

Aggregates Tax and Devolved Taxes Administration (Scotland) Bill

Policy Memorandum

Introduction

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill introduced in the Scottish Parliament on 14 November 2023.

2. The following other accompanying documents are published separately:

- Explanatory Notes (SP Bill 38-EN);
- a Financial Memorandum (SP Bill 38-FM);
- a Delegated Powers Memorandum (SP Bill 38-DPM);
- statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 38-LC).

3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

Policy objectives of the Bill

4. The Bill is brought forward primarily as a consequence of measures enacted in the Scotland Act 2016¹ ("the 2016 Act"). Following the commencement of section 17 of the 2016 Act on 23 May 2016, the Scottish Parliament now has the power under section 80M of the Scotland Act 1998² ("the 1998 Act") to legislate for a tax that will replace the UK Aggregates Levy ("UKAL") in Scotland.

¹ [Scotland Act 2016 \(legislation.gov.uk\)](https://legislation.gov.uk)

² [Scotland Act 1998 \(legislation.gov.uk\)](https://legislation.gov.uk)

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5. The Bill makes provision for a Scottish Aggregates Tax (“SAT”), a tax on the commercial exploitation of primary aggregates in Scotland. If this Bill is enacted and the necessary secondary legislation is approved by the Scottish Parliament, the Scottish Government intends that introduction of SAT will occur on 1 April 2026. In order for SAT to be introduced on that day, the provisions of the 2016 Act which disapply the existing UKAL regime in Scotland will also require to be brought into force by regulations laid by His Majesty’s Treasury in the UK Parliament.

6. At that point, under the terms of the fiscal framework agreement with the UK Government, the Scottish Government’s block grant will be reduced to reflect the devolution of competence to impose a SAT from 1 April 2026 onwards, with the receipts from any such tax going into the Scottish Consolidated Fund. The specific arrangements for this are under discussion with His Majesty’s Treasury, but in general terms the net effect on the Scottish budget position will be determined by the difference between the block grant adjustment and tax receipts from SAT less the amount of the reduction to Scotland’s block grant.

7. Revenue Scotland is the tax authority responsible for the collection and management of Land and Buildings Transaction Tax (“LBTT”) and Scottish Landfill Tax (“SLfT”). These taxes came into effect on 1 April 2015, replacing their UK equivalents (Stamp Duty Land Tax and UK Landfill Tax respectively). Revenue Scotland will also be responsible for the collection and management of SAT when introduced. A programme of activity to deliver the systems, processes and other requirements for SAT is currently underway.

8. The proposed legislative framework for the collection and management of SAT consists of the provisions in Part 1 Chapters 4-6 of the Bill and the Revenue Scotland and Tax Powers Act 2014³ (“the 2014 Act”), as amended by Part 2 of the Bill. The 2014 Act, amongst other things, provides the general collection and management framework for Scotland’s devolved taxes.

9. In addition to measures related specifically to SAT, the Bill includes a small number of wider legislative amendments to the 2014 Act. These amendments, which would relate to LBTT and SLfT in addition to SAT, are intended to support the efficient and effective collection of all devolved taxes by Revenue Scotland.

10. Part 1 of the Bill establishes the new tax on the commercial exploitation of aggregate in Scotland, and is broken down into the following Chapters:

- Chapter 1 – The tax: this Chapter defines the tax and gives responsibility to Revenue Scotland to administer and collect the tax;
- Chapter 2 – Key concepts: this Chapter defines the fundamental concepts underlying the tax, including what aggregate is taxable, what aggregate and

³ [Revenue Scotland and Tax Powers Act 2014 \(legislation.gov.uk\)](https://legislation.gov.uk)

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processes applied to aggregate are exempt from the tax, what is commercial exploitation, and who is liable to pay the tax;

- Chapter 3 – Calculation of tax: this Chapter sets out how the amount of tax is to be calculated and gives a power to the Scottish Ministers to set the rate of tax;
- Chapter 4 – Administration: this Chapter contains various provisions on tax administration, including regarding registration, tax returns, and special cases;
- Chapter 5 – Penalties: this Chapter imposes penalties in relation to the tax, for instance for failure to make a return, failure to pay tax, and failure to register for tax;
- Chapter 6 – Reviews and appeals: this Chapter makes provision on what decisions by Revenue Scotland in relation to the tax can be reviewed or appealed;
- Chapter 7 – Interpretation: this Chapter defines the key terms used in Part 1.

11. Part 2 of the Bill contains 6 substantive provisions, and one minor correction, making separate amendments to the administration of devolved taxes by Revenue Scotland under the 2014 Act:

- a power for Revenue Scotland to refuse a repayment claim for tax where the claimant has failed to pay other devolved tax due;
- a provision clarifying the penalty in the 2014 Act for failure to pay LBTT;
- a provision clarifying the legal continuity of acts by different designated officers of Revenue Scotland, and clarifying how summary warrants for the recovery of unpaid amounts of tax are to be executed;
- a power for the Scottish Ministers to make regulations on the use of communications from Revenue Scotland to taxpayers, including provision about the use of electronic communications;
- a power for the Scottish Ministers to make regulations on the use of automation by Revenue Scotland;
- a power for Revenue Scotland to off-set a taxpayer debit against a credit.
- a minor amendment to section 94, substituting the word “section” for “paragraph”.

12. Several policy decisions will be set out in subordinate legislation, including the setting of the tax rate, and detailed provisions for the administration of the tax, including the claiming of tax credits.

Background

13. UKAL, which came into effect in April 2002, was introduced to ensure that the environmental impacts of aggregates extraction not already addressed by regulation were more fully reflected in prices. It generally applies to the commercial exploitation of primary aggregates – mostly crushed rock, gravel and sand. These materials can have been either dug from the ground, dredged from the sea in UK waters or imported. Commercial exploitation is triggered in four separate circumstances when the aggregate is: removed from its originating site; part of a supply agreement; used for construction purposes; or mixed with another substance other than water.

14. Aggregates generally refers to material used as granular or particulate material in construction as concrete, mortar, roadstone, asphalt or drainage courses, or as construction aggregates.

15. Primary aggregates are otherwise known as virgin aggregates and are produced from naturally occurring mineral deposits used for the first time. Secondary aggregates are the by-products of quarrying and mining operations or material arising as an unavoidable consequence of construction works, as well as manufactured aggregates obtained as a by-product of other industrial processes. Recycled aggregates are those arising from the processing of inorganic material previously used in construction.

