish the legislation to reflect that.

And then there's another concept within here—another regulation power—that relates to exemption vouchers. Now, that is a manner in which a voucher can be provided via either the WRA or the council to an individual that would qualify them for a nil rate, without them having to disclose any particular sensitive information in that scenario. So, again, that just comes back to futureproofing. Should that need emerge, there is a power there to make sure that happens."⁷⁰

89. As noted above in paragraph 82, section 14 of the Bill will permit a principal council to charge a premium on the rates of the levy and creates a power for the Welsh Ministers to specify the maximum amount of that premium. We asked the Cabinet Secretary why he doesn't intend to specify on the face of the Bill a maximum amount for that premium, a percentage above the higher levy rate, for example.

90. The Cabinet Secretary told us his view that the relationship between this Welsh Government and local authorities was at the heart of the Bill. He said the relationship he wanted to see is one where there is a great deal of trust, and that he felt that the Government could depend on local authorities to use the powers they will have in a reasonable way. The Cabinet Secretary also said that the Welsh Ministers would have the power to step in if things don't turn out as he would have wished.⁷¹

⁶⁹ LJC Committee, 20 January 2025, RoP [82]

⁷⁰ LJC Committee, 20 January 2025, RoP [83] and [84]

⁷¹ LJC Committee, 20 January 2025, RoP [86]

91. The Cabinet Secretary also told us that he believes it is currently possible, with the Bill as drafted, for local authorities to consult at the same time on both wanting to use the power to introduce a visitor levy and the power to have a premium rate. He said he wants to consider an amendment at Stage 2 so that cannot happen.⁷²

92. We noted that there are currently no details in the Bill at present regarding potential complaints from local members of the public or a community council, for example, where they feel that someone who should have registered is not registered. We also noted that no information has been provided about the complaints procedure. We asked what powers and procedures will the WRA follow if a complaint is made that someone is not on the register. We also asked if the Cabinet Secretary intends to share those draft procedures during the Stage 1 scrutiny process, and is it his intention to add to the face of the Bill the provisions giving effect to these procedures.⁷³ The Cabinet Secretary wrote to us on 17 February 2025 stating:

“The mechanism for gathering public intelligence in relation to the national register of visitor accommodation will be part of the future development of the register. No powers are required to be on the face of the Bill to facilitate this.”⁷⁴

93. Section 17 deals with a visitor accommodation provider making annual or quarterly returns.

94. Section 17(3)(a) contains a Henry VIII regulation-making power for the Welsh Ministers to amend section 17 in relation to the annual return threshold amounts. As we highlight in Chapter 2, this power is subject to the negative scrutiny procedure. We asked the Cabinet Secretary why he concluded that this is the appropriate procedure for the use of this power. The Cabinet Secretary responded:

“Because I think it is entirely operational, Chair. So, the Bill provides that if you collect less than £1,000 in the visitor levy, you are able to provide an annual return or a quarterly return. Just as we were talking earlier about needing to sustain the real value of that £1,000 threshold, at some point in the future we will need to come forward with a new threshold. I did not myself think that it was necessary to have a debate and a vote on the floor of the Senedd to keep the real value of the £1,000

⁷² LJC Committee, 20 January 2025, RoP [87] and [88]

⁷³ LJC Committee, 20 January 2025, RoP [90]

⁷⁴ Letter from the Cabinet Secretary for Finance and Welsh Language, 17 February 2025

threshold every time you move it to £1,050, and so on. So, I think, in that sense, it is just a power to keep what's in the Bill real for the future.”⁷⁵

95. Section 21 of the Bill introduces Schedule 1. As we note above in paragraph 79, Schedule 1 makes a series of amendments to the TCMA.

