

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



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref MA/MDFWL/0643/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
Cardiff
CF99 1SN

10 April 2025

Dear Mike,

I would like to thank the Legislation, Justice and Constitution Committee for their scrutiny of the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill at Stage 1 and for the report published on 21 March 2025.

I have set out the Government's response to the Committee's recommendations in the Annex to this letter. I hope that the information attached will help inform your further scrutiny as the Bill progresses through Stage 2.

I am copying this letter to the Chair of the Finance Committee for information.

Yours sincerely,

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

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Correspondence.Mark.Drakeford@gov.wales
Gohebiaeth.Mark.Drakeford@llyw.cymru

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.

Visitor Accommodation (Register and Levy) Etc. (Wales) Bill**Government response to the recommendations from the Legislation, Justice and Constitution Committee**

Recommendation	Response	Comments
<p>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.</p>	<p>Accept in Principle</p>	<p>We endeavour to respond to the Committees as soon as reasonably possible, but it is not always practical for this to be done prior to the Stage 1 debate.</p>
<p>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 HM 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.</p>	<p>Accept in Principle</p>	<p>We 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.</p>
<p>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.</p>	<p>Accept</p>	<p>We did not consider the Office for the Internal Market's Annual report as this was not relevant to the policy development of a permissive local tax which is within devolved competence.</p>

Recommendation	Response	Comments
<p>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.</p>	<p>Accept</p>	<p>An explanation was provided to the Committee as to how the provisions in the Bill work.</p> <p>An occasional provider will have to register where they are providing visitor accommodation and will need to register before they provide or offer to provide visitor accommodation at a premises in Wales. Part 2 of the Bill should be read in conjunction with Part 1 which sets out the key definitions of visitor accommodation and visitor accommodation provider.</p> <p>The ‘short-term’ basis referred to under Part 1 section 2 of the Bill relates to the nature of the contract a visitor accommodation provider has with a visitor. The term ‘short-term’ basis is to differentiate between longer-lets which may be provided in these types of accommodation. This is to ensure the correct application of the scope of the legislation towards visitor accommodation providers aligning to the policy intent.</p> <p>A response was provided to the Committee on this matter as follows: "after that 31 nights is hit, there is no levy payable past that point. So, for any stay where the contract determines that the stay is longer than those 31 nights, there will be no levy payable. In terms of the registration scenario, again, there is the concept in there of the short-term stays. For those stays that are longer than that 31-night period, again, they do not have to register, but if they are providing any stays under those 31 nights, then it is registrable accommodation". To re-iterate, an occasional provider who is providing visitor accommodation to visitors (i.e. contracting to make the accommodation available to a visitor or visitors for a period of 31 nights or less) would need to register.</p>
<p>Recommendation 5: The Cabinet Secretary should confirm whether the Welsh Government considered making the regulation-making power in section 2(5) of the</p>	<p>Accept</p>	<p>We accept this recommendation on the basis that we considered making the regulation making power super-affirmative in section 2(5).</p>

Recommendation	Response	Comments
<p>Bill subject to a super-affirmative procedure given its potential to extend taxpayer liability.</p>		<p>In our consideration, we have concluded that the draft affirmative procedure is sufficient, as this provides the Senedd the opportunity to debate and scrutinise the regulations - Members can still vote against them, should they deem this appropriate.</p> <p>It is not felt proportionate or necessary to have a 'super - affirmative' procedure given that we would need to consult to effectively draft the regulations anyway.</p> <p>We are content for these regulations to be draft-affirmative.</p>
<p>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.</p>		<p>The Senedd will be provided with the opportunity to scrutinise regulations under the draft affirmative procedure.</p>
<p>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 :</p> <ul style="list-style-type: none"> ▪ 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. 	<p>Accept</p>	<p>Officials provided a technical briefing on the registration provision amendments on 3 April, of which Members of the Committee were invited.</p> <p>We will also provide an explanation of any amendments tabled at Stage 2 and publish a revised Explanatory Memorandum and Regulatory Impact Assessment ahead of Stage 3 to reflect any estimated impacts as a result of amendments made to the Bill, this will also include an updated Statement of Policy Intent document.</p>
<p>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.</p>	<p>Accept</p>	<p>We have no intention for any penalty or offence to have retrospective effect.</p>
<p>Recommendation 8: Section 44 of the Bill should be amended so that:</p> <ul style="list-style-type: none"> • Part 2 of the Bill comes into force no later than 31 December 2029, and 	<p>Reject</p>	<p>It is entirely appropriate that the executive have the power to bring provisions in primary legislation into force by statutory instrument. As the Committee notes, Ministers have a clear timeline in mind. Specifying a date by which the provisions either should come into</p>

Recommendation	Response	Comments
<ul style="list-style-type: none"> The Welsh Ministers retain the ability to bring Part 2 into force at an earlier date by order. 		<p>force, or will come into force, may also have the effect of binding a future government.</p> <p>Settled public law principles will apply and require Ministers to keep under review the commencement of provisions which are not yet in force. There is also a potential question how any such provisions may interact with the forthcoming Licensing Bill.</p>
<p>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.</p>	<p>Accept</p>	<p>We accept this recommendation on the basis that we have considered making the regulation making power super-affirmative in section 9(5).</p> <p>In our consideration, we have concluded that the draft affirmative procedure is sufficient, as this provides the Senedd the opportunity to debate and scrutinise the regulations - they can still vote against them, should they deem this appropriate.</p> <p>It is not felt proportionate or necessary to have a 'super - affirmative' procedure given that we would need to consult to effectively draft the regulations anyway. We are content for these regulations to be draft-affirmative.</p>