16. Aggregates make an important contribution to Scotland's economy, providing materials for housing, construction, road-building and other uses, and supporting employment, including in rural and remote areas of the country. Aggregates are also required as construction materials to support net zero ambitions, including for diversification of the energy mix. They are used both in and of themselves and mixed with other materials to produce new products used in construction such as mortar, asphalt and concrete.

17. Aggregates are extracted and sourced across Scotland. Operating quarries which produce crushed rock, or quarries and wharves where sand or gravel is extracted or landed, are found in nearly all 32 local authority areas. Crushed rock is produced predominantly in the north of Scotland and along the west coast, whereas sand and gravel are likely to be extracted in southerly areas.

18. The 2016 Act provided the Scottish Parliament with powers to legislate for a tax that would replace UKAL in Scotland. Development of proposals for SAT was deferred until the conclusion of litigation against UKAL, and a recent review of UKAL. The UK Government review⁴, and the process of consultation associated with it, has assisted the Scottish Government's understanding of the arrangements for UKAL, the underpinning rationale for key elements of the tax, and the views of the industry in

⁴ [Review of the Aggregates Levy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/reviews/aggregate-levy-review)

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Scotland on devolution. In addition, the Scottish Government commissioned its own research into potential options for a SAT⁵.

19. The Scottish Government's Framework for Tax provides the foundation from which SAT has and will be designed and delivered. The Framework ensures that decisions on tax policy are coherent and rooted in a defined set of principles and strategic objectives, rigorously appraised and developed through an established policy cycle, which puts proactive engagement with stakeholders and partners at the heart of tax policy making.

20. In line with the Fiscal Framework agreement between the Scottish and UK Governments, the block grant received by the Scottish Government will be adjusted once UKAL ceases to apply in Scotland.

21. The Scottish Government intends that SAT will align with wider ambitions to deliver a fair, green and growing economy; in particular, the Scottish Government's ambitions for a circular economy. The circular economy aims to minimise our demand on primary resources and maximise the re-use, recycling and recovery of resources. The draft Circular Economy Route Map to 2025 and beyond⁶ sets out the importance of embedding circular construction practices to reduce resource needs, reduce waste and carbon, and encourage refurbishment and reuse, and included reference to the intention to legislate for an Aggregates Tax in Scotland. SAT will support the Scottish Government's ambitions for a circular economy, in particular the ambition to embed circular construction practices. Although SAT in and of itself will not individually deliver the Scottish Government's circular economy ambitions, it will serve as a price signal which complements other circular construction measures.

22. SAT will support those efforts, through the following objectives:

- encouraging the minimum necessary exploitation of primary aggregates
- maximising the use of secondary and recycled aggregates, and
- incentivising innovation and development of alternative materials.

23. In keeping with the approach taken with the existing fully devolved taxes, many of the technical aspects of administering the tax, which will be delivered by Revenue Scotland, will be the subject of secondary legislation. The SAT will thus have another core objective of demonstrating the operational benefits of tax devolution, reflected in a modern and effective Scotland-specific approach to tax collection and management.

⁵ [Introduction - Scottish Aggregates Levy: evidence review and policy options - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/introduction-to-scottish-aggregates-levy/evidence-review-and-policy-options/pages/introduction-to-scottish-aggregates-levy-evidence-review-and-policy-options.aspx)

⁶ [Delivering Scotland's circular economy - route map to 2025 and beyond: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/delivering-scotland-s-circular-economy-route-map-to-2025-and-beyond-consultation/pages/delivering-scotland-s-circular-economy-route-map-to-2025-and-beyond-consultation.aspx)

Alternative approaches

24. In terms of the elements of the Bill related to SAT, the first potential option is to 'do nothing' – i.e., do not replace UKAL once it is disappplied in Scotland. Under the terms of the 2016 Act, UKAL will be disappplied in Scotland by regulations laid by His Majesty's Treasury in the UK Parliament. This option would mean that those responsible for the commercial exploitation of aggregates that would otherwise form part of the devolved tax base, would no longer be liable to pay a tax, resulting in no tax revenues, an immediate reduction in the Scottish Budget (because of the block grant adjustment mentioned above) and a reversal of the behavioural impacts of the tax.

25. The second option, which the Bill provides for, is a replacement tax that retains the fundamental structure of UKAL, while also ensuring there is scope to consider an approach that is tailored to Scotland's needs and aligned with Scottish Government objectives. This includes options for the improved collection and administration of the tax. Overall, this approach offers a degree of continuity for taxpayers, retaining core elements of UKAL that have been subject to litigation and scrutiny, as well as the above-mentioned review, while also ensuring that the devolved tax can evolve over time to support Scottish Government circular economy objectives.

26. The third option is to provide for a replacement tax that takes a fundamentally different approach to the existing UKAL, redefining key concepts and introducing an entirely different system for the administration of SAT. This would result in significant disruption to industry and taxpayers and there would be increased risks in relation to double taxation, as well as unintended consequences.

27. In all instances where a policy decision was required, either to replicate or to change an element of the existing system, consideration was given to the policy alternatives and a decision was made based on the available evidence. At the appropriate points, this Memorandum refers to these alternative approaches and explains why the Scottish Government has reached a decision.

28. On the provisions set out in Part 2 of the Bill, the fundamental alternatives considered were: (i) not to include any of these elements in the Bill, ensuring that it focused solely on the legislation required to deliver SAT; or (ii) only include the elements which do not make provision for enabling powers and consult on the detail of these prior to bringing forward more detailed legislation. Further commentary on the Scottish Government's consideration of these alternative approaches is set out in the relevant sections of this Memorandum.

Consultation and engagement

29. Consistent with the Framework for Tax⁷, the Scottish Government has consulted and engaged with stakeholders to inform the development of the Bill. The Scottish

⁷ [Framework for Tax 2021 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

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Government conducted a public consultation on proposals for the SAT from 26 September to 5 December 2022⁸. A total of 24 responses were received, which were analysed by officials from both the Scottish Government and Revenue Scotland.

30. The consultation asked a wide range of questions covering the context for a devolved Aggregates Tax, the scope of the tax, exemptions and reliefs, tax rates, a sustainability fund, and several tax administration and compliance questions.

31. The formal consultation exercise was accompanied by a programme of stakeholder engagement, including meetings and quarry site visits, that continued throughout the process of developing the Bill. The programme began with an open ‘town hall’ forum, hosted online, in which officials gave a presentation on the key issues to be considered and the process to develop the Bill, followed by an opportunity for attendees to set out their views and raise questions. The session was followed by meetings with several key stakeholders, including aggregates industry representatives, the Convention of Scottish Local Authorities and the Scottish Environment Protection Agency.