96. Paragraph 5 of Schedule 1 includes a new permitted disclosure of protected taxpayer information for the purposes of the WRA’s functions. This is wider than disclosure in relation to the levy. In our letter to the Cabinet Secretary on 23 January 2025, we asked for an explanation as to why this is necessary. The Cabinet Secretary responded:

“The proposed change will widen the WRA’s permitted ways they can disclose Protected Taxpayer Information (PTI) to instances where this information can be shared in accordance with the WRA’s general functions, namely the collection and management of devolved taxes and the visitor levy. This amendment to the TCMA is necessary to effectively administer the visitor levy as well as the collection and management of the devolved taxes.

It has been identified over the WRA’s 8 years of operation that there are certain scenarios where they are unable to communicate effectively with taxpayers about their cases due to restrictions on sharing PTI.

Being able to make disclosures of this nature will assist the WRA in its day-to-day operation of the levy and its existing taxes. This brings WRA in line with HMRC. The Information Commissioner’s Office have been consulted on the proposed change and are content with the rationale for this change to be made to TCMA as a whole rather than just for the visitor levy. The full explanations and rationale for this change are stated in the Data Protection Impact Assessment that has been published alongside the Bill.”⁷⁶

97. Paragraph 17 of Schedule 1 removes an existing requirement for WRA to seek the approval of the tribunal before issuing a taxpayer notice requiring taxpayers to

⁷⁵ LJC Committee, 20 January 2025, RoP [100]

⁷⁶ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 7

provide information or documents. We also asked the Cabinet Secretary why he has chosen to remove that element of taxpayer protection in this Bill. The Cabinet Secretary told us:

“This Bill will remove the requirement for the WRA to seek tribunal approval before issuing a taxpayer notice in relation to the devolved taxes and the visitor levy. This will improve the efficiency of administration of all taxes the WRA collects and manages. The decision to issue an information notice will still be an appealable decision to ensure appropriate checks and balances are still in place. This brings the WRA’s powers in line with HMRC’s.”⁷⁷

98. Section 24 will require a principal council to report on the use of proceeds of the levy. Section 24(4) contains a Henry VIII regulation-making power which, if exercised, will be subject to the negative scrutiny procedure. We asked the Cabinet Secretary why the negative procedure was deemed appropriate. The Cabinet Secretary responded:

“Chair, essentially, the negative procedure is chosen here because the use of this power that we envisage is if a local authority needs a brief extension of a week or so in order to comply with the timetables that the Bill sets out, and I wasn’t sure that the Senedd would expect to hear that and to vote upon whether or not to allow that to happen. This clause, though, does go beyond that and would allow changes to the way in which local authorities report on the levy that is raised. And, again, I’m very willing to think carefully about points that the committee might want to make. I would need a lot of persuasion that section 17(3)(a) and 17(3)(b) would need to be subject to the draft affirmative procedure. I think there is a more closely balanced argument in relation to section 24(4) and I look forward reading what the committee concludes on that.”⁷⁸

99. Section 25, along with section 26, sets out the consultation requirements that will be placed on a principal council before introducing, changing or abolishing the levy.

⁷⁷ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 8

⁷⁸ LJC Committee, 20 January 2025, RoP [102]

100. Section 25(9) provides that steps taken before the section comes into force may satisfy the requirements of the section. Section 25 comes into force on the day after Royal Assent. In our letter to the Cabinet Secretary on 23 January 2025 we asked whether section 25(9) would effectively allow principal councils to be taking the steps required by section 25 now, on the assumed basis that these provisions will become law. The Cabinet Secretary responded:

“Undoubtedly principal councils would want certainty that any spend they undertake is not wasted effort nor money. Therefore, we would anticipate principal councils waiting until conclusion of the Bill process before undertaking or preparing to undertake any formal consultation, ultimately though it is a decision for each council to take based on their own advice.”⁷⁹

101. Section 37 provides an extensive regulation-making power to the Welsh Ministers to impose advertising and billing requirements on visitor accommodation providers, including the ability to impose civil sanctions and appeal provisions. In the Statement of Policy Intent, this power is described as “intentionally wide”. In our letter to the Cabinet Secretary on 23 January 2025 we asked why the Government did not develop policy on these matters and include detailed provision on the face of the Bill rather than seeking an ‘intentionally wide’ power. The Cabinet Secretary stated:

“We recognise that it is highly likely that visitor accommodation providers would pass on the levy to visitors. This is an intended effect as an indirect tax on overnight visitor stays. Often indirect taxes like VAT or Air Passenger Duty do not have provisions that require a tax to be passed through but they are passed on to consumers nonetheless. We anticipate that should providers pass on the levy, they would do so in a clear manner and provide any necessary receipt or information requested by a visitor.

