



OFFICIAL REPORT
AITHISG OIFIGEIL

Finance and Public Administration Committee

Tuesday 10 February 2026

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website—
www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 10 February 2026

CONTENTS

	Col.
LEGACY ISSUES (FINANCE)	1
BUILDING SAFETY LEVY (SCOTLAND) BILL: STAGE 2	29

FINANCE AND PUBLIC ADMINISTRATION COMMITTEE
6th Meeting 2026, Session 6

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*Michael Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Patrick Harvie (Glasgow) (Green)
*Craig Hoy (South Scotland) (Con)
*John Mason (Glasgow Shettleston) (Ind)
*Liz Smith (Mid Scotland and Fife) (Con)
*Michelle Thomson (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor David Bell (University of Stirling)
Stephen Boyle (Auditor General for Scotland)
Michael Clancy (Law Society of Scotland)
Meghan Gallacher (Central Scotland) (Con)
Mark Griffin (Central Scotland) (Lab)
Professor David Heald (University of Glasgow)
Ivan McKee (Minister for Public Finance)
Lindsay Scott (Chartered Institute of Taxation)
Dr João Sousa (Fraser of Allander Institute)

CLERK TO THE COMMITTEE

Joanne McNaughton

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Finance and Public Administration Committee

Tuesday 10 February 2026

[The Convener opened the meeting at 09:01]

Legacy Issues (Finance)

The Convener (Kenneth Gibson): Good morning, and welcome to the sixth meeting in 2026 of the Finance and Public Administration Committee. Our first agenda item is an evidence session on legacy issues, specifically in relation to finance, to inform the committee's session 6 legacy report.

We will hear from the following witnesses in a round-table format: Stephen Boyle, Auditor General for Scotland; Lindsay Scott, technical officer, Chartered Institute of Taxation; Dr João Sousa, deputy director and senior knowledge exchange fellow, Fraser of Allander Institute; Michael Clancy, director of law reform, Law Society of Scotland; Professor David Heald, emeritus professor, Adam Smith business school, University of Glasgow; and Professor David Bell, professor of economics, University of Stirling. He never calls or writes, but I see David Bell more than occasionally in these rooms. In fact, we met just last Wednesday night at the Royal Society of Edinburgh, and he gave evidence to the committee a few weeks ago. I welcome all our witnesses to the meeting.

Before I ask David Bell to kick off our round-table format discussion, I say to our witnesses that, if anyone wants to contribute to the discussion, they should let me know—by a nod of the head, a finger or whatever—and I will bring them in as soon as I can. The idea is to have a very varied discussion. If we get stuck at any point, I will eyeball someone and ask them a specific question to move things on.

The reason I want to start with you, Professor Bell, is that I was quite taken by your remark, in the second paragraph of your submission, that

"The Committee's experience demonstrates that effective fiscal scrutiny in Scotland depends less on formal powers and more on timing, focus, persistence and technical credibility."

Could you expand on that, please?

Professor David Bell (University of Stirling): Sure. The Finance and Public Administration Committee is, by and large, one of the most effective committees at Holyrood. I will start by talking about timing. A lot of the committee's effectiveness has to do with making the right

comments at the right time. There have been difficulties around that, given that we have a very compressed budget process.

It seems to me that having the ability to switch the focus to longer or medium-term issues, rather than focusing just on the budget, would prove particularly useful for the incoming committee. A move towards a focus on considering the sustainability of Scotland's medium-term finances seems particularly important, given the pressures that many of those of us around this table are aware of and have commented on, such as the demographic pressures and the pressures that exist in relation to health and social care, public sector pay—which is an issue that has perhaps not had the attention that it deserves—and devolved social security.

The notion persists that it is better not to take a scattergun approach but instead to focus on some key issues. Perhaps that focus could be on some of the issues that I mentioned, because they are critical to ensuring that Scotland's finances move in a fairly well-balanced way in the future and that they are not knocked off course by crises that are associated with reconciliations or forecasts that turn out not to be accurate.

As far as the committee is concerned, persistence on those key issues is an extremely important characteristic of its activity.

On technical credibility, thinking about finance committees in different parts of the United Kingdom, this one probably has the most complicated set of fiscal arrangements to deal with, bar none, and it has established its credibility through dealing with such things. Block grant adjustments, for example, are extremely important but are quite difficult to get your head around.

The Convener: Indeed they are, and I agree that persistence is very important. The Scottish Government is now taking on board the fact that, if it does not respond to some of the points that this committee raises, we will simply continue to raise them until it does. That is very important. A moving-swiftly-on approach is not effective.

Michelle Thomson (Falkirk East) (SNP): As you are sitting next to me, you can see the yellow highlighting on my screen, Professor Bell.

My question follows on from the comment in your written submission that

"effective fiscal scrutiny in Scotland depends less on formal powers"

and your comment just then that we should focus on medium-term and structural issues. We all agree with that, and it is where we have kept our focus, but I am interested in your reflections on the extent to which annual budgets mean that there is a continued focus on the nearside.

Also, the inclusion of public administration in the wider remit of this committee has enabled us to look at culture and how things are delivered, not just at the numbers. I am interested in widening out your reflections in that respect.

Professor Bell: Culture is important. Too often, we do not challenge the assumptions on which we base our budgets from year to year, and inertia builds up without a close examination of why we are doing the things that we are doing. Annual budgeting does not help. It has been a problem for the United Kingdom economy for a considerable period of time, and one of the side-effects is low levels of capital investment by the public sector. To some extent, we can make short-term gain but cause long-term pain by not putting sufficient focus on investment. Of course, investment means investment in skills as well as in things, and that has suffered partly because of the focus on the relatively short term.

Liz Smith (Mid Scotland and Fife) (Con): Professor Bell, I want to ask you about the fiscal framework in relation to what you said about difficult timescales. I think that we are all agreed that the current situation has not been satisfactory. I am commenting not on what the fiscal framework says, but on the timescale, which has been knocked about like a political football from time to time. Do you feel that having clarity about the timescale and perhaps reforming the fiscal framework would help?

Professor Bell: At the moment, the fiscal framework is perhaps not fit for purpose. The immediate issue, it seems to me, is the growth in social security spend and the inability to easily handle wide variations in that spend. Scotland does not have separation between departmental expenditure limits and actually managed expenditure, which is problematic. It is a bit like an earthquake. You get the initial budget and then there are a variety of aftershocks such as reconciliations, problems with forecasts and so on. None of that makes it easy to do medium-term financial planning.

Dr João Sousa (Fraser of Allander Institute): I agree with that point about the lack of a DEL-AME split. It does not have to be called DEL and it does not have to be called AME, but, ultimately, the Scottish Government's budgets contain very asymmetric risks, particularly in relation to social security. If spending turns out to be lower than forecast, that opens up more opportunity to either put it into the reserve or spend it on something else. It can also overshoot, although there has not yet been a case where it has massively overshoot. From looking at the previous years, I think the maximum that it has overshoot by is £100 million, which is significant but, in the context of the

budget, seems manageable. However, there could be a situation where that is not the case.

As I understand it, part of the thinking behind the devolution of these particular benefits in social security—for example, disability payments and care support allowance—is that they are not tied to the economic cycle. However, there are two things to say about that. One is that there is some evidence that the number of claims for benefits that people were already entitled to is driven by the economic cycle. The Scottish Fiscal Commission has highlighted that. The other thing is that decisions by the Scottish Government, regardless of whether we think that the policy is good or bad, have tied the devolved social security system more to the economic cycle. For example, the Scottish child payment is linked to entitlement to universal credit, which means that it then gets tied to the economic cycle. In the absence of anything that allows the Scottish Government to essentially not have to cut other parts of public spending to pay for any overspending in that regard, that could become a big problem, especially as the social justice portfolio is among those that are going to grow the fastest over the spending review period.

The Convener: If we had a recession, we would end up spending a lot more on the Scottish child payment and would therefore have less money to provide other services.

Dr Sousa: That is correct. Also, it is not just the outer numbers that matter. As you go further into the financial year, less spending remains that you can cut in order to balance the budget—there is less for you to play with. That means that, if you end up with many more claims towards the end of the year, you might not have any non-essential spending to cut by, for example, December, because you will have already committed all your spending.

That ties in with the uncertainty that has led to some of the emergency reviews. You see spending running away from the forecast at the beginning of the year, and the longer you wait to review it, the less you have to play with to bring things back into balance.

Craig Hoy (South Scotland) (Con): Dr Sousa has, to some extent, elaborated on the point that I was going to make.

Dr Bell, social security is associated with the term “demand led”. Given the concerns of this committee, the Auditor General and others about the sustainability of a demand-led social security model, what is the alternative? Presumably, the only alternative, unless we consider cutting other areas, is to start to ration welfare.

09:15

Professor Bell: I guess that, if you are trying to work with a fixed budget, rationing works by changing the criteria by which you accept claims. To a certain extent, that is what the UK Government had been thinking about before it reversed its policy prior to the end of last year.

One thing that is important in relation to that spending—it is a point that I make in my paper—is that a lot of it is path dependent. Once you have started down the road of granting claims, those claims tend to persist and you are effectively making not just a short-term commitment to spend but a long-term commitment. A lot of the social security budget can be described like that. It is also true that a lot of public sector pay is, effectively, determined in the same way.

The Convener: Stephen Boyle, you said that, in 2024, the Scottish Government

“continued to take short-term decisions, reacting to events and external shocks rather than making fundamental changes to how public money is spent”

and

“embedding recurring savings which will put the baseline budget on a more sustainable footing.”

You say that what we have seen is

“perpetuating short-term decision making”.

Stephen Boyle (Auditor General for Scotland): I am very happy to address that point. Before I do so, can I make a quick point about social security spending?

The Convener: Of course.

Stephen Boyle: I want to build on Professor Bell's response to Mr Hoy's question about rationing. For a number of years, Audit Scotland has looked at the devolved social security powers in Scotland, most recently adult disability payment, which is the largest of the devolved benefits in Scotland. Our conclusion is that the implementation of that benefit has been a successful project for the Scottish Government. The Government set out clearly what it intended to do to transition from the UK Government's personal independence payment to the adult disability payment. However, one of the key factors that we identified in the report, which touches on the point about rationing, is that Scotland has adopted a different set of processes to establish eligibility. We refer to that as a much more light-touch approach.

To agree with Professor Bell's point, once you are in that set of arrangements, it is very challenging to come out and consider its fiscal consequences. The block grants that are received for devolved benefits do not cover what the Scottish Government currently pays for adult

disability. It will be important to manage the forecast. We are talking about demand-led budgets. That and health spending, in particular, are the two most significant parts of public expenditure to be managed over the rest of this decade. That is part of the ever-so-important recalibration of public services to deliver a more sustainable model.