32. In January 2023, taking consultation feedback and stakeholder views into account, the Scottish Government concluded that further work was needed to ensure decisions on Bill provisions were based on more evidence. To help with this process, the Scottish Government convened an expert advisory group. Advisory group members were drawn from a range of backgrounds, including industry representative bodies for both primary and recycled aggregate producers, aggregates consumers (including key public sector bodies), corporate stakeholders with an interest, and environmental organisations.

33. Chaired by a senior Scottish Government official, the group has met on five occasions in 2023. Discussion at the first four meetings focussed on the key issues requiring detailed consideration to help develop policy positions and, in turn, Bill provisions, whilst the fifth meeting provided an opportunity for Scottish Government officials to recap and test the key points raised in earlier discussion and other engagement. More specifically:

- The first meeting saw members discuss the aggregates sector in Scotland and the process to develop a SAT Bill.
- Subsequent meetings included discussion of issues including the most appropriate definitions of “aggregate” and “commercial exploitation” to be used for SAT purposes, the rationale for proposed exemptions and reliefs, the tax treatment of imports and exports of aggregates to and from Scotland, and possible approaches to rate setting.

⁸ [Breaking New Ground? Developing a Scottish tax to replace the UK Aggregates Levy: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/consultations/breaking-new-ground-developing-a-scottish-tax-to-replace-the-uk-aggregates-levy-consultation)

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- The group also discussed the potential to establish a sustainability fund linked to SAT, and the prospective approach of Revenue Scotland to administration of the tax.
- This additional phase of engagement also included a series of official-level visits to a range of quarries and recycled materials producers across Scotland.
- The group will continue to meet during the period of Scottish Parliamentary scrutiny of both primary and secondary legislation, advising of the implementation of SAT.

34. The proposals set out in Part 2 of the Bill reflect detailed discussions with Revenue Scotland and take account of existing relevant legislative provisions applying to the UK taxes, including the UK Aggregates Levy, Landfill Tax and Stamp Duty Land Tax. No formal consultation with other tax stakeholders has been undertaken on these prior to their inclusion in the Bill.

35. In terms of provisions relating to communications from Revenue Scotland to taxpayers and to the use of automation by Revenue Scotland, in keeping with the Scottish Approach to Taxation the Scottish Government would consult on the relevant issues prior to bringing forward any future regulations. This is considered in more detail in the Delegated Powers Memorandum.

Outcome of consultation and engagement

36. Between the formal consultation, stakeholder engagement programme and expert advisory group, the Scottish Government heard views on the proposals for the SAT from a wide variety of individual and organisational perspectives. A detailed overview of the consultation process and the feedback received is set out in a consultation analysis report⁹.

37. Whilst there was strong support for a close alignment between SAT and UKAL, challenges and opportunities were also highlighted, and suggestions made. Across all the activities, the top five issues that emerged were:

- Support from a number of respondents, particularly those representing industry interests, for the tax to align closely with UKAL, i.e. retaining current definitions, exemptions and reliefs.
- An alternative view from some respondents that the Scottish Government should introduce a distinctive tax with a broader scope or could express the same scope more clearly in legislation, though detailed alternative proposals were not put forward.

⁹ <http://www.gov.scot/ISBN/9781835216231>

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- Broad agreement that the tax has the potential to support circular economy goals, as part of a wider package of measures to encourage the increased availability of high-quality alternatives to primary aggregate.
- A view that the introduction of a devolved tax creates an opportunity to address concerns about untaxed primary aggregate production, including through the development of a Scottish aggregates tax register.
- Recognition of the complexities associated with creating two tax jurisdictions where there was previously one, including in terms of the treatment of cross-border movements of aggregate and the importance of avoiding double taxation.
- The importance of continuing dialogue with key stakeholders on tax policy development, in line with commitments set out in our Framework for Tax.

Policy objectives: specific provisions

Part 1, Chapter 1: The tax and overview

38. The Bill defines the tax as the Scottish Aggregates Tax and establishes that Revenue Scotland is responsible for the collection and management of the tax. It also introduces the other parts of the Bill.

Part 1, Chapter 2: Key concepts

39. The 2016 Act devolved, to the Scottish Parliament, power to tax the commercial exploitation of aggregate in Scotland. As a result, legal definitions of aggregate, taxable aggregate and commercial exploitation are required to be set out in the primary legislation for SAT. The explanatory notes for the 2016 Act advise that the Scottish Parliament can decide on its own definitions for these terms.

40. The 2016 Act does not permit the tax to be charged when aggregate is subject to commercial exploitation as fuel or for the purposes of producing or extracting anything capable of being used as fuel. This is consistent in effect with UKAL, which does not apply to any material used as fuel.

41. Following stakeholder engagement and detailed consideration of industry calls for a close degree of alignment between SAT and UKAL, the Scottish Government has decided to retain key concepts from UKAL, where these were compatible with the objectives for the tax. However, the Bill retains flexibility for these concepts to evolve to continue to support circular economy policy objectives.

Meaning of aggregate

42. The category of “aggregate” does not have a specific relevant geological definition. Instead, it is generally defined in relation to its use. There are various technical definitions, which can be drawn from the Scottish Aggregates Minerals Survey 2019¹⁰ and the 2020 UK Government review of the Aggregates Levy¹¹. In general, aggregates can be granular or particulate material which is suitable for use (on its own or with the addition of cement, lime or bituminous binder) in construction as concrete, mortar, roadstone, asphalt or drainage courses, or for use as constructional fill or railway ballast (also referred to as ‘construction aggregates’). However, identifying and listing all actual and potential uses of aggregate would be very difficult.

43. For the purposes of the Bill, aggregates are defined as being any rock, gravel or sand, together with whatever substances are for the time being incorporated in the rock, gravel or sand or naturally occur mixed with it. This broad definition potentially brings a wide range of materials and products into scope. However, the Bill then narrows down this scope through a series of specific exemptions and reliefs.

44. This approach is consistent with the definition of aggregate provided for in UKAL. The Scottish Government has decided to replicate the definition of aggregate for the purpose of SAT on the basis that it is compatible with the intended objectives for the tax, is well understood by aggregate producers, and is supported by existing UKAL taxpayers.

Commercial exploitation and taxable aggregate

45. For the purposes of SAT, any quantity of aggregate is taxable aggregate when it is subject to commercial exploitation unless it meets the criteria for one of the defined exemptions.

46. The act of extracting the aggregate is not in itself considered to be commercial exploitation. This Bill sets out when aggregate is considered, and not considered, to have been commercially exploited. The Bill also sets out when commercially exploited aggregate is exempted from taxation, discussed in paragraphs 57 to 60 below, or eligible for a tax credit, discussed in paragraphs 76 to 78.