However, we note the risk for discrepancies in practice by providers which could lead to confusion. We have included this regulation making power should any confusion, misinformation or inaccuracies occur when providers charge the levy to visitors.

⁷⁹ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 2

We have no current intention to exercise this power, but it may be necessary in the future.”⁸⁰

Part 4 – Miscellaneous and general provision

102. Part 4 of the Bill (sections 39 to 45) makes provision about guidance issued by the Welsh Ministers in relation to the levy or registration; grants the Welsh Ministers a power to “extend” the provisions in the Bill concerning registration and the levy to berths and moorings provided for vessels; and contains general provision on interpretation, commencement, the short title of the Bill and regulations made by the Welsh Ministers under the powers proposed in the Bill.

103. Section 39 contains a power for the Welsh Ministers to issue statutory guidance on the levy or registration scheme. There is no Senedd procedure attached to this proposed power. We asked the Cabinet Secretary why it is appropriate for the Government to issue statutory guidance without Senedd scrutiny. The Cabinet Secretary told us:

“The power to issue guidance is intended to facilitate the operation of the primary legislation. The guidance will largely be concerned with operational process and as such, Senedd scrutiny will have already taken place. It will clarify aspects of the law, not replace them. Guidance generally is not required to be subject to Senedd scrutiny. We will also be consulting before issuing guidance to ensure the views of stakeholders are reflected which ensures sufficient scrutiny.”⁸¹

104. As noted above, section 40 contains an extensive Henry VIII regulation-making power that will permit the Welsh Ministers to amend the Bill (if and when enacted) and to amend the TCMA so that Parts 2 and 3 of the Bill may be applied, with or without modifications, to berths and moorings provided for vessels. There is little to no information in the EM explaining the reasoning behind including this extensive power in the Bill, nor was the application of the visitor levy to berths and moorings explored during the Welsh Government’s consultation on its proposals.

105. The Committee has previously expressed concerns over the extent of subordinate legislation powers used by the Welsh Government in relation to devolved taxation. In our letter to the Cabinet Secretary on 23 January 2025, we

⁸⁰ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 3

⁸¹ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 4

asked why the Welsh Government has chosen to seek a significantly broad Henry VIII power in section 40 to extend the provisions in this Bill to berths and moorings. The Cabinet Secretary responded:

“We have consulted with the marine sector during the development of the policy. It became apparent that this sector operates in a different manner to other visitor accommodation types. Therefore, we will look to continue our discussions to consider how the levy may work in the context of moorings and berths.”⁸²

106. We also asked why the Cabinet Secretary considers this approach to be more appropriate than bringing forward proposals in future primary legislation. The Cabinet Secretary told us:

“This approach will provide an opportunity to continue to discuss the proposal with the sector. Should a levy apply to the sector, we would like it to be consistent with our proposals set out in the Bill. Therefore, regulation making powers to extend the act to moorings and berthing allows for such an approach.”⁸³

107. In written evidence to the Committee, British Marine Wales expressed concern over the potential future extension of the levy, stating that the Bill “shows little understanding of the leisure marine industry and the challenges and absurdities that will arise if the levy is applied to recreational boating”⁸⁴. We asked the Cabinet Secretary if he would consider excluding recreational craft from the scope of the power in section 40. The Cabinet Secretary responded:

“We must consider the matter from a point of fairness. Is it fair for someone on a yacht moored up in a marina overnight to not pay a levy but someone staying in a nearby hotel to be subject to the levy? We recognise there would be some practical challenges in applying the levy to moorings and berths. The inclusion of regulation making powers allows for further consultation to consider these practicalities.”⁸⁵