To bring in the point that you asked me about, I refer to what we have continued to see in our audit work. As everybody knows, the Scottish Government has to balance its budget every single year. It does not have the same levers as the UK Government or other states, given the constraints in which it operates in the fiscal framework. Over the early part of this decade, the Scottish Government has had to intervene towards the autumn of a financial year to stop spending and divert funds. Our conclusion was that that feels suboptimal. Instead of mapping out how fiscal sustainability will be delivered, it is a reactive process. The Scottish Government needs a clear plan to move to what it states is a prevention-based model—a recalibration of public services that addresses the forecast £2.6 billion in revenue and £2 billion or so in capital funding—and the key to that will be the delivery of the strategies that the Scottish Government has set out over the course of the summer.

Before I finish, I note that the Scottish Government has set out to the Finance and Public Administration Committee more than 100 strategies that it is currently managing. Of the strategies that were set out in the summer, those relating to public service reform and reform of the NHS will be central to a fiscally sustainable model and a change of public services in Scotland. We cautiously welcome those strategies, but there need to be very detailed implementation plans in order to move to the next credible stage.

The Convener: Yes, having a plethora of plans and strategies is an issue. There are about 38 in the climate change field alone.

You talk about the lack of detail on delivery in relation to the infrastructure workforce and the NHS. What level of detail would you like to see? What is required? The committee has raised the lack of strategic financial planning a number of times, and it is also raised in some of the submissions that we have received for today's session. In a way, long-term financial planning works against some of the issues that we have touched on, such as demand-led services. The question is how we balance that, which I think is very difficult.

Stephen Boyle: It is. The essence of many of the strategies, including those set out in the summer, is not terribly new. I know that this

committee has held many evidence sessions on the Christie principles, and, as a country, we have been talking for decades about the ambition of moving to a prevention-based model and keeping people healthier for longer outside state health or social care provision. However, we have not delivered on that. There needs to be a serious medium-term financial strategy that aligns with service delivery strategies and very clear implementation plans. It is also about having clear national outcomes, measures and plans, which we have not yet touched on this morning.

Audit Scotland has been supportive of the national performance framework over its various iterations. However, it has not worked on implementation, because high-level indicators are not underpinned by detailed measures. We are keen to see progress around health and social care, long-term financial planning and public service reform that builds on the momentum from the summer of strategies, which will require implementation and difficult choices. I agree with Professor Bell's points about public sector pay and the public sector workforce, which will be fundamental to moving to a fiscally sustainable Scottish public spending model.

The Convener: I will move on to taxation in a minute, unless other members want to raise points on this theme.

You state in your submission:

"Coping with spending pressures in the context of minimal real-terms growth in the rest of the 2020s would be eased if there were belief that in-year top-ups and cuts would not occur"

The strong suggestion that we received in evidence from the Cabinet Secretary for Finance and Local Government is that the Government seems to think that they will occur. It is almost as if the Government is dependent on additional fiscal transfers during the year.

Stephen Boyle: In the most recent financial year, we have seen clear evidence of changes in UK funding having a significant bearing on the Scottish Government's ability to break even. It goes back to the earlier point that short-term decision making and delivering fiscal balance have been a recurring theme over the past three or four years. The committee has received correspondence from the cabinet secretary for finance, and that may bring into further debate the question of how satisfactory or otherwise the fiscal framework is.

There are a lot of moving parts, but I do not think that it steps away from the totality of needing to have clear plans to implement public service reform, a sustainable health and social care model and social security alongside workforce. Without those plans, my fear is that your successor

committee will be discussing the same issues that this committee has been discussing.

The Convener: Thank you.

Lindsay Scott, the Chartered Institute of Taxation states that a key aim is

"achieving a more efficient and less complex tax system for all".

Will you expand on how devolved taxation and what we can do here can work in tandem with the UK system to produce a fairer system for all?

Lindsay Scott (Chartered Institute of Taxation): You are right—it is complex. A Scottish taxpayer is also a UK taxpayer and interacts with both tax systems. Polling that we did in 2023 discovered that only one in five people correctly identified income tax as being shared between the Scottish and UK Parliaments. That is a low proportion.

An awareness of Scottish taxes is important for several reasons. It informs public debate, which helps people to hold their political leaders to account. It also helps people to understand what taxes they are paying, whether they are compliant and whether they are claiming the right reliefs. For example, for income tax relief on pension contributions, an intermediate taxpayer has to take steps that a UK taxpayer does not. The question is, do Scottish taxpayers realise that they need to do that to claim the relief that they are entitled to?

You are also right that the Scottish Government has a significant role in raising awareness, and we feel that the committee could hold the Scottish Government to account and challenge it. Is it doing enough to raise awareness? How is it measuring that awareness? For example, is it asking His Majesty's Revenue and Customs for information on how many intermediate-rate taxpayers contact HMRC to claim the additional relief that they are entitled to? Ultimately, if a taxpayer does not claim the right relief, it does not create a great perception of tax if they find out further down the line that they were entitled to something but did not know that they could get it. That is really important for the overall perception of tax within the Scottish tax system.

The Convener: The committee has taken that on board. When we have taken evidence from the cabinet secretary, I and others have raised it. Is the issue a need for greater simplicity and clarity, as well as certainty?

Lindsay Scott: Yes. A Scottish basic-rate taxpayer has to interact with four rates of tax, whereas a UK taxpayer has to interact with only one up to the £50,000 threshold. That is a significant level of complexity, and tax is complicated anyway. There is a need to raise awareness. You will never get rid of some of those

complexities, because—you are right—they are inherent in a devolved tax system. However, if taxpayers are aware and there is correct guidance to enable them to navigate, that should, I hope—

The Convener: Do you consider that there are too many bands in Scotland?

Lindsay Scott: As an apolitical organisation—*[Laughter.]*

The Convener: Just say what you think. I have made it clear that I think there are too many, and I am a member of the party of government. If that is your view, it is important that you feel free to express it.

Lindsay Scott: The addition of bands creates a lot of complexity. It goes back to the point that people are interacting with four tax rates and have to take steps that a UK taxpayer does not need to take. Do they know that they need to do that? Are they claiming the pension tax relief to which they are entitled? So, yes, from a complexity point of view, additional bands certainly create an issue.

The Convener: Michelle Thomson and John Mason are both keen to come in.

Michelle Thomson: I do not want to take us on to a different thread, convener, but the Auditor General was reflecting on something that we might want to pick up on further. When it comes to the discussion about the shorter term and the longer term, one thing that the committee has looked at quite a lot in this session is financial memorandums, because of our disquiet that some of those have been insufficiently detailed because they have been linked to framework legislation. The Auditor General's point, I think, was about how a burgeoning environment, which we can project, that will include ever more framework legislation will actively work against the long-term strategic planning and nearside detail around finances that we are looking for. Arguably, the situation is even more risky than the one that the Auditor General set out.

Stephen Boyle: I am happy to accept Ms Thomson's comments. This morning, I read many of the submissions to the committee, and the level of volatility and risk is growing.

09:30

Michelle Thomson: It adds to the complexity.

Stephen Boyle: Absolutely. Getting it right is challenging for any Government or for any organisation or body that is charged with scrutiny, particularly in a context in which the Government has signalled its intention to reshape public spending and public services. Doing so requires robust transparency, effective oversight and a successful partnership between the Government

and the Parliament, to ensure that the appropriate level of scrutiny is applied and that the figures that are presented through financial memoranda are reasonable and soundly based. I appreciate that the committee has seen both positive and less positive examples of that in the parliamentary session.

The Convener: As you will undoubtedly know, we, on the committee, are not big fans of framework bills.

John Mason (Glasgow Shettleston) (Ind): I want to pick up on something that Ms Scott said. She partly answered what I was going to ask, but my question is about public understanding of the tax system.

Ms Scott, you suggested that the committee could challenge the Government on that point. Who is responsible for improving that understanding? The Fiscal Commission has done some work on that, and so have the FAI and Professor Bell, but what should we say to the next finance committee? Should it challenge the Government or the SFC harder, or should members speak to witnesses differently when they come before the committee? Would that make it easier?

Lindsay Scott: If an issue is raised in committee, that raises awareness, because it brings the topic of tax into the committee room. Ultimately, it is the Scottish Government's responsibility to raise awareness of tax and to work with HMRC to do so.

There is merit in challenging the steps that the Scottish Government takes. How does it measure understanding and awareness? What steps is it taking? Is it speaking to HMRC and gathering data on pension contribution relief claims? It is about holding the Scottish Government to account and assessing whether enough is being done to raise awareness. Ultimately, it is not the committee's job to—

John Mason: I certainly think that not enough is being done, but the question is who should do it.

Craig Hoy: I accept that the witnesses do not wish to be drawn into a political discussion, but devolving further taxes to Scotland will, potentially, only make the system more complex unless efforts are made to make it more transparent. You see that in respect of rental income falling to the Scottish Government and in relation to various levies—effectively taxes—such as the tourism levy.

To what extent is it inevitable that, as we bring more taxes into the system, there will be less transparency? Could an independent organisation assess the point at which we start working for ourselves in the calendar year and stop working

for the Government? The Adam Smith Institute used to call that tax freedom day, and lots of think tanks in the US explore that.

It strikes me that, given the complexity of the tax system—we have VAT on services, taxes and that sort of thing—it is becoming almost impossible for taxpayers to determine how much tax they actually pay, both at the Scotland and UK levels, on income tax and on the proliferation of new taxes. Is the lack of transparency just inevitable now?

Lindsay Scott: That hits on a wider point. We are now a decade on from the implementation of the Smith commission recommendations, and we have a decade of insight, experience and, I hope, data. There is merit in reviewing where we stand. We should review the Smith commission and the package of taxes that we have—or have not—implemented for various reasons, and we should review the overall effectiveness of our tax powers.

It is sometimes good, before looking forward, to look back and assess what did and did not go well. If we undertook such a review, it would inform the discussion around the future of tax. The committee could play a strategic role in tackling some of the hard questions, such as what property tax will look like in Scotland in the future. It is not an easy question, but if we reflect on what we have done and hold an inquiry to gather views on what people think the future of tax in Scotland should look like, the committee can play a strategic, cross-party role in opening that discussion.

Craig Hoy: Another issue is the public's understanding of Scottish devolved taxation. They think that we have tax-raising powers when we actually have tax-varying powers. That point seems to have been lost in Scotland.

Lindsay Scott: Yes, and I think that having that discussion would help to raise awareness, because it would take it into the public domain, too. It all helps. It helps with awareness and, hopefully, with understanding—after all, awareness and understanding are two different things—and it also informs the debate about where we go next with tax in Scotland.

The Convener: I will bring in Professor Heald and then Patrick Harvie. Professor Heald, you said in your submission that, in your view,

“too much policy effort has gone into minor taxes with limited revenue potential and not enough into managing the significant revenue-raisers, namely Scottish Income Tax, Non-Domestic Rates and Council Tax.”

