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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA/MDFWL/10656/24

Peredur Owen Griffiths, MS
Chair
Finance Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

26 November 2024

Dear Peredur,

Visitor Accommodation (Register and Levy) Etc. (Wales) Bill

Following the introduction of the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill into the Senedd on 25 November, please find attached a copy of the statement of policy intent. As indicated through my oral statement on the 26 November, I also attach some indicative additional registration provisions which we intend to table at stage 2. These documents are provided to support the Committee's scrutiny of the Bill.

I look forward to providing evidence to the Committee in due course.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely,

Mark Drakeford AS/MS
Ysgrifennydd y Cabinet dros Gyllid a'r Gymraeg
Cabinet Secretary for Finance and Welsh Language

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Penalties relating to registration

7A Penalties for failure to register

- (1) A visitor accommodation provider (“VAP”) that has failed to comply with section 5(1) (requirement to register) is liable to a penalty.
- (2) The penalty is to be calculated in accordance with the formula –

$$£300 \times A$$

where “A” is the number of premises in respect of which the VAP has failed to register.

- (3) Where a VAP is liable to a penalty under subsection (1), the Welsh Ministers must –
 - (a) assess the penalty, and
 - (b) impose the penalty by issuing notice to the VAP of the penalty assessed (“the penalty notice”), specifying the premises in respect of which the VAP failed to register (“the relevant premises”).
- (4) A VAP that is not registered in respect of one or more of the relevant premises after the period of 30 days beginning with the day on which the penalty notice was issued to the VAP (“the initial notice period”) is liable to a further penalty for each day on which –
 - (a) the VAP provides, or offers to provide, visitor accommodation at premises specified in the penalty notice, and
 - (b) the VAP is not registered in respect of the premises.
- (5) A penalty under subsection (4) is to be calculated in accordance with the formula –

$$£60 \times B$$

where “B” is the number of premises specified in the penalty notice –

- (a) at which the VAP provides, or offers to provide, visitor accommodation on the day to which the penalty relates, and
 - (b) in respect of which the VAP is not registered on the day to which the penalty relates.
- (6) Where a VAP is liable to a penalty under subsection (4), the Welsh Ministers must –
 - (a) assess the penalty, and
 - (b) impose the penalty by issuing notice to the VAP of the penalty assessed, specifying –
 - (i) the premises in respect of which the VAP is not registered on the day to which the penalty relates, and
 - (ii) the day to which the penalty relates.
- (7) In calculating the initial notice period, no account is to be taken of any day on which a decision relating to the penalty under subsection (1) is the subject of an appeal that has not yet been finally determined or withdrawn.

- (8) In this section, “registered” means registered in accordance with section 5(1).

7B Penalties for failures relating to information on the register

- (1) A VAP is liable to a penalty of £300 if –
- (a) the information contained in the VAP’s entry in the register is inaccurate, and
 - (b) the VAP has not given the Welsh Ministers the information necessary to correct the inaccuracy before the end of the period of 30 days beginning with the day the VAP became aware, or ought to have become aware, of the inaccuracy.
- (2) Where a VAP is liable to a penalty under subsection (1), the Welsh Ministers must –
- (a) assess the penalty, and
 - (b) impose the penalty by issuing notice to the VAP of the penalty assessed (“the penalty notice”), specifying the information that is inaccurate.
- (3) A VAP that fails to provide the Welsh Ministers with the information necessary to correct the inaccuracy before the end of the period of 30 days beginning with the day on which the penalty notice was issued to the VAP (“the initial notice period”) is liable to a further penalty of £60 for each day on which the failure continues.
- (4) Where a VAP is liable to a penalty under subsection (3), the Welsh Ministers must –
- (a) assess the penalty, and
 - (b) impose the penalty by issuing notice to the VAP of the penalty assessed, specifying –
 - (i) the information that is inaccurate, and
 - (ii) the day to which the penalty relates.
- (5) In calculating the initial notice period no account is to be taken of any day on which a decision relating to the penalty under subsection (1) is the subject of an appeal that has not yet been finally determined or withdrawn.
- (6) This section does not apply where, as a result of the failure to notify the Welsh Ministers that the information contained in the VAP’s entry in the register is inaccurate, the VAP is liable to a penalty under section 7A.

7C Reasonable excuse

- (1) This section applies where a VAP –
- (a) has failed to comply with section 5(1);
 - (b) has failed to give the Welsh Ministers the information necessary to correct an inaccuracy in the VAP’s entry in the register.
- (2) If the VAP satisfies the Welsh Ministers or (on appeal) the First-tier Tribunal that there is a reasonable excuse for the failure, the VAP is not liable to a penalty under section 7A or 7B (as the case may be).
- (3) For the purposes of this section –

- (a) where a person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure;
- (b) where a person had a reasonable excuse for a failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

7D Powers to reduce, waive or suspend penalties

- (1) The Welsh Ministers may reduce a penalty under section 7A or 7B if they consider it right to do so because of special circumstances.
- (2) In subsection (1), “special circumstances” does not include ability to pay.
- (3) In subsection (1), the reference to reducing a penalty includes a reference to –
 - (a) waiving a penalty entirely, and
 - (b) suspending a penalty.

7E Assessment of penalties

- (1) An assessment of a penalty under section 7A(3)(a) or 7B(2)(a) must be made within the period of 12 months beginning with the day on which the Welsh Ministers first believed that the provider was liable to the penalty.
- (2) An assessment of a penalty under section 7A(6)(a) or 7B(4)(a) must be made within the period of 12 months beginning with the day to which the penalty relates.

7F Penalty notices: supplementary

A notice under section 7A or 7B must include (in addition to the information specified in those sections) information as to –

- (a) the grounds for the imposition of the penalty,
- (b) the period within which the payment is to be made,
- (c) representations that may be made relating to sections 7C and 7D, and
- (d) rights of appeal.

7G Payment of penalties

- (1) A penalty under section 7A or 7B must be paid before –
 - (a) the end of the period of 30 days beginning with the day on which the notice of the penalty is issued, or
 - (b) in the event of an appeal, the end of the period of 30 days beginning with the day on which the appeal is completed.
- (2) An amount payable under section 7A or 7B is recoverable as a civil debt due to the Welsh Ministers.

7H Power to make regulations about penalties

- (1) Regulations may make further or different provision about –
 - (a) the amounts of penalties under section 7A or 7B;

- (b) the procedure for assessing those penalties.
- (2) The regulations may amend this Act.

7I Appeals against penalties

- (1) A person on which a penalty has been imposed under section 7A or 7B may appeal to the First-tier Tribunal—
 - (a) against the decision to impose the penalty, on the ground that—
 - (i) the decision was based on an error of fact;
 - (ii) the decision was wrong in law;
 - (iii) the decision was unfair, unreasonable or wrong for any other reason;
 - (b) against the decision as to the amount of the penalty, on the ground that the amount is incorrect.
- (2) An appeal under subsection (1) must be made no later than 30 days after the date on which the notice is issued.
- (3) But the Tribunal may allow an appeal to be made after the expiry of that 30 day period if it is satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).
- (4) On appeal under subsection (1) the Tribunal may—
 - (a) affirm the decision to impose the penalty;
 - (b) vary the amount of the penalty;
 - (c) cancel the penalty.