The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Shona Robison MSP

Cabinet Secretary for Finance and Local Government

28 October 2025

Dear Cabinet Secretary,

Building Safety Levy (Scotland) Bill

The Delegated Powers and Law Reform Committee considered that above Bill at its meeting on 28 October 2025 and agreed to write to the Scottish Government in relation to a number of the powers in the Bill. The Committee's questions are as follows:

Section 6: Power to modify types of buildings which may be taxable

Section 6(1) enables Scottish Ministers to add or remove, by regulations, the list of cases where a building or part of a building is intended to be used as accommodation which is subject to the Scottish Building Safety Levy. Section 6(1) also enables the Scottish Ministers to modify the meaning of "exempt new residential unit".

Regulations made under this provision may modify other enactments, including the Act that will result from the Bill being passed. There is also a requirement for Scottish Ministers to consult with persons they consider appropriate before making the regulations.

The Delegated Powers Memorandum (DPM) explains that the power is necessary to ensure that the list of buildings which are to be subject to the Levy are kept up to date and takes account of current housing challenges to avoid circularity of public funding. However, the DPM does not fully explain the need for the power to allow for modification of any enactment.

1. **As such, the Committee asks the Scottish Government why it is necessary to include a power, in section 6(3), to modify any enactment?**

Similarly, while the Committee is content that there is a consultation requirement in section 6(4), it would welcome more information about the persons who might be considered "appropriate" to consult.

2. **As such the Committee asks the Scottish Government:**

(i) Which persons or bodies might be considered as appropriate to consult under section 6(4) before regulations are made under section 6(1)?

(ii) Can any bodies or persons be specified in section 6(4)?

Section 10(3)(b): Definition of financial year

Section 10 provides for the calculation of the total Levy payable by the taxpayer. Section 10(3)(b) contains a power to set a different 12 month period as the financial year for the Levy.

Section 10(3)(a) defines financial year as the commonly recognised financial year running from 1 April to 31 March. The DPM explains that the Scottish Ministers consider this definition as appropriate. However, the Scottish Ministers considerate it appropriate to review this in case an alternative would be more reflective of current industry practice.

Since it is apparently anticipated by the Scottish Ministers that they would work with the house building industry on any changes, and that any change would have implications for the collection and management of the Levy, the Committee asks why there is no consultation requirement prior to the exercise of this power.

3. **As such, the Committee asks the Scottish Government whether it considers there should be a requirement to consult with representatives from the house building sector and with Revenue Scotland before making regulations under this section?**

Section 11(1): Reliefs

Section 11(1) of the Bill provides a power to Scottish Ministers to make provision for and in connection with reliefs from the Levy in relation to certain building control events.

The DPM explains that the completion of exempt buildings would not trigger requirements to register or pay tax. The DPM explains that administering the Levy using reliefs will provide the Scottish Ministers with more information on the units excluded from the Levy giving Revenue Scotland more data about the tax base.

The DPM also explains that the Scottish Government considers that reliefs may be more appropriate than exemptions in types of residential development that are less distinguishable from one another. The examples provided in the DPM include build-to-rent developments or housing with specialist provision (such as wheelchair accessible homes). The DPM also explains that, as with the power to adjust exemptions, the power to use reliefs from the Levy will allow the Scottish Ministers to ensure that the Levy is kept up to date and takes account of current circumstances.

The power is widely drawn, and while the DPM provides an insight to some of the examples of how the power might be used, the Committee seeks further information about identifying the type of property that a relief might apply to.

4. **As such, the Committee asks for further detail from the Scottish Government on:**

(i) **How the Scottish Ministers anticipate that they would identify residential developments that should be eligible for reliefs?**

(ii) **Whether the power could be more narrowly drawn to restrict the granting of relief to certain circumstances?**

Section 12(1): Levy-free allowance

Section 12(1) of the Bill provides a power to Scottish Ministers to make provision for and in connection with a "levy-free allowance" – a quantity of building control events within a financial year which may be exempt from the Levy.

The DPM provides that the policy intention of the levy-free allowance is to assist in mitigating impacts of the Levy for smaller developers. In turn, developers who are building low annual numbers of relevant residential buildings will be protected from the costs associated with the Levy. It adds that flexibility is required to respond to changes in housebuilding market conditions through subordinate legislation.

While regulations made under section 12(1) may provide for such technical matters as setting the number of building control events and time periods, it is not clear how the Scottish Ministers intend to exercise their discretion to set the levy-free allowance, other than to say it will be 1 or more.

In addition, the Policy Memorandum states that the Scottish Government will continue to consult with residential property developers and other housing stakeholders to develop an evidence-based approach to the setting of the levy-free allowance, ahead of the laying of any regulations made under section 12. However, that commitment to consult does not create a legal requirement to do so.

5. **As such the Committee asks the Scottish Government:**

(i) **How it intends to identify building control events which do not count toward a levy-free allowance?**

(ii) **Whether there should be a requirement to consult with representatives of the housebuilding sector before making regulations under section 12?**

Section 34: Delegation of functions by Revenue Scotland

Section 34 modifies an existing delegated power contained in section 4 of the Revenue Scotland and Tax Powers Act 2014, which would allow Revenue Scotland to delegate its functions relating to the Levy to a person specified in regulations.

The DPM provides that the power enables Scottish Ministers to permit Revenue Scotland to delegate particular functions to a specific organisation in the event that they identify an operational requirement to do so without the need for further primary legislation.

The power is wide in scope, in that any person or body can be delegated any of Revenue Scotland's functions. There is no limitation placed on it and no criteria on how it would be assessed that the person could carry out the delegated functions of Revenue Scotland.

The DPM provides little additional further information to justify the wide scope of this power than what is already provided for in respect of other devolved taxes.

6. As such the Committee asks the Scottish Government:

(i) Whether there is a person or body at present that it considers may be able to carry out those functions, and why it is not able to specify them on the face of the Bill; and

(ii) For an explanation, in the event that the power is considered necessary, of what consideration it has given to whether the scope of the power is appropriate, or whether the Bill should limit the scope of the power by specifying criteria that should be met for a body to be suitable to have the functions of Revenue Scotland in relation to the Levy delegated to it?

The Committee requests a response **by Tuesday 4 November**.

Yours sincerely,

Stuart

Stuart McMillan MSP
Convener