⁸² Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 5(a)

⁸³ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 5(b)

⁸⁴ Written evidence from British Marine Wales

⁸⁵ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 5(c)

108. Under the Bill as currently drafted, the Welsh Ministers will not be required to consult before using any of the powers delegated to them. In our letter to the Cabinet Secretary on 23 January 2025, we asked if he has considered whether the Welsh Ministers should be under a statutory duty to consult before using any of the delegated powers in the Bill. The Cabinet Secretary told us:

“Where appropriate, we would intend to consult on use of regulations. However, this would be considered on a case-by-case basis, therefore we do not think it necessary to be under a statutory duty.”⁸⁶

Our view

Part 1

109. We note that section 2(1) of the Bill defines “visitor accommodation”. We also note that, for the purpose of subsection (1), subsection (3) of section 2 provides that accommodation is made available on a short-term basis if it is made available for stays of 31 nights or less. We further note that section 3(2) defines a visitor accommodation provider.

Recommendation 4. The Cabinet Secretary should explain the circumstances in which an occasional provider of visitor accommodation will need to register in accordance with Part 2 of the Bill.

110. We note that the Henry VIII regulation-making power in section 2(5) permits the amendment of section 2 to vary the meaning of “visitor accommodation” for the purposes of the Bill.

Conclusion 1. The regulation-making power in section 2(5) is a significant power. Changing the meaning of “visitor accommodation” has the potential to extend taxpayer liability under the Bill (if and when enacted), and this should be recognised by the Senedd.

Recommendation 5. The Cabinet Secretary should confirm whether the Welsh Government considered making the regulation-making power in section 2(5) of the Bill subject to a super-affirmative procedure given its potential to extend taxpayer liability.

⁸⁶ Letter from the Cabinet Secretary for Finance and Welsh Language, 5 February 2025, response to question 6

Part 2

- 111.** We note the evidence from the Cabinet Secretary regarding Part 2 of the Bill.
- 112.** We note the evidence from the Cabinet Secretary on section 5 of the Bill, particularly as regards the interplay between section 5(1) (the duty for a visitor accommodation provider to be registered) when read with section 2(1) (the meaning of a visitor accommodation provider).
- 113.** We note the evidence from the Cabinet Secretary on section 6 of the Bill. In particular, we note his comments that, while the register will be a public document, not all data captured will be included in the published version, for example where visitor accommodation is provided in someone's own home.
- 114.** While we acknowledge these comments, we are unclear how a potentially incomplete set of publicly available data will deliver the overall aim of the legislation and how it will assist in meeting the goal of ensuring an adequate system of registration.
- 115.** Furthermore, we note that the registration provisions in the Bill appear to be a work in progress, given the Cabinet Secretary's correspondence to the Finance Committee in which he states that he intends to propose amendments to the Bill at Stage 2 as regards the publication of data and data-sharing more broadly. This, again, adds to our broad concerns that the Bill as introduced reflects under-developed government policy.
- 116.** Unfortunately, in our view, section 7 of the Bill represents a clear illustration of the difficulties for the Senedd when considering legislation that is still actively under development by the Welsh Government at Stage 1.
- 117.** As we state above in paragraph 59, the apparent dysfunctionality in how proposed legislation is being organised in the Welsh Government has implications for Senedd scrutiny.
- 118.** We again acknowledge that the Cabinet Secretary was likely well-intentioned when providing to Senedd Committees advanced notice of the Welsh Government's proposals for amendments should the Senedd agree to its general principles.
- 119.** However, the Government's intention regarding a registration system has been muddied by the release of indicative drafting for new provisions shortly after Stage 1 scrutiny began.

120. For example, the Bill as introduced proposes a power to create a criminal offence; the Cabinet Secretary has since told Senedd Committees that it will be replaced with a civil penalty provision. The appropriateness of a criminal sanction versus a civil penalty are very different things for a Senedd Committee, and stakeholders, to consider when looking at proposed legislation; the Committee would ordinarily expect new criminal offences to be proposed in primary legislation only.

