

# Building Safety Levy (Scotland) Bill

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## Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 52

Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 1

**Michael Marra**

16 In section 1, page 1, line 12, at end insert—

<( ) Notwithstanding sections 4 and 5, the levy may not be charged on building control events where construction or conversion work commenced before 1 April 2028.>

### Section 4

**Ivan McKee**

1 In section 4, page 3, line 2, leave out <if> and insert <to the extent that>

**John Mason**

17 In section 4, page 3, line 6, at end insert—

<( ) temporary residential accommodation, such as a hotel, inn or similar establishment.>

**Ivan McKee**

2 In section 4, page 3, line 8, leave out <if> and insert <to the extent that>

**John Mason**

18 In section 4, page 3, leave out line 10

### Section 5

**Meghan Gallacher**

19\* In section 5, page 4, line 2, after <is> insert <—

( ) a building or part of a building for which an application for a building warrant has, in accordance with Part 2 of the Building (Scotland) Act 2003, been made on or before 1 April 2028, or

( )>

**Michelle Thomson**

48\* In section 5, page 4, line 2, after <is> insert <—

( ) a building or part of a building which is a residence that is, at the first point of sale, sold to a first-time buyer (within the meaning of schedule 4A of the Land and Buildings Transaction Tax (Scotland) Act 2013), or

( )>

**Liz Smith**

20 In section 5, page 4, line 22, at end insert—

<( ) created by the conversion of a historic building.>

**Craig Hoy**

21 In section 5, page 4, line 22, at end insert—

<( ) situated in a rural area.>

**Meghan Gallacher**

22 In section 5, page 4, line 22, at end insert—

<(e) intended to be used wholly or mainly as housing for key workers employed in—

(i) healthcare,

(ii) social care,

(iii) education,

(iv) emergency services,

(v) agriculture,

(vi) forestry,

(vii) other sectors as may be specified by the Scottish Ministers in regulations.>

**Mark Griffin**

49 In section 5, page 4, line 22, at end insert—

<( ) first-time buyer housing, that is a building or part of a building which is intended to be sold to a first-time buyer (within the meaning of paragraph 2 of schedule 4A of the Land and Buildings Transaction Tax (Scotland) Act 2013).>

**Section 6**

**Michelle Thomson**

50 In section 6, page 4, line 39, at end insert—

<( ) make further provision to remove a building where that building is sold to a first-time buyer.>

**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 8**

**Ivan McKee**

- 4 In section 8, page 5, line 20, 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.>

**After section 8**

**Michelle Thomson**

- 51 After section 8, insert—

**<PART**

**INDEPENDENT ASSESSMENT**

**Independent sensitivity assessment**

- (1) The Scottish Ministers must, not before the indicative rate (or rates) of the levy applicable to a taxable building control event have been published—
  - (a) make arrangements for an independent and competent expert to—
    - (i) conduct an assessment of the likely impact of the levy on the housing market,
    - (ii) prepare a report on that assessment, and
  - (b) publish and lay a copy of the report on the assessment before the Scottish Parliament.
- (2) The report laid under subsection (1)(b) must include consideration of—
  - (a) the impact of the levy on the new build housing sector, in particular—
    - (i) rural sites,
    - (ii) brownfield development,
    - (iii) small and medium-sized developers,
    - (iv) the retention of existing, and inflows of new, private capital investment for the new build housing sector in Scotland,
    - (v) the delivery of affordable housing across Scotland, including houses delivered through agreements in accordance with section 75 of the Town and Country Planning (Scotland) Act 1997,
    - (vi) the Scottish Ministers’ home building strategy and all-tenure home building target,

- (vii) the viability of developments by local authority area,
  - (b) the revenue forecast for the levy,
  - (c) the rate (or rates) of the levy set under section 9(2),
  - (d) the funding requirements of the Cladding Remediation Programme.
- (3) In this section “Cladding Remediation Programme” is to be construed in accordance with sections 3, 4, 7 and 8 of the Housing (Cladding Remediation) (Scotland) Act 2024.>

