

Building Safety Levy (Scotland) Bill: Stage 2 – Purpose and Effect notes for Scottish Government amendments

<u>Amendment number(s) – 1, 2</u>
Subject – Changes to Meaning of “new residential unit” – section 4
Text of amendments
<p style="text-align: center;">Section 4</p> <p>Ivan McKee</p> <p>1 In section 4, page 3, line 2, leave out <if> and insert <to the extent that></p> <p>Ivan McKee</p> <p>2 In section 4, page 3, line 8, leave out <if> and insert <to the extent that></p>
Purpose and Effect <p>Amendment 1 amends section 4(2) of the Bill, replacing ‘if’ with ‘to the extent that’. Under the Bill as introduced, section 4 defines what buildings are within the scope of the levy and what buildings are exempt. Subsection (2) lists buildings with certain intended uses which are to be taken as intended to be used as a dwelling or other accommodation for the purposes of the definition.</p> <p>By amending subsection (2), the types of building listed in that subsection will only be taken as intended to be used as a dwelling or other accommodation “to the extent that” the dwelling is used for that purpose. This is to clarify the position for buildings which have parts that have different uses. Only those parts of a building to which the definition applies to will be considered as dwellings or other accommodation for the purpose of the levy.</p> <p>Amendment 2 makes an equivalent change to section 4(3), replacing ‘if’ with ‘to the extent that’. In contrast to subsection (2), subsection (3) of section 4 further refines the definition of new residential unit by listing certain types of building which are <i>not</i> to be considered as suitable for use as a dwelling or other accommodation and therefore not included in the definition of “new residential unit” or the scope of the levy. As with PCO9, the purpose is to ensure that only those parts of a building to which the definition applies to will be considered as dwellings or other accommodation.</p>

Amendment number(s) – 3, 5, 6

Subject – Changes to Delegated Powers – sections 6, 10 and 12

Text of amendments

Section 6

Ivan McKee

3 In section 6, page 5, line 1, leave out <such persons as they consider appropriate> and insert <—
<(a) local authorities,
(b) persons whom the Scottish Ministers consider represent the interests of the residential property development sector, and
(c) such other persons as the Scottish Ministers consider appropriate.>

Section 10

Ivan McKee

5 In section 10, page 7, line 14, at end insert—
<() Before making regulations under subsection (3)(b), the Scottish Ministers must consult—
(a) Revenue Scotland,
(b) persons whom the Scottish Ministers consider represent the interests of the residential property development sector, and
(c) such other persons as the Scottish Ministers consider appropriate.>

Section 12

Ivan McKee

6 In section 12, page 8, line 11, at end insert—
<() Before making regulations under subsection (1), the Scottish Ministers must consult—
(a) persons whom they consider represent the interests of the residential property development sector, and
(b) such other persons as the Scottish Ministers consider appropriate.>

Purpose and Effect
Under the Bill as introduced, section 6(1) sets out that Scottish Ministers may by regulations modify the list of buildings specifically included as “new residential units” in section 4(2), the list of buildings specifically excluded as “new residential units” in section 4(3) and the list of “exempt new residential units” in section 5. Subsection (4) requires Scottish Ministers to consult with such persons as they consider appropriate before making regulations under subsection (1). In keeping with recommendations made by the DPLRC, amendment 3 would widen the existing duty under subsection (4), requiring Scottish Ministers to consult with persons whom they consider represent the interests of the housebuilding industry, in addition to any other such persons as they consider appropriate.
Amendment 5 makes an equivalent change to the regulation-making power in section 10, which allows for Scottish Ministers to set any such other 12-month period as the definition of a financial year for the purposes of the Bill.
Amendment 6 makes the same change to the power in section 12(1) which allows the Scottish Ministers, by regulations subject to the affirmative procedure, to make provision for and in connection with the levy-free allowance.