47. The Bill stipulates that aggregate is considered to have been commercially exploited when it is either removed from its originating site, becomes subject to an agreement to supply it to any person, is used for construction purposes or is mixed with any material or substance other than water. The Bill also sets out when the definitions of commercial exploitation apply where aggregate is moved to Scotland from the rest of the UK. This is discussed in more detail in paragraphs 55-57.

¹⁰ [2019 Aggregate Minerals Survey for Scotland - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹¹ [Review of the Aggregates Levy - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

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48. Generally, aggregate is not considered to have been commercially exploited when the value of the aggregate is expected to be realised later, such as when aggregate is moved to a different site for certain types of processing or for storage.

49. These definitions of commercial exploitation align with those provided for in the UKAL. These are compatible with the Scottish Government's policy objectives for the SAT, and throughout the consultation process no issue was raised with these definitions.

50. The Bill sets out that SAT can be charged on taxable aggregate at any point of commercial exploitation. This rule is designed to help encourage consumer responsibility and support a level playing field across the primary aggregates industry.

51. Aggregate imported to Scotland from outside the UK will be taxable at the first point of commercial exploitation to occur after the aggregate arrives in Scotland and generally it would be expected that the aggregate is accounted for by the person responsible for the commercial exploitation in Scotland. The tax treatment of aggregate exported internationally or moved to the rest of the UK from Scotland is discussed in paragraph 78. In both instances, this aligns with the current arrangements for the UK Levy.

52. In addition to these scenarios, introduction of the SAT will mean that consideration must be given to the tax treatment of aggregate which is either moved from the rest of the UK to Scotland or moved in the other direction. This movement has not previously had to be specifically considered for the UKAL.

53. The Scotland Act 2016 provides that UKAL will be due on aggregate moved to the rest of the UK from Scotland. The UK Government have stated that movements of aggregate from Scotland would become subject to UKAL on the same basis as imports¹². Paragraph 78 sets out the Scottish Government's intended approach to avoid tax being charged twice in such circumstances

54. The Scottish Government intends that aggregate moved to Scotland from the rest of the UK should be subject to SAT. Based on the available survey data, this represents in a relatively small amount of material.

55. Extensive consideration has been given to the most appropriate approach to accounting administratively for such cross-border movement in SAT. The Scottish Government's view is that having only the first person responsible for commercial exploitation in Scotland account for SAT would result in some aggregates consumers, who purchase aggregate from outwith Scotland having to account for aggregate tax for the first time. The Scottish Government considers that the least burdensome and most administratively straightforward approach to cross-border transactions would instead be

¹² [Review of the Aggregates Levy - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

for the aggregate producer to account for the tax as they would in a purely Scottish located transaction.

56. This means that commercial exploitation of aggregate moved to Scotland from the rest of the UK will be taken to occur in Scotland. As a result, some aggregate producers based in the rest of the UK may have to register for SAT, but only where they are responsible for commercially exploiting aggregate moving to Scotland. For example, by selling or delivering aggregate to a Scottish based customer. The Scottish Government is committed to collaborative working with the UK Government and with the aggregates industry to ensure the effective delivery of this approach, which seeks to minimise the overall regulatory burden on businesses. No commercial exploitation will be deemed to have occurred, for the purpose of SAT, where aggregate is moved from a site based in the rest of the UK to a site based in Scotland which are both under the same SAT registration. SAT will then be triggered by the next point of commercial exploitation to occur. This aligns with the current position under UKAL for sites under the same registration.

57. To minimise any risk of disruption to movements of aggregate to Scotland, the Bill also provides regulation-making powers for Scottish Ministers to adjust the definitions of commercial exploitation. The Scottish Government also intends to undertake continued engagement with industry stakeholders once the Bill has been introduced to ensure that all possible scenarios are taken into account

Exempt aggregate

58. The Bill includes a number of exemptions. Broadly, these serve to remove from the scope of the tax secondary or recycled aggregates, or rock, sand and gravel that would not generally be used as granular or particulate material in construction as concrete, mortar, roadstone, asphalt or drainage courses, or as construction aggregates. Further detail on the policy rationale for the exemptions is set out in more detail in Table 1 below:

Table 1: Exempt aggregate

Material exempt	Rationale for exclusion
Recycled aggregate	Recycled Aggregate is the main alternative to primary aggregate. Exempting it from tax is intended to encourage its use where available.
Construction by-product	This exemption encourages the use of material which will incidentally be extracted during construction activity and may otherwise become waste.
Watercourse clearance	This exemption encourages the use of material which will incidentally be extracted during watercourse clearance, and which may otherwise become waste.

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Coal, lignite or slate	This exemption excludes materials which are generally not suitable for use in construction.
Spoil from processing coal, lignite or slate or other specified substances	This exemption encourages the use of materials which might otherwise become waste.
Spoil from industrial combustion processes	This exemption encourages the use of materials which might otherwise become waste.
Oil drill cuttings	This exemption encourages the use of materials which might otherwise become waste.
Clay, soil, vegetable or other organic matter	This exemption excludes materials which are generally not suitable for use as an aggregate.
SAT has already been paid	This exemption ensures that the same quantity of aggregate is not subject to SAT twice.
Aggregate off site before tax introduction	This exemption confirms the tax treatment of aggregate that potentially has been commercially exploited prior to the commencement of SAT

59. With one exception, the Bill’s exemptions mirror those provided for in UKAL. As ball and china clay is not produced in Scotland, the Scottish Government has decided that there is no need to exempt the spoil from its extraction. In addition, ball and china clay themselves will continue to be exempt as they may be imported into Scotland but are unlikely to be used as aggregates.

60. From October 2023, changes were made to UKAL exemptions relating to aggregate returned unmixed to the land at the site from which it was won and by-products of construction activities. The SAT exemptions in the Bill are consistent with the updated UKAL exemptions.

Consultation and engagement

61. Consultation responses included a range of perspectives on the relevant issues. There was support amongst several respondents, particularly those representing aggregate industry interests, for the tax to align closely with UKAL, i.e. retaining current definitions, exemptions and reliefs. Other respondents considered that there might be an opportunity to establish a more precise definition of what is chargeable in the first instance, such that fewer exemptions might need to be considered.

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62. An alternative view from some respondents was that the Scottish Government should introduce a distinctive tax with a broader scope. No specific alternative proposals were however put forward.

63. These points were considered and discussed by the expert advisory group, with a general view, from those expressing a position, in favour of adopting UKAL definitions of aggregate, taxable aggregate, commercial exploitation and exempt aggregate. The main reasons given in support were: (1) the definitions had developed over a long period of time with extensive engagement between the UK Government and stakeholders, (2) they are widely understood by the industry, and (3) they had been considered and validated through litigation, including by the European courts.