121. Furthermore, it is unclear to us what the Welsh Government intends in respect of section 7(d) (enforcement) given the indicative drafting for new provisions that were disclosed at the start of Stage 1.

122. We remain unclear as to whether the power to create an offence (or penalties) in section 7(d) will be retained in some form, should the Cabinet Secretary table the amendments in the form of the draft provisions that have been shared with Senedd Committees, and this is something the Cabinet Secretary should clarify before the Stage 1 debate.

123. We also note that the Cabinet Secretary told the Finance Committee that, as part of the proposals he is intending to bring forward at Stage 2 enabling the WRA to share registration data with other public bodies, the Welsh Government is looking to include a further regulation-making power via the amendment process to enable other disclosures from the register in the future. We are again unclear how this proposed power will be structured, the Senedd scrutiny procedure which will apply to it, or how it will impact on the proposed power in existing section 7(c) which already proposes a power authorising or requiring disclosure of information contained in the register.

Recommendation 6. The Cabinet Secretary should provide the Senedd with an explanation of any additional proposed power(s) the Welsh Government intends to bring forward at Stage 2 regarding the registration of visitor accommodation providers and associated data, including:

- the Senedd scrutiny procedure that the Government proposes will apply to those power(s), and
- the associated impact on the proposed powers contained in the Bill as introduced.

Recommendation 7. As a minimum, any power the Welsh Government does propose to retain in respect of imposing penalties should not be used so as to have retrospective effect.

124. As regards the coming into force of the Part 2 Bill provisions, we note that it is the Cabinet Secretary's intention to commence Part 2 by principal council area on a phased basis, prioritising those areas that intend to use a visitor levy first and then areas which have a higher proportion of visitor accommodation. We further note that the Cabinet Secretary aims to have completed the registration roll out by 2028.

125. In noting these comments, we highlight that these are the intentions of this Cabinet Secretary. We believe it is important to acknowledge that, as currently drafted, Part 2 of the Bill will come into force via orders made by statutory instrument.

126. The Welsh Government is proposing to establish a register of visitor accommodation providers. As a register will be of importance to the successful operation of a visitor levy in Wales, we believe there should be certainty in law as to when the register will be operational.

Recommendation 8. Section 44 of the Bill should be amended so that:

- Part 2 of the Bill comes into force no later than 31 December 2029, and
- the Welsh Ministers retain the ability to bring Part 2 into force at an earlier date by order.

Part 3

127. We note the evidence from the Cabinet Secretary regarding Part 3 of the Bill.

128. We note that the Henry VIII regulation-making power in section 9(5) permits the amendment of section 9 to change the circumstances in which an overnight stay in visitor accommodation takes place and, therefore, whether the levy is chargeable.

Conclusion 2. The regulation-making power in section 9(5) is a significant power. Changing the circumstances in which an overnight stay in visitor accommodation takes place and whether the levy is chargeable has the potential to extend taxpayer liability under the Bill (if and when enacted), and this should be recognised by the Senedd.

Recommendation 9. The Cabinet Secretary should confirm whether the Welsh Government considered making the regulation-making power in section 9(5) of the Bill subject to a super-affirmative procedure given its potential to extend taxpayer liability.

129. As set out above, section 12 provides for the rates of the levy and includes a regulation-making power for the Welsh Ministers to amend the lower and higher rates using regulations subject to the draft affirmative scrutiny procedure. We note the Cabinet Secretary's statements that it is not his intention that the rates will change rapidly. However, in noting these comments, we again highlight that this is the intention of this Cabinet Secretary and the current Welsh Government; this Government will not be the Government in place when a levy under these proposals is implemented.

130. We note that section 13 of the Bill contains a Henry VIII regulation-making power that will enable the Welsh Ministers to vary the types of overnight stay that will attract the lower, higher or nil rate of the levy.

131. We note the Cabinet Secretary's comments that section 13 'looks to the future' by enabling the Welsh Ministers to respond to the possibilities that new things will arise.