### **Before section 9**

#### **Michael Marra**

**23** Before section 9, insert—

#### **<Indicative rates**

- (1) The Scottish Ministers must publish the indicative rate (or rates) of the levy applicable to a taxable building control event.
- (2) Before publishing the indicative rates under subsection (1), the Scottish Ministers must—
  - (a) commission an independent sensitivity assessment on the impact of the levy on the housing market, and
  - (b) lay a copy of that assessment before the Scottish Parliament.>

### **Section 9**

#### **Michael Marra**

**24** In section 9, page 5, line 33, at end insert—

<( ) Regulations under subsection (2) may not—

(a) be made until such time as—

- (i) an independent sensitivity assessment has been completed in accordance with section (*Indicative rates*)(2), and
- (ii) the indicative rate (or rates) of the levy applicable to a taxable building control event have been published in accordance with section (*Indicative rates*)(1),

(b) come into force before the expiry of 22 months beginning with the day on which the requirements set out in paragraph (a) are met.>

#### **Michelle Thomson**

**52** In section 9, page 5, line 33, at end insert—

<( ) Regulations under subsection (2) may not be made until such time as a report is laid under section (*Independent sensitivity assessment*)(1)(b).>

#### **John Mason**

**25** In section 9, page 5, line 35, leave out <area in square meters of the floorspace> and insert <market value>

**John Mason**

- 26 In section 9, page 6, line 4, leave out <area in square meters of the floorspace> and insert <market value>

**John Mason**

- 27 In section 9, page 6, line 5, leave out from <and> to end of line 6

**John Mason**

- 28 In section 9, page 6, leave out lines 10 and 11

**Section 10**

**John Mason**

- 29 In section 10, page 6, line 38, leave out <area in square meters of the floorspace> and insert <market value>

**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 11**

**John Mason**

- 30 In section 11, page 7, line 17, leave out <may> and insert <must>

**Michelle Thomson**

- 53 In section 11, page 7, line 24, at end insert—
- <( ) create a relief for residential units sold to first-time buyers.>

**John Mason**

- 31 In section 11, page 7, line 24, at end insert—
- <( ) Regulations under subsection (1) must include a relief for the construction of, or conversion works creating, a new residential unit on brownfield land which must be no less than 50% of the charge of the levy to be applied under this Act.>

## After section 11

### Craig Hoy

32 After section 11, insert—

#### <Viability-based relief

- (1) A taxpayer may, in relation to the construction of, or conversion works creating, a new residential unit, apply to Revenue Scotland for relief from the levy on the basis that payment of the levy would make the construction or conversion financially unviable.
- (2) An application under subsection (1) must be accompanied by such information and evidence as Revenue Scotland may reasonably require, including—
  - (a) an independent financial viability assessment, and
  - (b) such further information as may be prescribed by the Scottish Ministers in regulations under subsection (5).
- (3) On receiving an application under subsection (1), Revenue Scotland may, where it is satisfied that the amount of levy payable would make the construction of, or conversion works creating, a new residential unit financially unviable—
  - (a) grant relief from the levy, or
  - (b) reduce the amount of levy payable,which may be deducted under Step 2 of section 10(1).
- (4) In determining whether to grant relief or reduce the amount of levy payable under subsection (3), Revenue Scotland must have regard to—
  - (a) the likely effect of the levy on the construction of, or conversion works creating, the new residential unit,
  - (b) the size and nature of the taxpayer's business, and
  - (c) such other factors as may be prescribed by the Scottish Ministers in regulations under subsection (5).
- (5) The Scottish Ministers may by regulations make further provision about—
  - (a) the form and content of applications made under subsection (1),
  - (b) how financial viability may be assessed, and
  - (c) circumstances in which relief must or must not be granted.>

## Section 12

### Michelle Thomson

54 In section 12, page 7, line 29, at end insert—

<( ) 29 building control events within a financial year (a “levy-free allowance”) must be deducted under Step 3 of section 10(1).>