64. Stakeholders also raised the importance of defining when commercial exploitation has occurred in relation to aggregate which is moved to Scotland from the rest of the UK. A clear definition was sought to avoid double taxation and thus to mitigate any potential for disruption to the aggregates industry.

65. Whilst supportive of all current UKAL exemptions being retained, aggregates industry stakeholders called for increased investigation and enforcement related to certain exemptions, in particular where aggregate is extracted from temporary extraction sites, known as “borrow pits”. There was strong concern that these could be subject to abuse, with the potential to undermine the circular economy objectives of the tax, as well as commercially disadvantage businesses that operate in compliance with the law.

66. The Bill includes a provision which may impose a charge on those who purchase taxable aggregate from unregistered suppliers. Revenue Scotland will work with industry and other stakeholders to develop appropriate compliance and administration systems.

Alternative approaches

67. There is an alternative option not to replace UKAL when it is switched off in Scotland. This would, however, come at a cost to the Scottish Budget and, in the absence of an alternative policy measure, undermine the objectives of the tax.

68. It would also be an option to take a different approach to the fundamental structure of the tax. UKAL has been subject to some criticism for adopting a very broad definition of aggregates and for the large number of exemptions and credits which are required to make this system work¹³. Some alternative approaches were suggested during the consultation process. These include to define the scope of the tax with reference to mineral type, construction activity or by the availability of alternative products. Specific and detailed alternative proposals were not however put forward and have not been otherwise identified during the consultation process. The Scottish Government found that UKAL, including its key concepts, is well established and

¹³ [Review of the Aggregates Levy - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

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understood by both taxpayers and their customers, that taxpayers very strongly favour consistency of approach and that the existing structure is consistent with supporting the Scottish Government's circular economy objectives.

69. The Scottish Government therefore does not intend to pursue significant changes to the form or structure of the existing tax via this Bill. However, in establishing the SAT, the Scottish Government will provide for refinements and enhancements that support effective administration of the tax and allow for future evolutionary refinement, as our understanding of the tax and the tax base, including the composition of the aggregates industry in Scotland, develops.

70. The Scottish Government considered, with the expert advisory group, whether adjustments to any of the key concepts, including the tax exemptions, could improve tax compliance. However, the predominant view was that the key opportunities for improving compliance lay in the administration and enforcement of the tax.

71. Some stakeholders suggested making it a condition of local authority and Scottish Government aggregate procurement that primary aggregate be purchased from those registered for SAT. The Scottish Government did not, however, consider it appropriate to add additional complexity to public sector procurement arrangements. Instead, the Bill sets out that SAT can be charged on taxable aggregate at any point of commercial exploitation, unless that aggregate has been purchased from a producer registered for SAT. If aggregate is supplied by a producer not registered for SAT and tax is due, but has not been accounted for, then SAT may be charged to the customer when they use the aggregate.

Part 1, Chapter 3: Calculation of the tax

72. Chapter 3 of the Bill makes provision about the calculation of the tax, including how the tax is calculated and when credit is available in relation to the tax.

73. The tax will be chargeable by weight, with a rate or rates per tonne applied to all taxable material. The Bill provides Scottish Ministers with power to make regulation regarding the calculation of the weight of aggregate.

74. In line with the approach taken for other devolved taxes, this Bill does not specify the tax rate. Rather, it provides a regulation-making power to allow Scottish Ministers, with the approval of the Scottish Parliament, to set the tax rate or rates. In line with the Scottish Government's published Framework for Tax, Scottish Ministers typically take decisions regarding applicable rates when the Scottish Budget is published.

75. For tax introduction, the Scottish Government intends to use this power to provide for a single tax band, matching the approach taken for UKAL. The Bill does, however, provide Scottish Ministers with the power to take a different approach at a future point through the introduction of multiple tax bands.

76. The Bill provides powers for Scottish Ministers to make regulations regarding specified tax credits. Where commercial exploitation is in principle deemed to have occurred, tax credits allow for a reduction in tax liability in real terms based on the specific circumstances.

77. For the purposes of SAT, tax credits (rather than exemptions) have been chosen where the end use of the aggregate might be uncertain at the point of exploitation, which may give rise to a greater tax compliance risk. As with the definitions of aggregate and taxable aggregate, it was decided to match the tax credits provided for in UKAL.

78. The Bill sets out that tax credits will be used in the following circumstances:

- **Excepted process:** this tax credit excludes from charge the products of specified processes that transform aggregate into a higher value product not suitable for use as an aggregate. For example, this includes the creation of dimension stone or the production of certain industrial minerals.
- **Industrial Processes and Agricultural Processes:** this tax credit excludes material used in specified industrial and agricultural processes. The material is not considered to be used as aggregate in these processes. This Bill provides Scottish Ministers with ability to make regulations determining which industrial and agricultural processes qualify for the credit. For the UKAL, specified industrial processes include, for example, drinking water, air and oil filtration and purification and a wide range of manufacturing related processes whilst agricultural processes include the production of fertiliser and the manufacture of pesticides and herbicides. The specific processes eligible for the tax credit for the purposes of SAT will be set out in secondary legislation.
- **Dumping:** this tax credit excludes material that is dumped by returning it unprocessed to its originating site, landfilling it or using it for beach replenishment. These are not considered to be uses as aggregate.
- **Aggregates moved to the rest of the UK:** this tax would be available in relation to material that is moved from Scotland to elsewhere in the UK to prevent double taxation, i.e., both UKAL and SAT being charged on the same quantity of aggregate. The 2016 Act provided for an equivalent provision for aggregate moved from the rest of the UK to Scotland in the UKAL.
- **Aggregate exported internationally:** this tax credit excludes material that has been exported from Scotland to outside of the UK. It would not be consistent with the overall objectives of SAT to tax material which is not used as aggregate. The evidence to demonstrate end use would not be readily available or verifiable when aggregate is exported internationally. This credit is required, therefore, to provide legal certainty as to the tax treatment of exports. This aligns with the treatment of exports under the UKAL regime.
- **Bad debt:** this tax credit allows aggregate producers relief from tax where they have been unable to receive payment from a customer.

Consultation and engagement

79. Consultation respondents offered a range of reflections on the setting of tax rates. Several took the view that the SAT rate should be the same as that for the UKAL to avoid creating complexity, distorting competitiveness, and increasing costs to business. Some suggestions were made for possible alternative multi-band approaches. However, the prevailing view was that a multi-band system would create unneeded complexity for taxpayers.