Recommendation	Response	Comments
<p>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.</p>		<p>The Senedd will have the opportunity to scrutinise any proposed regulations via the draft affirmative procedure.</p>
<p>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.</p>		<p>Welsh Government note this conclusion and that the Senedd will have the opportunity to scrutinise any proposed regulations via the draft affirmative procedure.</p>
<p>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.</p>	<p>Accept</p>	<p>When drafting the powers we were conscious of the Senedd's time and whether such administrative matters would best be suited to the negative procedure. Although the power does amend primary legislation, the matters it concerns are operational and would normally be left to regulations.</p> <p>However, we accept the Committee's recommendation and are content for this power to be subject to the draft affirmative procedure.</p>

Recommendation	Response	Comments
<p>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.</p>	<p>Accept in Principle</p>	<p>We will be tabling amendments at stage 2 to make clear how WRA will keep and maintain the register and we will provide an explanation of the amendment(s) during Stage 2.</p> <p>Draft registration provisions were provided to Committee on 1 April to support the Committee's scrutiny of the Bill.</p>
<p>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.</p>	<p>Accept</p>	<p>When drafting the powers we were conscious of the Senedd's time and whether such administrative matters would best be suited to the negative procedure. Although the power does amend primary legislation, the matters it concerns are operational and would normally be left to regulations. However, we accept the Committee's recommendation and are content for this power to be subject to the draft affirmative procedure.</p>
<p>Recommendation 13: The Bill should be amended so that section 25(9) is removed from the Bill.</p>	<p>Reject</p>	<p>We would anticipate that principal councils would wait until the conclusion of the Bill process before preparing for or undertaking any formal notification and/or reporting requirements relating to the introduction of the levy in their area.</p> <p>However, we are keen for the Bill to afford those principal councils who may have already given the introduction of a levy considerable thought, as our trusted partners in delivering such a levy, a degree of flexibility in terms of taking some steps prior to the Bill becoming law. This provision removes doubt about their ability to get on with at least some of the initial steps towards introducing a levy, and about the validity of those steps, provided they act within the remit of the provision. It would therefore be a matter for each principal council to consider whether, and to what extent, they were prepared to take such pre-commencement steps. [For information, there is a similar precedent for this approach in the Local Government (Wales) Act 2015.]</p>

Recommendation	Response	Comments
		<p>We hope that Committee Members now understand the policy and legal rationale behind this provision. In conclusion, should the provision be removed, principal councils may be reluctant to proceed with such pre-commencement steps and this may present a risk for those who wish to introduce the levy in their area at the earliest opportunity of 1st April 2027.</p>
<p>Conclusion 4: The Welsh Government seeking such an 'intentionally wide' power in section 37 with no intention to use it is inappropriate.</p>		<p>The intention to use the power is based upon necessity. It may become necessary to use the power however that will only be known once visitor levies are introduced in Wales. The Senedd will have the opportunity to scrutinise any proposed regulations via the draft affirmative procedure.</p>

Recommendation	Response	Comments
<p>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.</p>	<p>Accept in Principle</p>	<p>Providing guidance is a routine matter for Welsh Ministers to support public bodies in the administration of their powers or duties.</p> <p>The guidance power referred to by the committee relates to guidance Welsh Ministers will issue to Section 39 of the Bill provides that Welsh Ministers may provide guidance on the operation of the Act which principal councils must have regard to. That guidance will likely focus on chapter 3 and chapter 4 of the Act. This would include matters such as but not limited to:</p> <ul style="list-style-type: none"> ○ Use of proceeds of the levy for destination management and improvement ○ Report on use of proceeds ○ Consultations before introducing, changing or abolishing the levy. <p>Guidance is intended to support the operation of the Act and aid principal councils in the discharging of their duties. We will work collaboratively with our partners to develop this guidance to ensure the smooth implementation and operation of the Act.</p>
<p>Recommendation 15: Section 40 should be amended applying a super affirmative procedure to the regulation-making power to include a requirement:</p> <ul style="list-style-type: none"> ▪ 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 	<p>Reject</p>	<p>It is the Welsh Government's responsibility to make statements and for the Senedd to scrutinise our decisions, and therefore we believe this recommendation goes further than the Senedd's legislative role. As per the response to recommendations 5 and 9, in our consideration of the use of the super affirmative procedure, it is unnecessary given that we would need to consult to effectively draft the regulations. The draft affirmative procedure is sufficient, as this provides the Senedd the opportunity to debate and scrutinise the regulations - they can still vote against them, should they deem this appropriate. In order to create effective regulations, we would need to consult and engage with relevant</p>

Recommendation	Response	Comments
<p>stakeholders) and accordingly how the draft regulations have taken account of engagement with stakeholders and the Senedd.</p>		<p>stakeholders. This is something we already do effectively as a government and therefore we do not see the need to add an express requirement to consult.</p> <p>We recognise the marine sector is sufficiently distinct from the broader visitor accommodation sector. That is why these powers have been proposed, recognising that further development and engagement is required before any regulations can be developed. This will be a careful and considered process working in collaboration with our partners.</p>
<p>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.</p>	<p>Reject</p>	<p>We consider that draft affirmative is an effective procedure to hold government to account. This approach provides the Senedd the opportunity to debate and scrutinise the regulations - they can still vote against them, should they deem this appropriate.</p> <p>In order to create effective regulations, we would need to consult and engage with relevant stakeholders. This is something we already do effectively as a government and therefore we do not see the need to add an express requirement to consult.</p>