### Michelle Thomson

55 In section 12, page 7, line 30, after <make> insert <further>

**Meghan Gallacher**

- 33 In section 12, page 7, line 37, at end insert—  
<( ) setting a higher levy-free allowance for small or medium-sized enterprises.>

**Michelle Thomson**

- 56 In section 12, page 8, line 11, at end insert—  
<( ) for carrying forward unused levy-free allowance from the two accounting periods or financial years preceding the accounting period or financial year.>

**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.>

**Michelle Thomson**

- 57 In section 12, page 8, line 11, at end insert—  
<( ) Regulations under subsection (1) may not set the number of building control events within a financial year which constitute a levy-free allowance as less than 29.>

**Section 13**

**Liz Smith**

- 34 In section 13, page 8, line 14, after the second <of> insert <—  
( ) funding the Cladding Remediation Programme, and  
( )>

**Liz Smith**

- 35 In section 13, page 8, line 15, leave out <in Scotland> and insert <included in the Cladding Remediation Programme>

**Liz Smith**

- 36 In section 13, page 8, line 15, at end insert—  
<( ) In this section “Cladding Remediation Programme” is to be construed in accordance with sections 3, 4, 7 and 8 of the Housing (Cladding Remediation) (Scotland) Act 2024.>

**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.>

## **Section 19**

### **Michelle Thomson**

**58** In section 19, page 11, line 21, at end insert—

- <( ) Regulations under this section must include provision for phased payments over no less than 5 years for any levy payable for building control events related to new residential units of the type described in section 4(2).>

## **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.>

### **Before section 45**

#### **Mark Griffin**

**59** Before section 45, insert—

#### **<Assessment of likely impact of the levy on the housing emergency**

- (1) The Scottish Ministers must, as soon as reasonably practicable after Royal Assent, carry out an assessment of the likely impact of the levy on—
  - (a) the housing market,
  - (b) the delivery of all-tenure housing, and
  - (c) the national housing emergency.
- (2) The Scottish Ministers must publish a report on the assessment carried out under subsection (1).
- (3) The Scottish Ministers must—
  - (a) lay the report under subsection (2) before the Scottish Parliament, and
  - (b) no later than 6 months after laying the report under paragraph (a), lodge a motion asking the Parliament to agree to approve the report.>

### **Section 45**

#### **Liz Smith**

**37** In section 45, page 24, line 4, leave out <at such intervals as Ministers consider appropriate> and insert <every 3 years>

#### **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,>

#### **Liz Smith**

**38\*** In section 45, page 24, line 7, at end insert—

- <( ) the impact of the levy on the new build housing sector, with particular reference to—
- (i) rural development sites,
  - (ii) brownfield development,
  - (iii) small and medium-sized developers,
  - (iv) the behavioural impact of the levy-free allowance,
  - (v) the retention of existing, and inflows of new, private capital investment for the new build housing sector in Scotland,
  - (vi) the delivery of affordable housing across Scotland, including houses delivered through agreements in accordance with section 75 of the Town and Country Planning (Scotland) Act 1997,
  - (vii) the Scottish Ministers' home building strategy and all-tenure home building target,
- ( ) the revenue forecast for the levy,
- ( ) the rate (or rates) of the levy set under section 9(2),
- ( ) the suitability of the levy against the principles of good tax policy-making defined in the Framework for Tax 2021,
- ( ) the funding requirements of the Cladding Remediation Programme,>

**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.>

**After section 45**

**Liz Smith**

**39** After section 45, insert—

**<Framework for Tax**

- (1) The Scottish Ministers must, where they are required to prepare and publish any report or assessment in this Act, assess the levy for its compliance with the principles of good tax policy-making defined in the Framework for Tax 2021.
- (2) Any assessment required by subsection (1) to assess the compliance of the levy against the principles of good tax policy-making must be published alongside the respective report.