Professor David Heald (University of Glasgow): Yes. You have to recognise the constitutional context; one reason for the Government wanting more tax powers is that it makes Scotland look more like an independent country and eases the transition to independence,

which is the policy objective. There is a widespread public misunderstanding, however, that having more tax powers means more money. It means more money only if the tax raises more than the block grant adjustment. I have long argued for devolved taxes and I believe that they should be used, but I think that we have got to the point where the amount of fiscal risk taken on by the Scottish Government is too great in relation to its reserve holdings—that is, the Scotland reserve—and its borrowing powers. Therefore, one thing that I would like to see is a rethinking of the fiscal framework.

I was always opposed to the assignment of VAT as recommended by the Smith commission, and I anticipated exactly the kind of problems that have arisen, but I think that it is very important for the public to understand that getting more tax powers does not mean more revenues. What it does is tie the Scottish budget much more to the UK budget. As I said, I have long argued for devolved taxes, thinking that they would actually give more fiscal autonomy to Scotland, but the way in which it has worked in practice is that it gives you less fiscal autonomy, because you have to worry about what the UK Government is going to do about its own UK income tax. You will remember all the nonsense before the UK budget about changing national insurance and the “two up, two down” discussion. The Scottish budget is now much more dependent on what happens at Westminster than it was when there was mostly a block grant system, and that is what we have to think about.

I have not recanted my support for devolved taxes, and I welcome the fact that, in Scotland, we have a discussion about taxes instead of just asking for more money, but I think that we actually have a problem here. As David Bell said, the present fiscal framework is not fit for purpose.

The Convener: Thank you for that. I reiterate that the committee has made it clear that we do not support the assignment of VAT either. We could argue about whether VAT should be devolved, but we think that its assignment would, frankly, be more trouble than it is worth.

I call Patrick Harvie, to be followed by Dr Sousa.

Patrick Harvie (Glasgow) (Green): On that last point about VAT, I want to reassure Professor Heald that some members of the Smith commission were equally sceptical about that proposal at the time, despite the conclusions of the report as a whole.

We have talked a little bit about taxes at local level, but I wonder whether we can expand the discussion from the tax side of things to look at the finances of the local versus the national public sector in Scotland. We have collectively failed to reform the major local taxes, as has been

mentioned, and we have also put more responsibilities on to local government, often for very good reasons. However, that has been incremental over time.

We have moved forward with the integration of health and social care, which makes absolutely sound sense in theory but has not been unproblematic, to say the least, in its implementation. There is also a lot of discussion going on at Scottish Government level—or at Scottish budget level—about whether the Scottish Government's finances are sustainable, at a time when at least some local authorities are, I think, much closer to a crisis point than the national Government is.

Have we ended up with a fragmented landscape across the public sector more generally that makes it impossible, or very difficult, to undertake coherent scrutiny of the Scottish public finances, as opposed to the Scottish Government's finances? If so, what should we do about it?

The Convener: Are you positing that to anyone in particular, or are you just throwing it out there?

Patrick Harvie: Preferably to someone who has an answer. *[Laughter.]*

The Convener: We might have to leave that question in the ether unless someone it picks up. I see that Professor Heald wishes to respond.

Professor Heald: Scrutiny will inevitably be complicated when tax raising takes place at three levels—UK Government level, Scottish Government level and local authority level. The problems with local authority taxation are political. For a long time, people have realised that using 1991 valuations for council tax is completely nonsensical. However, nobody dared do anything about it. That problem goes back 20 years to when the Burt committee reported, and the then First Minister disowned the report on the day it was published. Since then, it has become impossible to do anything about the issue.

I welcome the fact that the Scottish Government has held a consultation on council tax, although, conveniently, it pushes the process beyond the Holyrood election. We will get no reform of local property taxes unless there is a measure of political agreement in the Scottish Parliament. Otherwise, the practical difficulties will be enormous. For example, there has been an enormous shift in relative property values over the past 35 years, which means that people in some types of housing in some parts of Scotland will lose out relative to those in other parts of Scotland. We all know that, when it comes to tax changes, the people who lose money shout much louder than the people who gain money. Reform of council tax is very difficult. I think that it should go ahead, but,

without having a measure of cross-party agreement on what should be done that sticks, the same discussion will be had in 10 years' time.

The Convener: I think that the chances of that happening are probably nil. The way I see it, we will probably still have the same system when we are in our dotage.

Patrick Harvie: Professor Heald, could you go beyond purely the issue of council tax and address the issue of local government finances more generally? I am not talking simply about how local authorities raise money and whether we have a modern, efficient and fair system for that. We talk about the sustainability of the Scottish Government's budget, but we are not having the same conversation about the sustainability of local services across Scotland. We are leaving that to councillors who have been given a legal duty that, as MSPs, we do not have—they all have to vote for a balanced budget, and we are making it increasingly impossible for them to produce balanced budgets.

Professor Heald: There are interconnections between the different levels of government. Local authorities heavily depend on the general revenue grant and business rates, which are essentially a national tax.

One of the issues with the demand-led pressures on the Scottish Government is that local authorities take some of the consequential pain. I have previously raised with the committee the fact that I believe that devolution should involve policy variation, but, with the system that we have, Scotland has lots of items of what Northern Ireland would call above-parity expenditure, whereby benefits and conditions are more generous in Scotland than they are in England. It is very difficult to find cases that run the other way.

If we are to operate a system of policy variation within the devolved system, all the variations cannot be upwards, particularly when we are talking about kinds of expenditure that, because of the eligibility criteria and the political difficulty in reversing anything that is done, start pressing out other kinds of expenditure. In my memorandum, I make the point that Scotland has historically had higher health expenditure per capita than England. If you look at the "Public Expenditure Statistical Analyses" publication that is published by the Treasury every year, you will see that there has been a remarkable drop in the index of Scottish health expenditure relative to UK health expenditure. Health and local government are taking the pressure from a lot of the demand-led items.

09:45

As I have argued before, the committee should be asking the Scottish Government to be transparent about what those above-parity policies are costing and what savings are being made by the below-parity policies. There is almost a fear of making that information public. It could be politically difficult for a Government, because people will say, "You're going to introduce higher education fees." However, if you do not understand what the drivers are, you will end up with a crisis in due course.

Dr Sousa: I was going to make a point related to what David Heald said about the interactions with the BGA and what David Bell said about the fiscal framework. The BGA and its system are not and should not be immutable; it should be up for discussion. Wales is considering changes to the design of its fiscal framework—I know that because, disclosure, I am doing some work for the Welsh Government on that. Northern Ireland will also be considering that, and so should the Scottish Government. For example, should we have a by-band BGA or a single BGA? How do we weight the different risks of that, and how likely are those risks to pan out? For instance, we have seen that, even if earnings in all the areas grow at the same rate, growth in very tax-rich bits of the distribution, particularly in London and the south-east, generate higher tax revenues in England and Northern Ireland, which are comparative geographies, than they do in Scotland. That might not have been fully understood at the time that the fiscal framework was set, which would be perfectly reasonable, because it is a quirk that is difficult to understand, but it ends up having important consequences. It is also very difficult to explain to people. That we are cutting services because income or tax revenues grew more strongly in some bits of England is a difficult argument to make. Therefore, changes should definitely be considered in future negotiations and reviews of the fiscal framework.

I was interested in the discussion on local finances and local taxes. I agree that council tax should be reformed and that revaluation is needed. The problem goes back further than 1991. The domestic rates revaluations of the 1980s were extremely contentious, and, even before that, in other areas of the UK, people were being told to rip up revaluation forms because revaluation was a political football—and it has been for nearly 70 years. I therefore think that council tax needs to be reformed but, like you, convener, I am sceptical as to whether it will change quickly.

The way in which the new council tax bands are being introduced in Scotland is actually very different from the way in which changes are being implemented in England. In England, it looks like

council tax, but it is not actually council tax; it is something that is tagged on to council tax but contributes to national revenue, whereas in Scotland it will be local revenue. That is why the new bands have not been costed by the SFC.

We risk ending up with different bits of the housing stock having different valuations for the same tax, which is strange. There will also be lots of properties with an up-to-date valuation, as they will have been revalued. However, they will fall below the threshold for the new bands. What are we going to do with those revaluations? They involve information, and they cost money to do. I think the answer is that we are going to ignore them. That is a pretty strange thing to do, though—to ignore the fact that a house has been revalued at £900,000, say, but we will tax it on the basis of what it was worth in 1991. That is a pretty awkward situation for assessors and councils.

The Convener: Indeed.

Dr Sousa: On the sustainability of local finances, I agree with David Heald that, ultimately, they are driven by the grants that authorities are given. They get some amount of money from non-domestic rates and some amount of council tax, but the vast majority of their financing comes from central Government in the form of general revenue grant.

Local authorities have legal duties to provide some services, such as social care. They are kind of bound to that—and perhaps that is what Patrick Harvie was alluding to. They are bound by certain things that they have to deliver; at the same time, they have no power to change what they deliver, and they have to try and balance the budget in that regard. That is true across the board in the whole of the UK, including Scotland, across local authorities. That is why councils in England have had to issue section 114 notices. We have not seen any of those in Scotland, but it is not impossible that that situation could happen.

Issuing a section 114 notice does not stop all spending. It restricts spending to statutory duties or to planning towards getting out of the situation. Ultimately, some of that risk is borne by the central Government, which has to underwrite some expenditure that has to be made statutorily. That is a really uncomfortable position, and it is absolutely right that that is not sustainable. We will probably end up seeing more actual rationing of the delivery of services through informal measures. For instance, a council might say, "We just don't have as many people to provide this."

The Convener: Like having to wait six months to get a chairlift and that kind of stuff?

Dr Sousa: Yes.

The Convener: That has been the case since I was a councillor in the 1990s.

On council tax, Lindsay Scott was talking earlier about the public understanding of the tax system. Most people I have encountered think that the council tax pays for all local government services. If you tell them that it is 14 or 15 per cent, they simply do not believe you—they think, “That cannae be. I pay £X a year. How can that possibly only amount for a fraction of services?” There has to be a level of education there.

Stephen Boyle: João Sousa has made most of the points that I was going to make in responding to Mr Harvie’s points, although I have a couple of other things to mention.

I appreciate that the committee knows this, but I do not audit local government; the Accounts Commission does that. The Accounts Commission, with which I and Audit Scotland work closely, has reported extensively on some of the fiscal challenges that Scotland’s councils face.

The Accounts Commission has also covered integration joint boards in its reporting and, similarly, it points to the financial challenges that those organisations are facing. Those boards straddle health and social care, but they are local government bodies by definition. There is a clear sustainability concern there.

João Sousa is right: we have not seen the nuclear option being used by Scotland’s local authorities in the way that has happened in some English local authorities. The Accounts Commission has been very clear in its reporting about the scale of the challenge that is facing authorities, however.

I will make a couple of points to address other questions that you raised. One is about the reforms that the Scottish Government has indicated that it wants to make, which I mentioned earlier. Implementing the service renewal framework is one of the stated ambitions for the NHS in Scotland. One thing that we observed is that there was limited reference to social care in that strategy. The reform of the NHS cannot be successful without being clearly aligned with plans for the sustainability of local government services in Scotland.