80. Consultation responses also included those calling for complete parity with UKAL tax credits to avoid confusion and the risk of putting Scottish producers at a disadvantage. This view was strongly expressed by producers of primary aggregate and customers whose activity currently qualifies for a tax credit.

81. Existing UKAL tax credits were also considered and discussed by the expert advisory group. In general, the members that expressed a position favoured adopting UKAL tax credits, which had been developed with significant input from a range of stakeholders and validated over time.

82. During the consultation process and associated engagement there was broad support for the principle that aggregate should only be subject to payment of one of the two aggregates taxes, i.e., SAT or UKAL. The provisions of schedule 1 of the Scotland Act 2016 provide that following introduction of a SAT, a UKAL relief can be claimed for any aggregate moved to Scotland from the rest of the UK. While, for UKAL purposes, aggregate from Scotland will be treated in the same way as aggregate originating in non-UK countries.

Alternative approaches

83. With regard to tax rates, the main alternative considered was to set out a rate of tax in the Bill. However, such an approach would reduce future flexibility to change the rate and would be inconsistent with the approach taken for other fully devolved taxes.

84. Separately, the Scottish Government considered not providing flexibility in the Bill for more than one tax band to be established, or alternatively setting out specific proposals for multiple bands. Alternative high-level proposals raised included that there could be a lower rate for non-profit making uses and that different rates could apply on a geographic or application basis, along with a more general suggestion that different rates of tax could potentially reflect environmental damage or performance.

85. The Scottish Government considers that its intended approach is the most practical. Establishing that there will be a single rate on tax introduction provides certainty and stability for taxpayers, whilst legislating in the Bill to allow for an alternative approach to be taken in future will provide Scottish Ministers with the flexibility to consider the case for a multi-band system over time.

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86. During the consultation process, an alternative approach to the movement of aggregate between Scotland and the rest of the UK was proposed and considered in detail. It was suggested that the country of production could retain the tax (i.e., no tax credit provided) and the receiving country should provide relief for tax already paid. This would allow the country of production to retain the tax as opposed to the country to which the aggregate was moved for use. Given that the available data indicates that Scotland moves significantly more aggregate to the rest of the UK than it receives, this was a key area of consideration for the Scottish Government.

87. After discussion with a range of industry stakeholders, the UK Government and the expert advisory group, the Scottish Government has decided to mirror the UKAL approach, i.e., to provide for a tax credit for aggregate moved to the rest of the UK. The primary driver for this was that any other approach would introduce significant administrative complexity for taxpayers, with the potential to distort behaviours relating to cross border aggregate markets. In addition, any alternative approach would have not been consistent with the powers available via the 2016 Act, which are essential for reciprocity and guarding against double taxation. Thus, any alternative approach would have required changes to UKAL. At this time that was not considered to be a proportionate approach, especially given estimates around the relatively small volumes which are moved across the border into Scotland. Cross-border volumes and any related impacts will, however, be monitored on an ongoing basis by the Scottish Government once the tax is established.

88. In addition, the Bill provides an ability to cap the value of any tax credit. This will ensure that, if the Scottish and UK rates diverge, Scottish Ministers will have the ability to pursue, through secondary legislation, an approach that would not necessarily result in less tax being paid overall on materials extracted in Scotland and moved to the rest of the UK.

Part 1, Chapter 4: Tax administration

89. Revenue Scotland, the tax authority for Scotland, will manage the administration and compliance of the SAT, drawing on its extensive experience of collecting and managing LBTT and SLfT. The 2014 Act sets out the tax administration framework that underpins all devolved taxes in Scotland, along with the powers and duties of taxpayers and Revenue Scotland. Where necessary this Bill amends the 2014 Act, as required to account for the operation of SAT.

90. The Bill makes provision for a tax that will be as simple as possible to understand and pay, setting the foundation for robust compliance, in line with the Framework for Tax and the principles of certainty, convenience and effectiveness in particular. As part of that approach, the administration of the tax will place minimal administrative burden on taxpayers, their agents and the tax authority, whilst also collecting information that underpins an effective compliance regime and helps to ensure that Government policy is being maintained. The Scottish Government intends that, as far as possible, all tax returns and payments for SAT should be electronic.

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91. The Scottish Government intends that a person who produces taxable aggregate must be registered, and that registered persons must submit tax returns and pay tax in such periods and in such a manner as are determined by the Scottish Ministers in regulations. In addition, those businesses who produce or intend to produce only certain types of exempt aggregate will be required to make a notification to Revenue Scotland but will not be required to submit tax returns. This approach is broadly in line with the current administrative requirements for UKAL taxpayers.

92. Revenue Scotland will be required to keep and maintain a register of taxpayers for the purpose of collecting and managing SAT. Information from this register will be published, which will help provide transparency for Revenue Scotland, taxable persons and the public. Revenue Scotland will consult with stakeholders while determining the form and manner of the information to be published, again exemplifying a shared commitment to engagement.

Consultation and engagement

93. During the consultation process stakeholders highlighted the need to minimise any additional complexity and the potential administrative burden from having two aggregates tax regimes.

94. Aggregates industry stakeholders stressed the need for an easily accessible public register of those who are registered for SAT to provide transparency, so customers can ensure that they are purchasing primary aggregate from a producer who has complied with all their tax obligations.

95. The Bill provides for a tax that is intended to be straightforward to pay and administer. In line with the approach taken for the existing devolved taxes, much of the technical detail regarding tax administration will be set out in secondary legislation. The Scottish Government will work with Revenue Scotland to develop the detail, including undertaking a further programme of stakeholder engagement.

Alternative approaches

96. An alternative approach would have been for SAT to be administered by HMRC, as with UKAL, or by an alternative body in Scotland. However, as Revenue Scotland, Scotland's independent tax authority, has established expertise in providing the administration for the existing fully devolved taxes and as the 2014 Act provides that its general function is the collection and management of the devolved taxes, the Scottish Government is satisfied that Revenue Scotland is the most appropriate body to administer SAT. This is consistent with the approach taken to the other fully devolved taxes. All other taxes that have been wholly devolved to Scotland were previously administered by HMRC, and are now administered by Revenue Scotland.

Part 1, Chapter 5: Penalties

97. The Scottish Government's objective is to design taxes that are as simple as possible, with a common approach to tax administration and penalties where possible. Revenue Scotland has the power to issue penalty notices to taxpayers or their agents for non-compliant behaviours with respect to the devolved taxes. There are three kinds of financial penalties for non-compliant behaviour: fixed penalties, daily penalties, and percentage-based penalties where the penalty is linked to the potential loss in tax.