- (3) Any assessment required by subsection (1) to assess the compliance of the levy against the principles of good tax policy making must determine which, if any, of the principles it does not comply with.
- (4) In this section, “Framework for Tax 2021”—
  - (a) has ISBN: 978-1-80201-732-8,
  - (b) may be substituted for any revised document that retains the same principles of good tax policy-making.>

**Mark Griffin**

**60** After section 45, insert—

**<Assessment of impact of the levy on all-tenure housing target**

- (1) The Scottish Ministers must, where they are required to prepare and publish any report or assessment under this Act, assess the impact of the levy against an all-tenure housing target.
- (2) In this Act, the “all-tenure housing target” has the meaning that home building completions must increase across all tenures by at least 10% each year over the 3 year period.
- (3) The Scottish Ministers may by regulations set the date on which the 3 year period mentioned in subsection (2) is to begin.
- (4) Any assessment of the levy against an all-tenure housing target under subsection (1) must be published alongside the respective report.
- (5) The target referred to in subsection (2) is considered met when the number of home building completions across all tenures exceeds 25,000 annually.
- (6) In this section, “home building completion” means—
  - (a) the acceptance of a completion certificate in accordance with section 18 of the Building (Scotland) Act 2003 in respect of the construction or conversion of a building or part of a building, or
  - (b) if earlier, the grant of permission for the temporary occupation of that building under section 21(3) of that Act in respect of that construction or conversion.
- (7) The Scottish Ministers may by regulations—
  - (a) modify the meaning of the “all-tenure housing target” to increase the target mentioned in subsection (2), and
  - (b) increase the number of annual home building completions across all-tenures under subsection (5).>

**Section 46**

**Liz Smith**

**40** In section 46, page 24, line 20, at end insert—

<<“Framework for Tax 2021” is to be construed in accordance with section (*Framework for Tax*)(4)>

**Liz Smith**

**41** In section 46, page 24, line 20, at end insert—

<“historic building” means a building which—

- (a) is a listed building within the meaning of section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, or
- (b) is situated within a conservation area designated under section 61 of that Act,>

**Craig Hoy**

42 In section 46, page 24, line 34, at end insert—

<“rural area” means an area designated within categories 4 and 6 of the Scottish Government 6-fold Urban Rural Classification,>

**Section 48**

**Meghan Gallacher**

43 In section 48, page 25, line 28, after <sections> insert <5(e)(vii),>

**Craig Hoy**

44 In section 48, page 25, line 28, after <11(1),> insert <(Viability-based relief)(5),>

**Ivan McKee**

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

**Mark Griffin**

61 In section 48, page 25, line 28, leave out <and 15(6)> and insert <, 15(6), (Assessment of impact of the levy on all-tenure housing target)(3) and (Assessment of impact of the levy on all-tenure housing target)(7)>

**Ivan McKee**

14 In section 48, page 25, line 28, at end insert <and (Expiry)(2)>

**Craig Hoy**

45 In section 48, page 25, line 28, at end insert—

<( ) An order under section (Expiry of the Act)(2) is subject to the affirmative procedure.>

**Liz Smith**

62 In section 48, page 26, line 5, leave out <section 51> and insert <sections 51 and (Expiry of the Scottish building safety levy)>

**After section 48**

**Liz Smith**

46 After section 48, insert—

### <Regulations: pre-laying procedure

- (1) Before making regulations under sections 6(1), 9(2), 9(5), 11(1), 12(1) and 15(6), the Scottish Ministers must—
  - (a) lay a draft of the proposed regulations before the Scottish Parliament for a period of 90 days, of which no fewer than 60 days must be days which the Scottish Parliament is not dissolved or in recess,
  - (b) publish a statement of reasons for the proposed regulations, and
  - (c) specify a period (the “representation period”) during which representations on the proposed regulations may be made to them.
- (2) The representation period must be at least 90 days, of which no fewer than 30 must be days on which the Parliament is not dissolved or in recess.
- (3) The Scottish Ministers must, before laying the proposed regulations under sections 6(1), 9(2), 9(5), 11(1), 12(1) and 15(6), have regard to—
  - (a) any representations made to them during the representation period,
  - (b) any resolution relating to those regulations passed by the Parliament, and
  - (c) recommendations relating to those regulations published by any committee of the Parliament for the time being appointed by virtue of standing orders.
- (4) The Scottish Ministers must, when laying such proposed regulations, lay a statement setting out—
  - (a) details of any representations, resolutions or recommendations mentioned in subsection (3), and
  - (b) the changes (if any) they have made to the proposed regulations in response to such representations, resolutions or recommendations and the reasons for those changes.
- (5) The Scottish Parliament may approve the proposed regulations only if it is satisfied that subsections (1), (3) and (4) have been complied with.
- (6) Subsections (1) to (5) do not apply in relation to regulations made only for the purpose of consolidating earlier regulations.
- (7) In this section, “proposed regulations” means a draft of a statutory instrument to which section 48(1) applies.>