You also asked about the scrutiny of local government. That is perhaps a question for the Convention of Scottish Local Authorities or councils to address, given that I have often heard them refer to the spheres of government as opposed to the tiers of government with regard to where scrutiny of council services and council performance should be undertaken. Is that an ambition of the Scottish Parliament or is it

something for councils to engage in with regard to their own electorates?

I will finish on a wider point. As I noted in my submission, Scotland has not made quick enough progress in setting out the totality of its assets, liabilities, revenues and taxes. Your committee, of course, considers budget and budget scrutiny, and the Public Audit Committee looks at the consolidated accounts of the Scottish Government, but those consolidated accounts have a boundary, and they cover only the bodies that are within the accounting boundary. There are some significant public bodies that receive funding from the Scottish budget that are not included. For instance, local government is not part of the accounting boundary.

The Scottish Government has made some progress in moving towards more of what we would recognise as whole-of-government accounting for Scotland, but that has taken a long time. It would be a significant benefit if, in the next session of Parliament, there could be a much broader sphere of reporting to allow that level of scrutiny, whether it is by this committee or elsewhere in the Parliament.

The Convener: That adds to the issue of transparency, which, as you know, is an area that the committee has pressed quite extensively over the months and years.

We have about 30 minutes left, and I want to be able to touch on public sector reform and one or two other things, if we can. First, however, I see that Professor Bell is keen to come in, and that John Mason and Craig Hoy have questions.

Professor Bell: Only a small proportion of local government finance is supported by council tax—we have just made that point. The general revenue grant accounts for by far the greatest proportion of total spend. However, how the general revenue grant is allocated between Scotland’s local authorities is not something that tends to be looked at very much—I do not think that your committee has looked into it.

The Convener: One of the things that have been talked about in some of the submissions is the need to do fewer things but to do them well and in depth, and that is what we try to do in this committee. There are lots of things that I would love to do, such as having an inquiry into public sector procurement costs and taking an in-depth look at the issue of local authority funding.

We work on the same distribution model that we have had for 30-odd years, with the addition of the funding floor about 10 or 15 years ago. The issue has been that, when some political parties or local authorities have tried to change that, there has been a huge kickback because, as with council

tax, there are winners and losers. I remember that the Labour Party had a proposal to change the funding arrangements, which would have cost my local authority about £6 million or £7 million a year, and there was a huge hoo-hah about it. That is probably one of the reasons why the distribution formula is almost set in aspic, like the council tax.

Professor Bell: Just to reiterate the points that David Heald made, we talk about fiscal autonomy for Scotland, but we talk very little about fiscal autonomy for our local authorities. In effect, we end up with local authorities that focus on their statutory duties almost to the exclusion of other things. I will come back to rationing, but I would just observe that those factors make local authorities less attractive places in which to work.

10:00

The Convener: To be honest, every year when I was on the local government committee, and on a number of occasions while I have been on the finance committee, when COSLA has given evidence and asked for additional taxing powers, I have asked COSLA what those taxing powers should be and who should pay them. I have been met with complete silence. COSLA has to get its act together, frankly, and say what it wants and who should pay that before it comes here and makes woolly comments, which it has been doing for years and years.

Professor Bell: I want to say one last thing. Stephen Boyle mentioned the sustainability of social care, which I have been writing about quite a lot in the UK context. That is an issue where you have to get everything together. You have to get the workforce together, but you also have to get the suppliers on board.

It is almost certain that more care home places will be needed in the UK going forward, but far fewer will be needed in Scotland. Last year, a net addition of 87 care home places was provided in the whole of the UK, and the population aged 85-plus is set to almost double in the next 15 to 20 years.

The Convener: My constituency has a care home with a capacity issue because it is short of 15 staff members; it has only 70 per cent of the staff complement that it needs. Since 22 July 2025, the UK Government has ensured that no overseas care staff can come in, so we have a real difficulty there because a lot of people do not want to work in that sector. I think that money is an issue, but people are a bigger issue, particularly in rural and island Scotland.

We digress somewhat. John Mason has a follow-up question.

John Mason: On local government finances, I think that everybody here has accepted that there is a problem and that it is very difficult to revalue or whatever. However, as I understand it, the aim of this evidence session is to come up with a recommendation for our successor committee. What are we going to say to that committee? I aim this at the Auditor General for starters. Are we going to say to future committee members that there can be no change because revaluation is too hard and that they should just forget about it? Are we going to say that they have to push for revaluation? Are we going to say that they have to push for a new tax?

Stephen Boyle: I suspect, Mr Mason, that I will not be the first to notice that the committee's ambition and inclination prompt it to seek comment more directly.

It is perhaps not for me to make recommendations to the committee. There is clearly an unresolved issue regarding the sustainability of local government finances. There is, of course, a risk with that—I did not make this point earlier, and I am glad to get the chance to reference it. The Scottish spending review illustrates that growth in the indicative areas around health, social care and welfare will make things incredibly difficult for other local government services. I am quite sure that the sustainability of local government finances, including through revenue allocation, council tax and rates, will be of incredible importance to your successor committee.

John Mason: Should we just say that sustainability of local government should be a priority for it, without going into any more specifics? Do you think that that is the way that we should—

Stephen Boyle: It feels to me that that will be on the work plan of not just the successor to this committee but the successor local government committee, if that is the model that the Parliament chooses. I think that it has to be.

John Mason: Thank you.

Craig Hoy: I think that I know what the answer to this question will be, but it will be useful to get it on the record. It might be one for you, Mr Boyle. What should be the committee's view of the Scottish Government repeatedly using one-off revenues to fund long-term commitments? You referred to the spending review. Recently, when we put to the Cabinet Secretary for Finance and Local Government the alternative set of figures for real-terms cuts to local government budgets in the years ahead, she said that something will turn up and that no Government ever sticks to a spending review. How do we get a Scottish Government to understand that the principle of budgeting by

assuming that something will turn up is neither sensible nor sustainable?

Stephen Boyle: As I mentioned in my opening remarks, in many of our reports over the past five to 10 years, we have identified the use of short-term, reactive interventions to deliver what the Scottish Government has had to do. It has to balance the books each year but doing so in that way is sub-optimal. That approach does not allow for planned spending outcomes from that public spending, nor does it allow for delivery of the reform model that the Scottish Government has set out as an ambition. There needs to be a vehicle not just to support effective scrutiny by this committee and Parliament but to help to transition and recalibrate public services. Planning for longer-term savings, supported by a clear implementation plan that is linked to a strategy, feels like a far more solid approach than having line-by-line intervention, as we have seen over the past three or four years.

Michael Clancy (Law Society of Scotland): I have been studiously quiet—uncharacteristically, you might say. Two cogent issues are intertwined here. Professor Heald was one of the few people to mention the constitutional aspects, and John Mason was one of the few people to talk about what we are going to tell the future committee to think about.

I will take us on a slight detour from where we are at the moment. Although constitutional issues crop up in relation to local government finance and the Scottish tax code, as it will emerge to be in the future, I would like to focus on the Scottish tax code aspects.

We have heard a lot about Lindsay Scott's magisterial—if I might call it that—survey and why the taxpayer should be informed about the tax that they will pay. That is a crucial issue, and it raises questions about what we teach people in school and in other places of learning about our constitution and how it all fits together—the UK and Scottish elements—in a particular way in connection with tax. I think that, from this committee's point of view, the constitutional value, which I would ask you to press the future committee to consider, is in proper consultation for good law making. Good law making is what we are talking about here. It might be bundled up in various ways, but we want the up-and-coming committee to look at the issue of making laws that are coherent, clear and effective.

I was also just thinking about interconnectivity in that regard. The Scottish Government has said that, if re-elected, it will introduce a Scottish human rights bill. That would affect public bodies across Scotland. My question is, to what extent is that properly costed, so that people who will be given

rights under such a measure will know what they are, how to enforce them and how they will be enforced? That is quite an important point, because if we are talking about having a better, healthier, wealthier and wiser Scotland, knowledge about our rights—including in the context of taxation—is extraordinarily important.

The idea of having an annual finance bill is something that we would push for, and we hope that the committee can include that in its legacy paper, because reform of tax will increase as there are more taxes to reform. That is something that we would want to focus on.

Parliamentary scrutiny is also an issue for the future committee or, as we have talked about, future committees—one for public administration and one for finance—and talking about how that fits into the arrangements for allowing MSPs the opportunity to spend time on complex issues. We all agree that tax is complex. I knew only one person who had memorised the Income and Corporation Taxes Act 1970—it did not go well for him. In any event, the important thing is that we allow people space and time to consider those complex issues.

Lastly, there is post-legislative scrutiny, which Michelle Thomson talked about. If we do not post-legislatively scrutinise measures, we will not learn what went right, what went wrong and what needs to be fixed. That is another important thing for a future committee.

The Convener: I will take three brief points and then move on to public sector reform, which is the last issue that we will touch on before everyone has an opportunity to make final wind-up statements, should they wish to.

Professor Heald: I will briefly go back to the point about top-ups and in-year savings. That is a disastrously bad way to run the Scottish public sector, which is one reason why we need a bigger Scotland reserve and larger borrowing powers that are commensurate with the risks that we take on. The Scottish budget benefited by about £800 million because the UK Government backtracked on welfare reforms, and the Scottish Government is under pressure to spend that money because, if it underspends by too much, it passes the money back to the Treasury.

If you are going to run serious public sector reform, the top-ups that you get through Barnett could be used for that purpose. There is political pressure not to underspend, because people think that we can have more of the things that we want. However, the Parliament and the Government must recognise and persuade the UK Government that greater fiscal flexibility allows better management of the public sector. In-year spending rounds are just wasteful. They divert

people from the long-run tasks and encourage people to spend the money early in the financial year, which means that there is nothing left when the cuts exercise comes around.

Lindsay Scott: I will come back quickly on three points that Michael Clancy made. First, I would extend the point on literacy. The committee recommended a tax programme for new MSPs to learn—

The Convener: It is all MSPs—it is for everyone.

Lindsay Scott: Yes. We fully support that, and we would be willing to support such a programme if that would be useful.

I fully support the points about a Scottish tax bill. I appreciate the volume of work that the committee has done, which has been really good, but the work on considering the legislative process has been on pause since Covid. Members will no doubt have read the examples that we have put in our numerous submissions. Although some of those issues might have been fixed, we have current issues and potential issues on the horizon.

For example, the Law Society has a great long list of technical amendments that are important for the effectiveness of tax. On the Scottish building safety levy, the minister has today proposed amendments to increase the consultation on the regulations, which brings into question whether the regulations were the right legislative mechanism in the first place.

Wales has been doing some really good work in that area. It has fewer taxes than us, but it has found the time and space to consider that. There is a role for the next committee to pick up that work. My key ask would be to consider the work of the devolved taxes legislation working group and the challenges—there are challenges—and to try to get Revenue Scotland, the Scottish Parliament and the Scottish Government round the table to agree a way forward. That is really important for the effectiveness of our tax system. Having a legislative mechanism such as that would provide the opportunity to scrutinise tax legislation and to bring experts and stakeholders round the table to examine whether it works. I hope that that would prevent any unintended consequences.