98. Where penalties listed in the 2014 Act apply to all devolved taxes, they will also apply to SAT. Where amendments are required to the 2014 Act for penalties to apply to SAT they are set out in this Bill.

99. The Bill also creates penalties in the 2014 Act that do not apply to the other devolved taxes. These are penalties payable for failure to provide a security, failure to notify Revenue Scotland of the production of exempt aggregate when required, failure to appoint a tax representative in accordance with regulations when required, incorrectly declaring that aggregate will be used in an industrial or agricultural process for which a tax credit is claimed and failure to notify of cessation of group treatment. These additions replicate penalties found in UKAL and are required to ensure compliance with other provisions of the Bill. The framework for the collection, administration and payment of penalties provided by the 2014 Act will apply to all SAT penalties.

Consultation and engagement

100. There was limited stakeholder feedback in response to detailed questions regarding the application of the penalty system, but aggregates industry stakeholders highlighted the importance of ensuring that penalties are applied to non-registered aggregate producers.

Alternative approaches

101. In relation to penalties, the Scottish Government did not consider any alternative options as the penalties framework provided by the 2014 Act is a fundamental aspect of the Scottish tax administration system. The Scottish Government and Revenue Scotland continue to keep the operation of the overall administration system under consideration, which may lead to periodic amendments to the penalties regime.

102. Where fixed penalties existed in UKAL, the Scottish Government considered whether these penalties were set at a level that served as a sufficient deterrent. It was decided that fixed penalties should be increased from UKAL levels to take into consideration inflation since 2002 when UKAL was introduced.

Part 1, Chapter 6: Reviews and appeals

103. This part of the Bill modifies the 2014 Act to extend the list of decisions made by Revenue Scotland for which review by Revenue Scotland can be requested or an appeal made to the Scottish Tribunals. The Bill also specifies SAT specific decisions which are reviewable and appealable.

Consultation and engagement

104. There was limited stakeholder feedback on consultation questions regarding the application of the review and appeal system, although those who responded agreed with the proposals outlined in the consultation to extend the existing dispute resolution system to include SAT.

Alternative approaches

105. In relation to reviews and appeals, the Scottish Government did not consider any alternative options as the review and appeal system provided by the 2014 Act is a fundamental aspect of the Scottish tax administration system.

Part 2: Devolved tax administration

106. The overarching policy intention in this part of the Bill is to support the effective and efficient administration of tax by Revenue Scotland. Further commentary on the various sections is set out below.

Penalties for late payment of tax

107. The policy intention of this section is to make explicit that, where a taxpayer submits a late return under any provision in section 40 of the Land and Buildings Transaction Tax (Scotland) Act 2013, any consideration as to whether a late payment of tax penalty applies in terms of section 168(1)(a) of the 2014 Act should be with reference to the date that the return should have been made. That is, the late submission of a tax return does not provide more time for any relevant tax to be paid than would otherwise have been the case. This is consistent with the policy intent at the time that the 2014 Act was introduced and with existing Revenue Scotland guidance.

Use of communication from Revenue Scotland to taxpayers

108. This provision will enable Scottish Ministers to bring forward regulations about communications from Revenue Scotland to taxpayers, including provision about the use of electronic communications.

109. Existing legislation already enables Revenue Scotland to communicate electronically with taxpayers where consent has been provided. The policy intent of any future regulations would be to support this through further detail, including in terms of

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the relevant presumptions that would apply to the use of electronic communications. This could include for example, the period of time during which any consent would endure and presumptions around receipt. Any further detail would provide additional certainty, thereby benefiting both taxpayers and Revenue Scotland.

110. This provision will also enable Scottish Ministers to make regulations in other areas of communication used by Revenue Scotland, including postal communications. At present, Revenue Scotland relies on provisions on the Interpretation and Legislative Reform (Scotland) Act 2010 (ILRA) when communicating with taxpayers by post. The policy intention of the relevant Bill provision is to enable Scottish Ministers to introduce specific legislation in this area, in particular with regard to the use of ordinary, registered and recorded post.

Use of automation by Revenue Scotland

111. This provision will enable Scottish Ministers to bring forward regulations about the use of automation by Revenue Scotland, in carrying out functions conferred on either Revenue Scotland or a designated officer. For example, if tax has not been paid, then Revenue Scotland systems could automatically issue reminders to taxpayers. Building on the existing legislative provisions, the policy intent is to support the efficient and effective administration of the devolved taxes. In particular, future legislation would be intended to help ensure that the arrangements in the 2014 Act are future-proofed and allow for consideration to be given to the impacts of developments in information technology on tax administration.

Automatic set-off

112. The policy intent of these provisions is to support the efficient and effective administration of the devolved taxes by making explicit that where a taxpayer has both a debit and a credit in relation to the fully devolved taxes, Revenue Scotland can automatically “set-off” the taxpayer credit against any debit.

Continuity of designated officers of Revenue Scotland

113. Inclusion of a general continuity provision relating to the actions of designated officers of Revenue Scotland, along with amendments to section 225 (applications for summary warrants) of the 2014 Act provide additional certainty in terms of the operation of the legislation, in line with the Scottish Government’s policy intent. They make clear that the actions of one designated officer can be continued by another.

Consultation and engagement

114. Although the provisions set out in Part 2 of the Bill are fully supported by Revenue Scotland and reflect detailed discussions with the tax authority, no formal public consultation has been undertaken prior to their inclusion in the Bill. Although this is not the usual practice, the Scottish Government has concluded, for the reasons set

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out in the next paragraph, that it is appropriate to include the provisions. It is not anticipated that they will be controversial.

115. More specifically:

- One of the changes is a minor correction.
- Two of the provisions in Part 2, related to designated officers and the application of late payment penalties, are also relatively minor and intended solely to be clarificatory. The Scottish Government's view is that they reflect the policy intent at the time that the 2014 Act came into force and serve solely to reinforce this.
- Provisions related to the use of automation by Revenue Scotland and communications from Revenue Scotland to taxpayers are enabling powers, which do not create new obligations on taxpayers or change in any way the current arrangements applying in these areas. If approved by the Scottish Parliament, the Scottish Government would undertake full consultation prior to bringing forward any regulations under the two powers.
- Provisions relating to the potential for automatic set-off are consistent with those already applying in Scotland for UK taxes, including UKAL. It is expected that these provisions might be relevant in only a small range of circumstances.

Alternative approaches

116. The main alternative considered was not to include the Part 2 provisions in the Bill, ensuring that it focused solely on the legislation required to deliver a SAT.