132. We also note that the Cabinet Secretary's officials described the power in section 13 as a way of futureproofing the legislation. One example described to us was the potential for developments in how local authorities house homeless people, and wanting to ensure that such situations are captured within the nil rate category.

Conclusion 3. While we make no comment on the policy merits or otherwise of the type of visitor accommodation that should be subject to a levy, we will again highlight that, by approving the inclusion in the Bill of section 13, the Senedd is providing a broad power to a future government whose intentions may be different from the current government.

133. We note that section 14 will permit a principal council to charge a premium on the rates of the levy.

134. We further note the positive sentiments expressed by the Cabinet Secretary which form the basis of his belief that the Welsh Government could depend on local authorities to use the powers they will have in a reasonable way.

135. We also acknowledge that the regulation-making power in section 14(3) would enable the Welsh Ministers to specify the maximum amount a principal council may add to the lower or higher rates. We further note that this power will be subject to the draft affirmative scrutiny procedure.

136. We note the Cabinet Secretary's comments that he believes it is currently possible, with the Bill as drafted, for local authorities to consult at the same time on introducing a visitor levy and adding a premium to the levy rate. We acknowledge the Cabinet Secretary's statement that he will consider bringing forward an amendment at Stage 2 so that cannot happen.

137. We note that the Henry VIII regulation-making power in section 17(3) will be subject to the negative scrutiny procedure if and when used by the Welsh Ministers. We are not convinced by the Welsh Government's justification for applying this procedure to this power and, in line with our long-standing view, powers which may be used to amend primary legislation should require the approval of the Senedd before being exercised.

Recommendation 10. The Bill should be amended so that the draft affirmative scrutiny procedure applies to regulations made under section 17(3) of the Bill.

138. We note the evidence from the Cabinet Secretary as regards Schedule 1 to the Bill.

139. As we highlight above in paragraph 92, during our evidence session with the Cabinet Secretary we asked what powers and procedures the WRA will follow if a complaint is made that a visitor accommodation provider is not on the register. We note the Cabinet Secretary's response, that the mechanism for gathering public intelligence in relation to the national register of visitor accommodation will be part of its future development and that no powers are required to be on the face of the Bill to facilitate this. However, it remains unclear to us what powers the WRA will rely on in connection with its proposed duties as regards the register of visitor accommodation providers.

Recommendation 11. The Cabinet Secretary should explain what statutory powers the Welsh Revenue Authority will rely on in connection with its anticipated duties as regards the register of visitor accommodation providers.

140. We note that the Henry VIII regulation-making power in section 24(4) will be subject to the negative scrutiny procedure if and when used by the Welsh Ministers. We again are not convinced by the Welsh Government's justification for applying this procedure to this power and, in line with our recommendation above regarding the power in section 17(3), this power should require the approval of the Senedd before being exercised.

Recommendation 12. The Bill should be amended so that the draft affirmative scrutiny procedure applies to regulations made under section 24(4) of the Bill.

141. We note that section 25(9) of the Bill provides that steps taken before the section comes into force may satisfy the requirements of the section. The Cabinet Secretary told us that he would anticipate principal councils waiting until the conclusion of the Bill process before undertaking or preparing to undertake any formal consultation. However, the Bill does not impose this requirement. As we have already commented above, the Bill itself must include the provisions requiring the principal councils to act in the way the Government intends and which the Senedd has been told they will act.

Recommendation 13. The Bill should be amended so that section 25(9) is removed from the Bill.

142. The Cabinet Secretary has described the power in section 37 of the Bill to impose advertising and billing requirements on visitor accommodation providers as an “intentionally wide” power.

Conclusion 4. The Welsh Government seeking such an ‘intentionally wide’ power in section 37 with no intention to use it is inappropriate.

143. Furthermore, we believe section 37 as drafted is another example of government policy being underdeveloped, demonstrating further that the Bill was not ready for introduction to the Senedd.