Amendment number(s) – 4
Subject – Definition of Owner – section 8
Text of amendment
Section 8
<p>Ivan McKee</p> <p>4 In section 8, page 5, leave out subsection (2) and insert— <(2) In this Act, where “owner” is used in relation to a residential unit and more than one person falls within that description, “owner” refers to any such person jointly and severally></p>
Purpose and Effect
Amendment 4 amends section 8, which provides for the definition of the person liable to pay the levy (i.e. the taxpayer), which is the owner of the new residential unit at the time of submission of the completion certificate (or temporary occupation permission, if that is earlier). This amendment refines the definition of “owner” for

the purposes of the levy to clarify that where a unit is jointly owned, then those joint owners are jointly and severally liable.

Amendment number(s) – 7

Subject – Changes to Cancellation of Registration – section 17

Text of amendment(s)

Section 17

Ivan McKee

7 In section 17, page 10, line 37, at end insert—

<() Revenue Scotland must cancel a person's registration with effect from the date of registration where—

- (a) a person notifies Revenue Scotland under subsection (1), and
- (b) Revenue Scotland is satisfied that the person has not carried out, is not carrying out, and will not carry out, any activities that will result in a registrable event.>

Purpose and Effect

Amendment 7 introduces a new requirement into section 16 of the Bill for Revenue Scotland to cancel a person's registration for the levy (with effect from the date of registration) where a person notifies Revenue Scotland that they have ceased to carry out any activities that will result in a registrable event, and where Revenue Scotland is satisfied that the person has not carried out, is not carrying out, and will not carry out, any activities that will result in a registrable event.

Under the Bill as introduced, subsections (4) and (5) of section 16 already make provision on how Revenue Scotland is to cancel registration where a registered person becomes exempted from the requirement to be registered by virtue of regulations under section 15(6) (i.e. where exemptions from the requirement to be registered are made).

Amendment number(s) – 8, 13

Subject – Information Sharing Provisions – New Section

Text of amendments

After section 21

Ivan McKee

8 After section 21, insert—

<Information sharing

Information sharing

- (1) The Scottish Ministers may by regulations make provision for or in connection with a requirement for information relating to the levy to be disclosed between a relevant entity and Revenue Scotland for the purposes of administering the levy.
- (2) Regulations made under subsection (1) may, in particular, make provision for—
 - (a) the keeping, maintenance and protection of the information,
 - (b) the enforcement of an obligation imposed on a relevant entity under the regulations,
 - (c) appeals against any decision taken or obligation imposed under the regulations,
 - (d) the conferral of powers to require a relevant entity to pay a financial penalty or compensation for a failure to comply with an obligation imposed under the regulations,
 - (e) designating disclosures by Revenue Scotland as being permitted disclosures for the purposes of section 15 of the Revenue Scotland and Tax Powers Act 2014.
- (3) For the purposes of subsection (1), a relevant entity means—
 - (a) a local authority,
 - (b) Registers of Scotland,
 - (c) the Scottish Ministers, and
 - (d) any other person specified in the regulations.
- (4) Regulations under subsection (1) may, in particular, make provision about—
 - (a) the type of information to be disclosed,
 - (b) the form in which the information is to be disclosed,
 - (c) the time and manner in which the information is to be disclosed, and
 - (d) the disclosure of information in bulk.
- (5) Before making regulations under subsection (1) in relation to the matters described in subsection (4), the Scottish Ministers must consult—
 - (a) Revenue Scotland, and
 - (b) such other persons as the Scottish Ministers consider appropriate.>

Section 48

Ivan McKee

13 In section 48, page 25, line 28, leave out <and 15(6)> and insert <, 15(6), (Information sharing)(1)>

Purpose and Effect

Amendment 8 would insert a new section and a new delegated power into the Bill, allowing for Ministers to make provision by regulations for information-sharing

between Revenue Scotland and a relevant entity for the purposes of administering the levy. The regulations would allow Revenue Scotland to collect, disclose and access protected taxpayer information from and with a relevant entity. The relevant entities listed in the amendment are local authorities (as keepers of the building standards process), Registers of Scotland (RoS) (as they hold relevant information on ownership), and Scottish Ministers (as the Scottish Government holds information relevant to the management of exemptions – for example the Affordable Housing Supply Programme). These regulations would also allow Ministers to add or remove entities from this list.