10:15

Dr Sousa: I will try to be quick, because I know that the convener wants to move on to another topic. I support what Stephen Boyle said in response to John Mason's question about the sustainability of local government finances being a priority for the next iteration of the committee.

On the use of non-recurring revenues and one-offs, the FAI has started work to quantify those things as much as we can. The committee could make a recommendation, should it wish to do so, for the Scottish Fiscal Commission to produce some sort of memo line in its tables that details the amount of non-recurring revenue and what the financial position might be without it, so that that information is available and the commission can be quizzed on it. Crucially, the Scottish Government and the finance secretary will also be able to be quizzed on the information.

The Convener: The committee is keen to see progress on public sector reform. In a recent report, we said that it was

“a collection of disparate workstreams and sectoral reforms, with no overall strategic purpose and with limited oversight and direction from Government”.

We recommended that

“the Scottish Government sets out a clear vision and strategic purpose for what it wants to achieve with its public service reform programme”.

I do not know who wants to come in on that. I will pick on Stephen Boyle first.

Stephen Boyle: Like the committee, Audit Scotland has commented extensively on public service reform, not in and of itself, but as a vehicle for supporting fiscal sustainability. We welcome the Government's strategy to reform public services as it set out in the summer. As I mentioned earlier, alongside that, we did not see a detailed implementation plan, which will be an essential component.

We recognise the fair comments that the committee has made about the volume of change in strategies in recent years; the Government has had reform strategies and recovery strategies. It would help to have consistency in strategy. The Government should set a strategy and have a plan to implement it that includes reporting on progress and consistent scrutiny over a sustained period.

So much is riding on the Government's public service reform strategies. The committee has noted, fairly, that implementing them will not be without challenge. Workforce issues will be central to the implementation of the public service reform strategy. We note the Government's plans to return to a public sector workforce that is akin to pre-Covid numbers. We also note the Government's statement that front-line services will be protected, so there will be far larger reductions in back-office services. That is a policy decision, but it is really important that that is not left to chance through a reliance on resignations or holding vacancies. That will be much more successful for effective continuity of service. Moving to a digital, prevention-based model will require a thought-through implementation of a

workforce strategy. We have not seen that yet, and it will be absolutely vital to delivering public service reform effectively.

The Convener: I touched on that at the RSE last Wednesday night, but I will not comment on it now, because time is against us.

Craig Hoy: My question is probably for Stephen Boyle, but others may want to chip in. It strikes me that, with the Scottish Government coming forward with a £1.5 billion figure, it is very much focused on scale, size and cost but not on the required form and function for the public sector in Scotland. If we end up with a salami-slicing approach to the process, what is the risk that we could meet the numerical targets but have entirely the wrong public sector for the challenges of tomorrow? I presume that that is the warning that we should be alerting people to.

Stephen Boyle: That is the potential risk. We have touched on the workforce issue; instead of just holding vacancies, we need a considered approach that looks at which people are needed and where, what the state in Scotland is designed to do, what services the state is and is not providing, and, alternatively, what digital is going to do for people. It is the coherence of the whole strategy that will be essential. Of course, it is still vital that, within the constraints that exist, Scotland delivers the bottom-line number, but—perhaps this goes back to the national performance framework—it will be more successful with public service outcomes if all those things knit together.

Craig Hoy: You look under the bonnet of the Government machine more than anybody else. Do you get the impression that the really hard work that needs to be done beneath that bonnet is being done to get us into that position?

Stephen Boyle: As I have said, we made it very clear in the summer that we welcome these developments and the fact that there is a strategy. We see that it is not going to be straightforward. We can see the balance being struck between direction from the Government and its working in partnership with many of Scotland's public bodies to deliver the strategy. I do not underestimate the scale of the challenge involved in reforming public services, given how they have grown—and how they have grown incrementally in various iterations, whether through post-Brexit or post-Covid planning—but what we need to see now is a clear and detailed plan that happens with pace.

The Convener: Zero-based budgeting would no doubt help with that.

Michelle Thomson: I have a quick supplementary. Are we sufficiently considering the extent to which, in effect, turkeys do not vote for Christmas, given that the change programme will

be delivered by the very body that it could ultimately impact? I am reminded of the time when my colleague Liz Smith pulled from the former permanent secretary, John-Paul Marks, the comment that accountability for head count resided with the permanent secretary, not with the Scottish Government. I suppose that the question is this: is there enough of an understanding of what a significant blocker that could ultimately be when it comes to the how of delivering public service reform, not just the what that we have been talking about thus far?

Stephen Boyle: Yes. It speaks to the need for a very detailed workforce plan to support the implementation of the Scottish Government's public service reform strategies, so that the approach is not reactive or piecemeal.

I am just looking for the right number, Ms Thomson, but I think that public bodies are planning to reduce corporate costs by £1 billion over the next five years, while protecting front-line services. It feels reasonable to request that that be mapped out in detail. What types of services are going to change? Where will there be a head-count reduction? That would support implementation and scrutiny, which will be a vital role for your successors on the committee.

The Convener: I have no one else down on my list to speak, and time is marching on, so I will wind up the session by giving everyone an opportunity to make final comments on any finance and public sector reform legacy issue that they wish us to put forward in our legacy report. Professor Bell will be the last to speak, given that he opened the session; I will take everyone else in turn. First up is Michael Clancy.

Michael Clancy: I would like to say that it has been a pleasure appearing before the committee in the past. As I was preparing for today's meeting, I was looking quite intently at the website, and I saw that the committee has issued 53 reports. That is a very creditable number for the committee to have produced.

Looking at all the legislation that has been considered over the parliamentary session has certainly spurred the idea that splitting the committee's functions between two committees might give people more space to think. However, there has been such a creditable achievement over the session that the committee should be commended for it.

The Convener: Gee, thanks. *[Laughter.]* Thank you very much for that—it is very much appreciated.

Who wants to go next?

Dr Sousa: One thing that we have not touched on is the timing of fiscal events. There has been

some frustration—to put it mildly, perhaps—in the committee with some of the timings that have come to pass.

The committee has been very effective in its pre-budget scrutiny—I think that that has been really good—and it has also brought the Government and the SFC to account by bringing them before it in a timely manner. This year, the committee ensured that that happened very quickly after the budget, but it has also happened at times when things have not been so easy.

Perhaps there should be some consideration of how that sort of thing could be made better. I do not have all the solutions, but there could at least be a discussion of what processes could be put in place to ensure that scrutiny happens in a timely manner and that it is always planned for. That would, I think, be welcome.

The Convener: We are always liable to be victims of decisions taken elsewhere, as you know.

Lindsay Scott: On the point about timing, I think that the Minister for Public Finance said that only the news about the new property income tax powers was not leaked before the UK budget was announced. That raises some concern about whether there is actually a collaborative and constructive relationship, which I think should be a priority.

I also want to thank the committee for inviting us along here. A couple of weeks ago, you talked about the committee's role in holding people to account; you get the opportunity to sit here and question the figures and really get into the detail when others do not have that same opportunity. I think that that is a very good point, and the committee has done a lot of good work in that respect.

The Convener: Thank you. Stephen, you can start with compliments and then go into substance. *[Laughter.]*

Stephen Boyle: First, I thank the committee for inviting me here today and for your engagement with, and the evidence that you have taken from, me and Audit Scotland colleagues over the past five years. Like others, we have always recognised the seriousness and the importance of the work that the committee does and its even-handed and fair scrutiny across an extensive range of topics.

I would note that, as David Bell pointed out in his submission, the effectiveness of the annual budget scrutiny has, in many ways, been a noted success of the committee. What comes in the next parliamentary session, particularly with regard to medium and long-term financial planning, and the links with reform and sustainability, will be vital to the legacy of the next committee.

The Convener: Thank you very much. Professor Heald?

Professor Heald: I think that the successor committee should ask the next Government for a tax strategy that says where the tax system ought to be in 10 years' time.

The Convener: That was succinct—thank you. Last but not least, I call Professor Bell.

Professor Bell: I think that I had better commend the committee for its work and thank it for the several invitations that it has given me over the parliamentary session.

It occurs to me that the committee's work deserves more public recognition than it gets. It tends not to come top of the headlines in the local press when its fairly weighty documents, which should be very influential, hit the airwaves.

I will say a couple of things. First, we have to get a laser-like focus on prevention and, as Stephen Boyle said, much better information to motivate policies that might relate to that. That will be particularly important for path-dependent spending, where we make commitments that have long-term consequences. I went through some of those earlier.

Finally, an economist would say this, but there are always trade-offs, and there will be losers as well as gainers. We have talked with the committee about loss aversion, and the political challenge is how you deal with those who might find that a particular policy does not necessarily work in their favour.

The Convener: Thank you very much to all our guests this morning for their contributions; they are very much valued by committee members. I will call a five-minute break to have a changeover of witnesses.

10:29

Meeting suspended.

10:35

On resuming—

Building Safety Levy (Scotland) Bill: Stage 2

The Convener: The next item on our agenda is to consider the Building Safety Levy (Scotland) Bill at stage 2. We are joined today by Ivan McKee, the Minister for Public Finance, who is accompanied by Scottish Government officials. Although the officials are present for this session, under standing orders they are unable to participate in formal stage 2 proceedings.

I also welcome to the meeting Meghan Gallacher MSP and Mark Griffin MSP, who, like committee members, have lodged amendments to the bill at stage 2.

I will briefly explain the procedure that we will follow today, for anyone who may be watching and to remind members. Members should have before them copies of the bill, the marshalled list and the groupings, which are all available on the Scottish Parliament website. I will call each amendment individually in the order on the marshalled list. The member who lodged the amendment should either move it or say that he or she is not moving it when it is called. If that member does not move it, any other member present may do so. The groupings set out the amendments in the order in which they will be debated. There will be one debate on each group of amendments.

In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call other members with amendments in the group to speak to, but not to move, their amendments and to speak to other amendments in the group if they wish. I will then call any other members who wish to speak in the debate. Members wishing to speak should indicate that by catching my attention or that of the clerks. I will then call the minister, if he has not already spoken in the debate. Finally, I will call the member who moved the first amendment in the group to wind up and to indicate whether he or she wishes to press the amendment or to withdraw it.

If an amendment is pressed, I will put the question on the amendment. If a member wishes to withdraw an amendment after it has been moved and debated, I will ask whether any member present objects. If there is an objection, I will immediately put the question on the amendment. Later amendments in a group are not debated again when they are reached. If they are moved, I will put the question on them straight away. If there is a division, only committee members are entitled to vote, and voting is by a

show of hands. It is important that members keep their hands raised clearly until the clerk has recorded their names.

The committee is also required to consider and decide on each section of and schedule to the bill and the long title. I will put the question on each of those provisions at the appropriate point.

We will now begin the stage 2 proceedings.