117. In deciding against this, the Scottish Government took account in particular of the relative infrequency with which primary legislation on tax matters is brought forward for consideration by the Scottish Parliament, the views of Revenue Scotland on the benefits that the provisions could bring in providing certainty and supporting the efficient and effective collection of tax and the nature and context of the provisions. On balance, the Scottish Government's view is that it would be most appropriate to include the provisions in this Bill.

Effects on equal opportunities, human rights, Island communities, local government, sustainable development etc.

Equal opportunities

118. It is not expected that the Bill will have any impact on equal opportunities or fairness. Both the Equalities Impact Assessment and Fairer Scotland Duty Assessment

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processes were completed while developing the Bill, and each concluded that a full assessment was not required.

119. SAT will, in broad terms, be a tax on crushed rock, sand and gravel, replacing an existing similar UK-wide tax. The tax will primarily and directly affect producers of primary aggregate who will be liable to register, make tax returns and pay tax to Revenue Scotland in relation to the tax. None of the proposed provisions of the Bill will have any impact on those who share a protected characteristic and nor is it expected to have any impacts on inequality for socio-economically disadvantaged groups, such as any workers on low incomes in this sector.

Human rights

120. European Court of Human Rights (“ECHR”) jurisprudence (see *Ferrazzini v. Italy* [GC] 2001-VII, paragraphs 24-31) affords the widest margin of appreciation to States in terms of their taxing function, save for cases where tax measures are of a penal, discriminatory or otherwise significantly disproportionate nature, and hence article 6 of ECHR is not engaged.

121. The Bill amends the 2014 Act to, amongst other things, provide for a range of additional civil penalties in relation to SAT and make minor modifications to the scope of SAT-related decisions made by Revenue Scotland. However, a notice of review can be given to Revenue Scotland in relation to such decisions or a notice of appeal can be given to the independent and impartial First-tier Tribunal (Tax Chamber) and the Upper Tribunal. It is not therefore considered that there are any relevant human rights concerns.

122. The provisions set out in Part 2 of the Bill are not considered to directly raise any relevant human rights concerns. Further consideration will be given to this should Scottish Ministers bring forward legislative proposals drawing on the Order-making powers related to the use of automation by Revenue Scotland and communications from Revenue Scotland to taxpayers to ensure that the final design does not engage human rights legislation.

Island communities

123. A partial Island Communities Impact Assessment was completed and published alongside the consultation paper. Both documents invited views to help further inform the process to develop the Bill. The partial Island Communities Impact Assessment was reviewed following consultation and stakeholder feedback, and in light of the provisions in Part 2. It was concluded that the Bill is not expected to have an adverse impact on island communities and therefore a full Island Communities Impact Assessment is not required.

124. The Bill will replicate the core structure of the UKAL, while also providing opportunities for an improved collection and administration of the tax. It is therefore not

considered that the replacement tax will impose any new or additional burdens on island communities. It is assessed that the application of the tax will not result in any additional impacts on those that commercially exploit primary aggregates on Scottish Islands, when compared to those elsewhere in Scotland, nor any differential impact between producers on different islands.

Local government

125. Consultation and stakeholder engagement to help develop the Bill included dialogue with local government, principally between Scottish Government and Revenue Scotland officials and the Convention of Scottish Local Authorities, the body that represents Scotland's councils. Some local authorities submitted their own response to the consultation directly.

126. It is not expected that the Bill will result in any significant implications for local government. At present, four Scottish local authorities run their own quarries and will therefore directly pay UKAL where aggregate is commercially exploited. More broadly, local authorities may indirectly pay UKAL where they purchase aggregates from quarry operators and the cost of the levy is passed on. The Scottish Government does not currently hold any direct information on the amount of UKAL paid by local authorities, either directly or indirectly. However, in an illustrative scenario where the SAT rate is consistent with that for UKAL, as local authorities will already have provisions in place to account for the cost of UKAL either as a taxpayer or when purchasing aggregate, the introduction of SAT is not expected to result in additional costs.

Sustainable development

127. The Environmental Assessment (Scotland) Act 2005 section 4(3)(b) specifies that the Act does not apply to financial or budgetary plans and programmes. Therefore, no Strategic Environmental Assessment is required for this Bill. The UKAL, which aims to minimise the use of primary aggregates and maximise the use of secondary and recycled aggregates, has been operational in Scotland since 2002. The precise impact of SAT relative to UKAL will be subject to decisions taken in secondary legislation.

128. In policy terms, the Scottish Government will place particular importance on considering how this future tax aligns with our overall ambitions for sustainable economic growth and our transition to a circular economy. As recognised in the National Strategy for Economic Transformation¹⁴, Scotland has a unique opportunity over the next ten years to increase economic and social wellbeing, whilst respecting environmental limits and becoming one of the most prosperous nations in the world. Recognising the environmental impacts associated with the use of new materials, the Bill will support the Scottish Government's circular economy and zero waste goals and continue to encourage a shift in demand from primary aggregate towards recycled aggregate, wastes and other by-products. The Bill will also encourage innovation and

¹⁴ [Scotland's National Strategy for Economic Transformation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-strategy-for-economic-transformation/pages/1-introduction.aspx)

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the development of new products which might substitute for aggregates in future and help to support this shift.

129. A Business and Regulatory Impact Assessment (BRIA) has also been carried out and published to coincide with the introduction of the Bill. The BRIA considered three possible options in relation to establishing a replacement for the UKAL in Scotland: 1) do not replace UKAL once it is disapplied in Scotland, 2) introduce a replacement tax that retains the fundamental structure of UKAL while being tailored to Scotland's needs, and 3) provide for a replacement tax that takes a fundamentally different approach to the existing UKAL, redefining key concepts and introducing a different system for the administration of SAT.

130. The BRIA supported option two (introduce a tax that retains the fundamental structure of UKAL) as this option will retain definitions developed over a long period of time with extensive engagement between the UK Government and stakeholders, maintain a system that is widely understood by the industry, and considers that UKAL has been considered and validated through litigation, including by the European courts.

Crown consent

131. It is the Scottish Government's view that the Bill as introduced does not require Crown consent. Crown consent is required, and must be signified during a Bill's passage, where the Bill impacts the Royal prerogative, the hereditary revenues of the Crown or the personal property or interests of the Sovereign, the Prince and Steward of Scotland or the Duke of Cornwall. The Scottish Government's view is that this Bill does none of those things.

132. For the source of the requirement for Crown consent, see [paragraph 7 of schedule 3 of the Scotland Act 1998](#), and [rule 9.11 of the Parliament's Standing Orders](#). For further information about the considerations that go into determining whether Crown consent is required for a Bill see [Erskine May](#), the guide to procedure in the UK Parliament.

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Policy Memorandum

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