These regulations would also allow Ministers to set out:

- the keeping, maintenance and protection of the information,
- the enforcement of an obligation imposed on a relevant entity under the regulations, including associated appeals and powers in relation to penalties for a failure to comply with obligations
- the designation of disclosures by Revenue Scotland as being permitted disclosures for the purposes of section 15 of the Revenue Scotland and Tax Powers Act 2014 (i.e. that a relevant official may be permitted to disclose protected taxpayer information with a relevant entity)
- the type of information and the form, time and manner in which the information is to be provided (including provision of information in bulk)

Before making regulations under this power, **amendment 8** requires Ministers to consult with Revenue Scotland and any other persons as Ministers consider relevant.

Amendment 13 amends section 48, setting out that regulations made under this power would be subject to the affirmative procedure.

Amendment number(s) – 9, 10, 11, 12

Subject – Report on operation of the Act – section 45

Text of amendments

Section 45

Ivan McKee

9 In section 45, page 24, line 4, after <appropriate> insert <but in no case exceeding three years>

Ivan McKee

10 In section 45, page 24, line 7, at end insert—

<() the work undertaken by the Scottish Ministers to improve the safety of buildings and the safety of persons in or about buildings where that work has been funded, in whole or in part, from the proceeds of the levy,>

Ivan McKee

11 In section 45, page 24, line 8, at end insert—

<() The report may, in particular, refer to information contained in reports prepared under section 30 (reports on progress with single-building assessments and remediation work) of the Housing (Cladding Remediation) (Scotland) Act 2024.>

Ivan McKee

12 In section 45, page 24, line 10, at end insert—

<() The first report under this section must be published within 3 years of the day on which this section comes into force.>

Purpose and Effect

Amendment 9 amends section 45(1), which sets out the required intervals for when Ministers must report on the Act, replacing the provision for Ministers to report “at such intervals as Ministers consider appropriate”, to “at such intervals as Ministers consider but in no case exceeding three years.”

Amendment 9 will require Ministers to report on the operation of the Act at least every three years. This will align the Levy with the reporting timescales for the UK Building Safety Levy, and provide stakeholders with clarity over when reporting is due.

Amendment 10 would require that reports on the operation of the Act set out an assessment of the work being undertaken to improve the safety of buildings and the safety of persons in or about buildings where that work has been funded (in whole or in part, from the proceeds of the levy).

Amendment 11 would provide that reports on the operation of the Act may refer to information contained in reports on progress with single-building assessments and remediation work, as required under section 30 of the Housing (Cladding Remediation) (Scotland) Act 2024.

Amendment 12 would require that the first report on the operation of the Act is to be published within 3 years of the day on which this section comes into force.

Amendment number(s) – 15, 14
Subject – Expiry – New Section
Text of amendments
<p style="text-align: center;">After section 51</p>
<p>Ivan McKee</p> <p>15 After section 51, insert—</p> <p style="padding-left: 40px;"><Expiry</p> <p class="list-item-l1">(1) This Act expires at the end of the period of 15 years beginning with the day on which this section comes into force.</p> <p class="list-item-l1">(2) But the Scottish Ministers may by regulations extend the period set out in subsection (1).</p> <p class="list-item-l1">(3) At the same time as laying a draft Scottish statutory instrument containing regulations under subsection (2) before the Scottish Parliament, the Scottish Ministers must lay before the Parliament a statement of their reasons why it is necessary to extend the operation of this Act.</p> <p class="list-item-l1">(4) Regulations under subsection (2) may modify any enactment (including this Act).></p>
<p>Ivan McKee</p> <p>14 In section 48, page 25, line 28, at end insert <and (<i>Expiry</i>)(2)></p> <p>Purpose and Effect</p> <p>Amendment 15 inserts a new section into the Bill, which provides for the Act to expire after a period of 15 years. This period begins on the day on which this section comes into force. 15 years has been chosen in line with the Finance and Public Administration Committee's recommendation and in line with the estimated lifespan of the Cladding Remediation Programme of works. Subsection (2) allows for the Scottish Ministers to extend this period through regulations. Where the Scottish Ministers lay draft regulations under subsection (2), subsection (3) requires that the Scottish Ministers must also lay before Parliament a statement of their reasons why it is necessary to extend the operation of the Act.</p> <p>Amendment 14 amends section 48, setting out that regulations made under this power would be subject to the affirmative procedure.</p>