Section 1—The Scottish building safety levy

The Convener: Amendment 16, in the name of Michael Marra, is grouped with amendments 1, 17, 2, 18, 19, 48, 20 to 22, 49, 50, 4 and 41 to 43.

Michael Marra (North East Scotland) (Lab): Given that my comments will be the first at stage 2, I will set out a little bit of the context for the bill.

We had a considered debate at stage 1, and I take on board some of the comments that the minister made at that point. Scotland has been in the grip of a housing emergency for years, and even the Scottish National Party Government acknowledged that, back in May 2024. However, although almost two years have passed since then, little has changed. House building figures from December 2025 showed that the numbers of new-build starts and completions are both falling. Social sector starts have hit their lowest point since records began in 1997, and affordable housing completions are down 23 per cent.

All of that has real consequences. Statistics that were published just last week show that the number of children living in temporary accommodation is at a record high of 10,480 for the period reported. The number of open homelessness applications is also at a record high, and rough sleeping is at its worst point in two decades. That is the context in which the Government has introduced the bill, and we should all recognise that.

In its evidence sessions on the bill, the committee heard repeatedly about the potential for the levy to damage what is an already precarious house-building sector in Scotland. The possible introduction of the levy with unknown rates and at an unknown date is destabilising for a market that needs certainty to plan and make decisions for the long term.

John Mason: Michael Marra is arguing against the levy, and I have some sympathy for that, but is the fault not at Westminster, which has brought in such a levy in England and, effectively, put us into a corner whereby we have to do so as well, when it would have been better just to put it on to corporation tax or something like that?

Michael Marra: I take John Mason's point. What I am exploring, and want the minister to respond on, is the general defence of the approach that he

has taken. It is not for me to defend why the Government has taken that approach. I do not necessarily think that it follows that, because this happened in England, it has to happen in Scotland. I do not agree with the member on that. Our very different housing market and circumstances have formed the basis of much of the approach of the committee and the evidence that it took. I would like to hear the minister defend in some detail the approach that might be taken.

John Mason is right in that there is a significant challenge to be faced when it comes to raising finance to deal with cladding remediation. However, my view is that that is not the limiting factor of the rate of delivery of cladding remediation in Scotland. Certainly, at the moment, there is money in the bank that came through Barnett consequentials but has not been spent. The question is whether substantive issues are preventing the Government from dealing with the situation.

The possible introduction of a levy with unknown rates and at an unknown date is deeply destabilising for a market that needs certainty in order to plan and make decisions for the long term. Across the sector, house builders are making decisions about where to build and how much to build, and they cannot do that with the uncertainty of a levy hanging over them. My amendment 16 seeks to give some certainty to the sector so that it can get on and build now. It would give a firm guarantee that any construction or conversion work that was begun before 1 April 2028 would not be subject to the levy. That would mean that more homes would be built now, rather than house builders choosing to sit it out for two years and waiting to see what a future Government might or might not do. It would be particularly good to get the minister's reflections on how he sees that dynamic impacting the sector.

At his appearance before the committee on 18 November 2025, the minister stated:

"the commencement date for the levy will be deferred by one year, to April 2028."—[*Official Report, Finance and Public Administration Committee*, 18 November 2025; c 42.]

Amendment 16 would keep the Government to that commitment. Clearly, Meghan Gallacher's amendment 19 has a similar intention, so I will be interested to hear the debate and the Government's response.

I move amendment 16.

The Minister for Public Finance (Ivan McKee): I thank the committee for its engagement and scrutiny on the bill so far. I have had good engagement with individual members on their proposed amendments, and that has been very

welcome. I am keen that we continue in that constructive spirit today.

On Michael Marra's comments, we all understand—I hope—that there is a requirement to fund the cladding remediation programme over the lifetime of the requirement for those works. The cost is significant. As we know, it runs into billions. The funds that will be applied from the levy will form only a part of that. The money has to be found from somewhere—if not from this route, from elsewhere in the Government's capital budget and, potentially, even from the affordable homes budget. Not having the levy and finding the money from elsewhere is not a get-out-of-jail-free card. Funding would have to be found from another of the Government's capital budgets.

Michelle Thomson: I reflect that Michael Marra opened with a general framing of the housing challenges that we have. Is it your position that accepting too many exemptions could render the bill unviable—because of the figure of £30 million—but that accepting too few could, ultimately, affect the housing market, as we alluded to in our report? Given that you are where you are—that the bill has been foisted on us, as has been said in earlier comments—do you have a sense of where the sweet spot is that makes the bill still viable without a significant impact on the housing market?

Ivan McKee: I do not think the bill is unviable. It is absolutely viable.

Michelle Thomson: I meant if you accepted all the exemptions. As you have correctly pointed out, if you were to accept every exemption it would mean that the money would have to be found elsewhere. That is what I was getting at.

Ivan McKee: As is the case with how the UK Government has configured its measures, the target is to raise £30 million a year, spread over either more or fewer properties. If there are more exemptions, that has an impact on the rate charged on the other properties. We will debate that as we go through the exemptions that members have proposed, some of which would have a greater impact than others. We will consider those. Even for the most significant ones, the numbers would not in fact be so significant.

10:45

Liz Smith: Thank you, minister, for the engagement with me on this matter last week. To what extent has the Scottish Government carried out any study of the behavioural changes that have happened since the bill was published? Are you aware of some of the behavioural changes that are likely to take effect in relation to the exemptions that Michelle Thomson is talking about?

Ivan McKee: We have carried out the impact assessment on that, and we will continue to update it, depending on where we get to with the various amendments to the bill that are being debated now and will be considered at stage 3. We are aware of the profile of the sector and of the impact that any of the amendments would have on the market—which we will discuss as we move through the amendments—and the impact that the exemptions would have on the remaining tax base. We have done quite a bit of work to understand that, and we have done the impact assessment across the whole sector.

Amendments 1 and 2, in my name, are minor technical adjustments to the wording of section 4. The changes clarify the position for buildings that have parts with different uses. Only those parts of a building to which the definition applies will be considered as dwellings or other accommodation for the purpose of the levy. I believe that all interested parties would welcome that minor change.

Amendment 4 makes a change to the definition of the taxpayer for the levy, namely the owner of the property at completion. The Scottish Government has tested that definition with Revenue Scotland and the Law Society of Scotland, which identified that, in specific cases, it is possible that more than one person could be considered the taxpayer. For instance, if the tax point were to occur during the period when the property had been sold but the title had not yet been registered, that would risk uncertainty for taxpayers in such cases. Amendment 4 therefore seeks to remove any such uncertainty by providing a clearer definition.

Amendments 16 and 19 both seek to introduce a form of transitional provision, and the Government cannot support those amendments. We recognise the need for developers to have advance certainty of what their liability to the levy will be, and that is why I took the decision to move the commencement date of the levy back one year, to April 2028. I have also committed to publishing the first set of indicative rates for the levy in June 2026. That will give developers 22 months of advance certainty of their levy liabilities, and that is provided in lieu of potential complex transitional provisions.

My view is that delaying the commencement of the levy and publishing the first set of indicative rates 22 months ahead of time already provides sufficient notice for developers to plan their affairs accordingly. Amendments 16 and 19 would only add complexity and would depress much-needed revenues. I urge the committee not to support those amendments.

Meghan Gallacher (Central Scotland) (Con):

There is an established principle that regulatory treatment follows the rules in force at the time of a building or an application. We need to recognise the significant up-front investment in viability decisions made by house builders. That was my reason for lodging my amendment 19, working for Homes for Scotland. How does the minister intend to answer those issues if we do not consider passing amendments 16 and 19 in this group?

Ivan McKee: In response to the sector, we have moved the implementation back to April 2028, and we have triggered that on completion, which we think is a better method, because it gives more certainty to the market and supports cash flow. We think that that is a better trigger point. To go back and consider what is happening with building warrant applications would run counter to that.

I think that the proposal that we have put in place gives sufficient visibility. It is a more effective trigger point and it is more helpful for the sector. To be honest, amendments 16 and 19 are just seeking to further delay implementation, which is not helpful, given the need for capital income to support the cladding remediation programme.

Amendments 17 and 18, in the name of John Mason, are linked in their aim to bring temporary accommodation within the scope of the levy. I recognise the view that Mr Mason expressed at stage 1 on the benefits of a contribution from larger hotels. However, the amendment as drafted would bring all temporary accommodation within scope, which would not only subject a wide range of recreational accommodation types to the charge but would bring in other temporary accommodation uses, such as accommodation for persons fleeing homelessness or domestic abuse. For that reason, the Government cannot support these amendments as drafted, but I would be happy to consider whether certain types of temporary accommodation would merit being included in the tax base and to discuss that further with John Mason, and indeed with any other members.

Amendments 48 to 50 all seek to introduce an exemption for properties sold to first-time buyers. As with a number of amendments that have been lodged, these proposed amendments to the bill would be very difficult to deliver. At the point of taxation, a building will not have a use, and any such exemption relies on an intended future use. It is not clear how taxpayers would know, at the point of collection, which units were to be sold to first-time buyers. Therefore, while the intent behind amendments 48 and 49 is well meaning, it might inadvertently create additional pressure on developers to demonstrate eligibility, and so increase administration costs for Revenue Scotland.

Michelle Thomson: I think that the minister is making an assumption as to the effective operation of what is proposed. It would be possible to grant a relief to a builder where there is demonstrable evidence that the accommodation is being sold to a first-time buyer, for which there would be ample evidence after completion. Has the minister considered that? In addition, has he considered the vital role of first-time buyers in keeping the housing market viable? They drive demand and create a ripple effect, free up homes for rent, support economic growth, support a balanced market and play into balancing sustainable communities.

I appreciate the complexity of what the minister thinks may be intended, but my question is simple. Would he consider, at least in part, some kind of relief where it can be easily proven after the event that the purchaser was a first-time buyer?

Ivan McKee: There are two points to answer there. I was going to make the point that, although we cannot support these specific amendments, I am very happy to discuss further with Michelle Thomson and Mark Griffin, and with any other interested members, any further measures that the Government could take to support first-time buyers.

As Michelle Thomson indicated, there may be other mechanisms through which that could be done with regard to the levy, but these amendments would not give effect to that. There is a commitment to discuss how that could be done, whether through land and buildings transaction tax buyer relief, which already plays an important role in supporting people to get on to the property ladder, or through other mechanisms that we could consider.

Another point to bear in mind is that 22 per cent of new-build sales are to first-time buyers. While the proposed measures would potentially have the effect of supporting first-time buyers, therefore, given that the levy is configured to raise £30 million a year, it would mean that the levy that is applied on properties that were not purchased by first-time buyers would be higher—in this case, significantly higher.