## Section 51

### Mark Griffin

- 63 In section 51, page 26, line 15, after <sections> insert <(Assessment of likely impact of the levy on the housing emergency),>

### Mark Griffin

- 64 In section 51, page 26, line 18, at end insert—

<( ) Regulations under subsection (2) may not be made until the report under section (*Assessment of likely impact of the levy on the housing emergency*)(2) has been published and voted on by the Scottish Parliament in accordance with a motion lodged under subsection (3)(b) of that section.>

## After section 51

### Ivan McKee

15 After section 51, insert—

#### <Expiry

- (1) This Act expires at the end of the period of 15 years beginning with the day on which this section comes into force.
- (2) But the Scottish Ministers may by regulations extend the period set out in subsection (1).
- (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.
- (4) Regulations under subsection (2) may modify any enactment (including this Act).>

### Craig Hoy

47 After section 51, insert—

#### <Expiry of the Act

- (1) The provisions of this Act expire at the end of the 10 year period, unless an order is made under subsection (2).
- (2) The Scottish Ministers may, after the end of the 9 year period but before the end of the 10 year period, by order provide that the provisions of this Act are to continue in effect.
- (3) An order under subsection (2) may make such provision (including provision modifying any enactment) as may be necessary or expedient in consequence of the expiry of the provisions of this Act by virtue of subsection (1).
- (4) An order under subsection (2) may not make provision that the provisions of this Act are to continue beyond the end of the 15 year period.
- (5) In this section—

“the 9 year period” means the period of 9 years beginning with the day on which section 1 comes fully into force,

“the 10 year period” means the period of 10 years beginning with that day,

“the 15 year period” means the period of 15 years beginning with that day.>

### Mark Griffin

65 After section 51, insert—

#### <Expiry of the Act

This Act expires at the end of the period of 10 years beginning with the day on which this section comes into force.>

### Liz Smith

66\* After section 51, insert—

### <Expiry of the Scottish building safety levy

- (1) The provisions of this Act expire at the end of the 10 year period.
- (2) The Scottish Ministers may by regulations amend subsection (1) so as to replace “10 year period” with “15 year period”.
- (3) The power conferred by subsection (2) may only be used after the end of the 9 year period.
- (4) Regulations under subsection (2) are subject to the affirmative procedure.
- (5) At the same time as laying a draft Scottish statutory instrument containing regulations under subsection (2) before the Scottish Parliament in accordance with section 29(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (instruments subject to the affirmative procedure), the Scottish Ministers must lay before the Parliament a statement of their reasons why the regulations should be made.
- (6) The Scottish Ministers may by regulations make—
  - (a) consequential provision,
  - (b) transitional, transitory or saving provision,in connection with the expiry under subsection (1) of any provision of this Act.
- (7) Regulations under subsection (6) may—
  - (a) make different provision for different purposes or areas,
  - (b) modify any enactment (including this Act).
- (8) Regulations under subsection (6)—
  - (a) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
  - (b) otherwise, are subject to the negative procedure.
- (9) In this section—

“the 9 year period” means the period of 9 years beginning with the day on which section 1 comes fully into force,

“the 10 year period” means the period of 10 years beginning with the day on which section 1 comes fully into force,

“the 15 year period” means the period of 15 years beginning with the day on which section 1 comes fully into force.>



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