Part 4

144. We note the evidence from the Cabinet Secretary regarding Part 4 of the Bill.

145. We note that section 39 contains a power for the Welsh Ministers to issue statutory guidance on the levy or registration scheme, and that there is no Senedd scrutiny procedure attached to this proposed power.

146. We acknowledge the Cabinet Secretary’s evidence that the power to issue guidance is intended to facilitate the operation of the primary legislation, and that it will largely be concerned with operational process. We also acknowledge that the Cabinet Secretary states that he will consult with stakeholders before issuing the guidance.

147. Nonetheless, given the Cabinet Secretary said that the guidance would be used to “clarify aspects of the law”, we would welcome more information on what the guidance is intended to cover and, in particular, what aspects of the Bill’s provisions may require ‘clarification’.

Recommendation 14. The Cabinet Secretary should provide further information on what matters are intended to be covered in any guidance issued under section 39; in particular, what provisions may require clarification and for what reasons.

148. As a Committee, one of our core aims when considering legislative proposals is to help the Senedd satisfy itself that it is passing well-drafted legislation that has a sound evidence-base to support legislative reform.

149. We are concerned that section 40 falls outside the parameters of what could reasonably be considered an evidence-based legislative provision.

150. In our view, the Cabinet Secretary has not been able to provide evidence demonstrating the need for section 40 to be included in the Bill.

151. We also consider that section 40 is another provision that demonstrates the Bill was not ready for introduction to the Senedd.

152. Moreover, we have concerns with the justification provided to us that section 40 is needed for ‘futureproofing’ reasons. We regularly comment on the appropriateness of ‘futureproofing’ as justification for the Welsh Government seeking to take extensive delegated powers. In our view, ‘futureproofing’ in this way, that would enable an unknown government in the Seventh Senedd and beyond to act in a manner which has received no consideration by this Senedd, falls below the standard of what many would consider to be constitutionally appropriate.

153. Should section 40 remain in the Bill, we consider that additional opportunities for stakeholder consultation and Senedd involvement must be provided for and protected in the Bill before regulations under section 40 are laid before the Senedd.

Recommendation 15. Section 40 should be amended applying a super-affirmative procedure to the regulation-making power to include a requirement:

- for consultation (and a minimum period for that consultation), including with Senedd committees, before any such draft regulations are laid before the Senedd, and
- that the Welsh Ministers must make a statement before any such regulations are laid before the Senedd, detailing the outcome of the consultation (including areas of agreement and disagreement with stakeholders) and accordingly how the draft regulations have taken account of engagement with stakeholders and the Senedd.

154. We have made several recommendations in our report asking the Cabinet Secretary to confirm whether the Welsh Government considered attaching a super affirmative scrutiny procedure to many of the broad and significant Henry VIII powers in the Bill; a super affirmative procedure which could require the Welsh Ministers to consult on their legislative proposals and perhaps report to the Senedd on the outcome of the consultation, including how stakeholder views have been taken into account.

155. Our earlier recommendations are, in part, a reflection of the fact that the Bill does not contain any provision requiring the Welsh Ministers to consult in advance of bringing forward regulations. When exercising delegated powers under this legislation that would extend taxpayer liabilities, we consider it would represent good legislative practice for government to consult before any draft regulations are laid before the Senedd.

156. Furthermore, this Bill has been introduced and is being scrutinised at the latter end of the Sixth Senedd. As such, if and when the Bill is enacted, the powers will be exercised by a government that is different to the one that has introduced the Bill to the Senedd.

157. The Cabinet Secretary's comments that, where appropriate and on a case-by-case basis, the Welsh Government would intend to consult on the use of regulations, provide no certainty to either Members of the Senedd or stakeholders that there will be meaningful engagement before a future government potentially increases and extends the liabilities on taxpayers in Wales. Including an express duty to consult on the face of the Bill before bringing forward relevant regulations would provide assurance that a future government is required to undertake that engagement.

Recommendation 16. The Bill should be amended so that the Welsh Ministers are placed under an express duty to consult before exercising the delegated powers in sections 2, 9 and 37 of the Bill.