Amendments 20 and 41, in the name of Liz Smith, seek to introduce an exemption for heritage buildings. Although I am sympathetic to their aim, I have concerns that the amendments as drafted would risk incentivising people to seek listed status for tax reasons, which is not the aim of the listed buildings policy. I have already committed to a minimum 50 per cent brownfield relief, which I will touch on in speaking to amendments in a later group, but I am happy to discuss further with Liz Smith the issue of an exemption for conversions more broadly. I thank Scottish Land & Estates for

its correspondence on the matter, and I have considered its views, because I recognise that we would want to encourage support for conversions.

Amendments 22 and 43 concern the creation of an exemption for key workers. As with the amendments on first-time buyers, the Government cannot accept these amendments, given the complexities that they would cause developers in trying to verify whether the occupiers were key workers and the potential adverse impact that that would have on the tax base.

I also draw members' attention to the list of residential institutions in section 4(3)(b) of the bill, which are framed with a focus on the building itself and cover accommodation that is provided for those types of cases. If Meghan Gallacher wishes to highlight any types of institution that are not covered in that list, I would be happy to consider those.

Finally, I turn to Craig Hoy's amendments 21 and 42, which would create an exemption for rural areas. I agree with the intention that remote rural development should be exempt from the levy, given the increasing costs and supply-line challenges that developers in more remote rural areas face. That is why we have already, in section 5 of the bill, exempted developments that are situated on islands. I have also committed to extending that exemption in regulations under section 6 of the bill to island-like rural areas of Scotland, in line with their hospitality relief for non-domestic rates.

Development in other rural areas will also benefit from the levy-free allowance, with a proportionally greater benefit to those building in class 4 and class 6 of the "Scottish Government Urban Rural Classification", removing up to 81 per cent of units from the charge, depending on developer behaviour. Amendment 42, which defines "rural" specifically using the area classes, refers to that policy document, which has no legal status and is reviewed periodically. Regular legislative updates would therefore be required to keep pace, which would create uncertainty for taxpayers, whose sites may move between different definitions of rurality during the life cycle of a development.

On that basis, the Government cannot support amendments 21 and 42 as drafted, although I would be happy to speak with Craig Hoy to consider further measures that could be practically introduced to protect rural development.

For the reasons that I have set out, I ask the committee to support amendments 1, 2 and 4, and not to support the other amendments in the group.

John Mason: I will just speak to amendments 17 and 18 in my name, which both deal with

exactly the same subject: whether hotels should be included in the scope of the levy.

I accept that there may not be a huge number of new hotels being built around Scotland every year, but if we want to widen the tax base—because the danger is that, with all the exemptions, it is narrowed too much, as the minister said—we should take the opportunity to include hotels in there, on the basis that we want the tax to fall on the people with the broadest shoulders, who can afford to pay. It has to be said that many people who stay in hotels, either for business or as tourists, can afford to pay a little bit extra.

My assumption with regard to the bill is that it will be the final user—the house purchaser, the hotel resident or whoever—who will end up paying for the levy, and I am perfectly comfortable with that. I think that most people staying in hotels could probably afford a few extra pounds; certainly the cost of a hotel in Edinburgh is excessive.

Liz Smith: With regard to putting a bit of an extra tax on hotels, is there a danger—it may be an unintended consequence of Mr Mason's amendment—of harming the tourist trade, which is already struggling?

John Mason: I think that Edinburgh, in common with other cities internationally such as Venice and Barcelona, is swamped with tourists at certain times of the year, especially in August during the festival. To be frank, I struggle to get a hotel room for under £100 a night in Edinburgh—although I can easily get that in London—so I do not think that there is much danger of losing all the tourists.

Liz Smith: What about in rural areas?

John Mason: Is that another intervention?

Different places are different, and I think that the minister is going to say that the Government will look at different rates in different areas. It is about the principle, however. There are hotels being built—as I said, I accept that it is not a huge number, but I saw in the media last week that there is a piece of land in Edinburgh that was possibly going to be used for housing, and it now looks like it will be used for a hotel. Under the bill, we will have a slightly strange situation in which we will have housing competing with a hotel, and the housing will have a levy on it but the hotel will not. It could be seen that we were favouring the hotel over the housing, which strikes me as slightly odd.

Michelle Thomson: I am struggling to understand the purpose of the amendments. I understand what the member is saying about hotels, but he is making the link that it would ultimately be the consumer who pays. I thought that the intention of the bill, given that the levy will be linked to the completion certificate for a hotel, is that the charge would be paid at that point. Is

that not what the member intends, or am I getting confused?

John Mason: Well, the charge will be passed down the line. I know that the Government's argument is that land prices would fall because of the bill, but I am sceptical about that, and the committee heard from witnesses who were also sceptical about it. I think the charge will be passed down the line to whoever ends up being the end user, as happens with a tax such as VAT.

I would like the Government to agree to the amendments. If they need a bit of tweaking at stage 3, we could certainly do that, but agreeing to them now would set out the principle. The idea that homelessness residential places might be affected—that someone would build a hotel and it would immediately be filled with homeless people—seems very unlikely, but perhaps that could happen. I hope that the minister will agree to the amendments. If they need to be tweaked, they could be tweaked later on.

11:00

Meghan Gallacher: My amendment 19 has been developed alongside Homes for Scotland, as well as a number of home builders who have been in contact with me about the levy. The amendment would exempt from the levy a new residential unit for which a building warrant application has been submitted on or before 1 April 2028. In effect, the amendment would provide a transitional arrangement for homes and projects that are already in development when the levy comes into effect.

I have already referenced the established principle to the minister, but I reiterate that home builders have been very clear that development does not start when the foundations are cut. Many years of activity and equity are invested in a development well before the building is constructed.

The “building control event” that is defined in section 3—the completion date—which establishes the liability to pay the levy, is simply too late in the development cycle for homes that are completed after 1 April 2028. In my view, the liability date ignores the investment already made in the land deal: ground investigations, planning costs and professional fees for design are all borne by the developer well before a building is completed. The minister has outlined the commitment to give 22 months' notice of the rates from June this year. Already, many developers will have appraised and agreed land deals with no ability to account for the levy that will come into effect as of April 2028.

The application date for a building warrant is different from the building control event or

completion date, and it better recognises the substantial pre-construction development and specification that takes place. A building might not be under construction by 1 April 2028, but considerable investment in its development will already have taken place. That is a really important point in my amendment 19.

I want to touch on Michael Marra's amendment 16, which would prevent the levy being charged where works began before 1 April 2028. Although that is a welcome amendment, I believe that amendment 19, which I lodged and which would exempt from the new levy a new residential unit for which a building warrant application has been submitted on or before 1 April 2028, would provide clearer protection where development has already started, even if that is not visible on site.

I am disappointed that the minister has already indicated that he does not wish amendment 19 to be agreed to today. While he is in front of us, I want to say to him that, if there is an opportunity for him to meet me, Homes for Scotland and Michael Marra—given that we both have amendments in this field—that would be helpful in looking at various alternative amendments for stage 3. What the minister is proposing just now does not go far enough and, if we are trying to get the balance right between ensuring that house building projects proceed without being impacted by yet another levy or scheme that they have to pay into, he has to take that on board before we reach stage 3.

I will touch on my amendment 22, which would provide an exemption for housing

“intended to be used wholly or mainly for key workers”,

including those

“employed in healthcare ... social care ... education ... emergency services ... agriculture”

and

“forestry”.

Access to appropriate housing for key workers is essential to sustaining rural communities and local services across the country.

My amendment 43 is consequential to amendment 22. Together, the amendments would ensure that the levy does not make it harder to deliver homes for those people whom communities—rural communities, in particular—depend on most. That is another area in which further consideration is required by the Government and I am keen to speak to the minister about it in more detail between stages 2 and 3, if possible.

Michelle Thomson: I will focus my remarks on three amendments: Liz Smith's amendment 38 and my amendment 50, which are in this group,

and my amendment 53, which also relates to this area.

I have already set out to the minister how important the first-time buyer is, and I have set out my rationale for holding that position. I also want to add a consideration about developers and remind him of how difficult an operating environment they have found the current economic climate to be. It is important that we support developers to have a continued focus on the first-time buyer market. It is much easier for developers to go for the step-up market, as, in that area, access to finance is easier and quicker, transactions are larger and margins are better. My concern is that, if there is not some kind of relief, we could inadvertently limit the activity in the first-time buyer market.

I point out, in response to the minister's earlier comments, that I see the linkage being to a developer relief, not a relief for the buyer. That would exclude the likes of LBTT. Part of my rationale for taking that approach goes back to my earlier comments. We need to find the sweet spot to make the bill operational, given the set of circumstances in which the Government finds itself, while ensuring that there is not a disproportionate impact on the market. I think that everyone would agree that first-time buyers are utterly vital to ensure that there is activity throughout the market and the cycle of house buying.

I accept what the minister is saying, but I would like there to be a little more clarity.

Liz Smith: My amendment 20 seeks to exempt from the levy the conversion of historic buildings, mainly because projects of that nature are not really speculative. They tend to be a more expensive way of producing new homes, and, most importantly, through the conversion of historic buildings into new homes, they deliver a wider public benefit, which the Parliament has discussed in other ways regarding historic buildings. It is important that we encourage the bringing back of vacant or underused buildings into productive use. If the levy were to be applied, that would risk discouraging the reuse and investment that aligns closely with the preservation of our heritage, and amendment 20 is designed to try to avoid that.

My amendment 41 is a straightforward consequential amendment to amendment 20, as it provides a definition of “historic building” by reference to existing statutory designations.

Ivan McKee: I am happy to discuss the issue further in the context of conversions more widely, because I absolutely agree that we should seek to find ways to support such conversions. I simply think that there is a specific issue with the

amendment with regard to it being targeted at listed buildings.

Liz Smith: Can you explain what that specific issue is?

Ivan McKee: The concern is that it would create a perverse incentive in the system for people to seek listed building status for buildings in order to avoid paying the building safety levy. I think that having a more general exemption for conversions would be the right thing to do. It would be better to have a more encompassing policy that applied to all such conversions and was not tied to whether a building was listed.

Liz Smith: Thank you.

Craig Hoy: I will speak briefly to Michael Marra's amendment 16. I do not think that the minister gave a credible reason when he said that the amendment was effectively a mechanism that would delay the introduction of the levy and would stop funds flowing into cladding remediation. As I think that we have said to the minister on several occasions, the Scottish Government has been given £95 million for cladding remediation and has spent less than a third of that, as I understand it. Therefore, I do not think that the lack of access to capital funds would be an issue by that stage, unless the minister now has a projection of how that money will be spent.

Ivan McKee: If I may intervene, the first important point to recognise is that, as I said to Meghan Gallacher, we have already delayed the implementation of the levy by one year, which was important to give the sector space and time. In England, the levy comes into effect in October this year, which is significantly earlier than in Scotland.

As things stand, with the levy set to be implemented in April 2028, we are more than two years away—I think that it will be about three months after that date before any revenue starts to flow into the fund as a consequence of the bill. It is fair to say that any funds that are there already will be well and truly spent on the programme, and a lot more besides, before we even start to see any revenue flowing in in 2028.

Craig Hoy: The point is that the cladding remediation programme in the rest of the UK is significantly further along, so it has presumably been chewing through those initial funds—probably at a higher run rate than we have in Scotland.

It is regrettable that the minister is not minded to support my amendments 21 and 42, because they would provide an essential exemption for housing in rural areas. Evidence was repeatedly put to the committee at stage 1 that development viability in many rural communities is finely balanced. That reflects higher build costs, infrastructure

constraints, smaller scale delivery models and weaker market values, which makes housing in those areas less attractive to many developers, whether large or small.

The evidence of that clearly highlights the national housing emergency: an accumulated shortfall of 110,000 homes since 2008 and 700,000 households living in some form of housing need. More recent figures show falling delivery—new-build completions are down year on year and housing starts are beginning to decline. The problem is particularly acute in rural areas, where even marginal additional costs relative to the total build can be enough to prevent rural schemes from progressing at all.

Ivan McKee: On that point, do you recognise that, based on our estimation, the significant majority of houses in rural areas will already be exempt under the current proposals, based on the 19-house limit that was put in place?

Craig Hoy: On that basis, I cannot see why the minister does not just go for a full exemption, which would make the future far more certain for an uncertain aspect of Scotland's housing market. The evidence that we have heard is that the levy will reduce the number of homes that are delivered in rural areas. When that happens, the minister should be mindful that the overall revenue that is available to the public purse is likely to fall rather than increase, particularly in rural communities.

I also want to draw attention to some recent research on the effect of depopulation on rural communities. One of the causes is the lack of access to affordable housing. Anything that challenges the housing market in those areas could accelerate depopulation, particularly of young and working-age individuals.

My amendment 42 is consequential to amendment 21. It defines "rural area" with reference to the Scottish Government's sixfold urban rural classification, which is an objective and well-established framework. I understand what the minister said: the framework is subject to change and does not rest on a statutory footing. I am therefore open to discussing with other stakeholders and the minister how my proposal could be incorporated into the bill to provide a degree of certainty and permanence.

Amendment 42, as it is presently worded, uses categories 4 and 6 in order to target the exemption at areas where viability pressures are most acute. I deliberately excluded category 5 in order to reflect what organisations, including Scottish Land & Estates, say best represents the scale, pattern and delivery challenges in category 5 areas. Taken together, my amendments ensure that the levy is targeted in a way that reflects the evidence that was heard by the committee and avoids severe

and unintended consequences for rural housing delivery.

11:15

Mark Griffin (Central Scotland) (Lab): My amendment 49 in this group, and my amendments in later groups, seek to address concerns that the committee raised in its stage 1 report and which were raised in the chamber during the stage 1 debate.

The context of the introduction of this bill is the Government's declaration of a housing emergency, and its impact on our constituents with regard to the homelessness figures, the number of kids in temporary accommodation, open homeless cases and the perilous state of the housing market, given the current number of starts and completions.

Amendment 49 is an attempt to address a crucial, and key, part of the drivers of support for the house building industry—first-time buyers. I am concerned that the levy could have a disproportionate effect on entry-level housing that young people are increasingly reliant on, particularly in rural areas. The latest figures from Lloyds show that the average age of a first-time buyer is now 31, and the impact that that has on our economy, our population and generally—

Ivan McKee: Will the member give way?

Mark Griffin: Yes.

Ivan McKee: I already indicated in my response to Michelle Thomson that we understand the intent behind the amendments. The issue is that, as drafted, they would require the developer to know in advance who they were going to sell to, which, obviously, is not always going to be the case. However, we are very happy to work with you and Michelle Thomson to see whether there is some other way in which what is being proposed can be given effect to.

I should also clarify that, when I mentioned LBTT earlier, it was in the context of things that we were already doing, and I apologise if that was not clear. As for the levy, we are happy to sit down and see whether there is a way to do this, but members should bear in mind that, if this leads to 22 per cent of sales coming out of the tax base, there will be a corresponding increase in the levy applied to other units.

Michelle Thomson: Will the member give way?

Mark Griffin: I will take Michelle Thomson's intervention, too.

Michelle Thomson: It is actually an oblique intervention to the minister—I am not sure of the protocol in that respect.

I am sure that it would be possible in what I am suggesting to have a partial exemption, because I fully accept the concerns around the 22 per cent figure. I think that something could be put in place that might not be a total relief.

Mark Griffin: I thank the minister and Ms Thomson for those comments. I am glad that the Government accepts the principle, and that it seems to accept that there is a risk to a fundamental part of our housing system. I am not wedded to any particular mechanism, whether it be an exemption, a relief or even a potential reimbursement, because it would be relatively simple to document this sort of thing as a house went through the legal completion process. I look forward to discussing with the minister between now and stage 3 whether there is a way to protect this crucial part of the housing market.

The Convener: I call Michael Marra to wind up and to press or withdraw amendment 16.

Michael Marra: Thank you, convener, and I thank all members for their contributions.

I want to start with the minister's comment at the outset about this approach being foisted on the Scottish Government. We should be absolutely clear that that is simply not the case.

Ivan McKee: Will the member give way?

Michael Marra: I am happy to get a clarification.

Ivan McKee: Those were not my words; if I recall correctly, they were the words of John Mason. I say that just for clarity.

Michael Marra: Perhaps the position was accepted in tone rather than in words, minister, but I will correct myself in that regard.

This is an approach that the Government has developed. One of the committee's concerns has been about the entirely arbitrary nature of the £30 million figure; it is a target that the Government has set itself, and many of the amendments that we are discussing in this group are trying to deal with what Michelle Thomson has described as hitting some fantasy target.

Ivan McKee: Will the member give way?

Michael Marra: Let me complete my point, minister. This is about trying to find some sweet spot in order to raise a certain amount of revenue.

I understand the logic of some of this; what is being proposed seems to be 10 per cent of the UK levy, and it is essentially the money that might be available. The Government could quite easily, and equally, have set the target at £5 million, or £100 million. The question is: what figure does it feel that it is proportionate to raise?

I will take the minister's intervention now.

Ivan McKee: I was just going to make that very point: it was the UK Labour Government that set the target, and we have taken a pro rata percentage of that.

Michael Marra: Absolutely, and it is entirely arbitrary on that basis. It is not as if we have a 10 per cent population share, and therefore we have to raise 10 per cent of the levy. The question is whether this is appropriate to the housing market in Scotland and what the impact will be. The idea that we are working back from that arbitrary figure is part of the problem and it is what these amendments are seeking to address.

Meghan Gallacher touched on our amendments 16 and 19 that relate to the implementation date. It would be good if the minister would commit to having a conversation about that issue. My concern is about what will happen between now and 2028. The housing completion market in Scotland is at a sub-zero temperature and a further cooling of the market will result in the kind of social impact that Mark Griffin and I set out in our earlier contributions. We need to make sure that that will not happen. If the minister wants to make that commitment or otherwise, I invite him to make an intervention on that basis.

Ivan McKee: I am happy to commit to meeting Homes for Scotland—I meet it regularly to discuss all kinds of issues. However, on the principle of the issue, we are clear about the implementation dates.

I am not clear about the point that Michael Marra is making on what might happen to the housing market in the next two years. If we are giving indicative rates 22 months out—which is what he is asking for—that is clearly being done in the context of not knowing what will happen to the housing market over that period.

Michael Marra: There are developments that have already been planned and that are under way. We have taken evidence about that from various house builders. I should say that Miller Homes is one of the groups that has been in touch with me on that basis in relation to amendment 16. It has plans in place, many of which were made years in advance, and it is now asking questions about how viable some of those developments will be. There have been concerns expressed to the committee about that, so we want to make sure that the policy is sensible.

Meghan Gallacher: I will intervene to help the minister. The development sector needs certainty, and it also needs to be risk averse. However, the problem is that going down the route of putting measures in place that spook the market—as we did with the Housing (Scotland) Bill—could have an impact on the number of developments that will continue. We do not want that to happen, but it

could happen if the amendments are not taken seriously.

The amendments would give security to the sector by saying, “You will not be hit by the levy if a development is already under way.” The development could be under way without a building being in existence, or it could be going through the housing development process that we discussed earlier. That point is important, and I hope that the minister will reconsider.

Michael Marra: I think that the minister has put on the record that he does not intend to support the amendments.

Ivan McKee: I just want to clarify a point. I ask both members—

Michael Marra: I have the floor.

Ivan McKee: —whether it is their position that the trigger point should be on getting the building warrant or on completion of the property.

Michael Marra: There are two different amendments in that regard. We could vote for both of them, but if the minister were prepared to commit to having a conversation, I am sure that we could thrash out a compromise position that would give security to the marketplace. Is he prepared to—

Ivan McKee: We have already moved the date by a year. To give more time, we have also committed to setting the indicative rates 22 months out, which will provide clarity for the market. We have moved the trigger point to the completion of the property rather than on getting the building warrant, because that will be a more effective mechanism. What I am hearing from both members sounds like an attempt to further delay the implementation of the tax, rather than give certainty to the market, because the same argument would apply in one, two or 10 years’ time.

Michael Marra: It does not sound as though we will find any common ground on that point.

I will move on to some other parts of the debate. Michelle Thomson’s analysis of the balance between exemptions and raising revenue covered the rest of that area of the debate, including Liz Smith’s issues regarding conversions and Craig Hoy’s issues regarding rural areas. It is all about retrofitting the figure of £30 million into the bill. In the absence of an up-front sensitivity analysis—the committee has asked for that to be done and the minister has committed to doing it, but only after the fact—we are still, as we debate the amendments, working with an arbitrary figure without understanding the general impact of the amendments. That is the character of all these issues. The committee will be voting slightly in

ignorance, but that is because of the way in which the Government has undertaken the work.

The Convener: I gave you a bit of leeway, because Meghan Gallacher was effectively speaking to the minister instead of speaking to your point. Members should let me know that they want to come in before we move to the winding-up speeches. On this occasion, I will let Patrick Harvie come in, because he has not yet had an opportunity to speak. However, as we move through the business, I would like members to let me know in advance that they want to come in.

Patrick Harvie: Thank you, convener—I wanted to speak before the member winds up. First, I acknowledge that I was not part of the committee during its stage 1 inquiry, but I have some background familiarity with the issue. I think that it is important to acknowledge that the purpose of the levy is to ensure that the industry as a whole contributes to putting right the mistakes that have been caused by the industry as a whole.

There are a limited number of ways of doing that. We could take an insurance approach, but that would work only for the future. We could try to recoup money from specific developers for specific buildings that need remediation, but that clearly would not work for those who have simply walked away from their responsibilities. Unless anyone wants to suggest a different way of raising the revenue, or requiring that the public should pay the cost, a levy of this type is necessary. I note from the stage 1 debate that some members supported the principle of the levy, but not the specific levy, and I find that a little frustrating.

I recognise some of the potential impacts that members of the committee are concerned about, but, to be honest, it is not unusual for any industry to predict disaster in relation to any tax or levy that they are expected to pay. While this is not the place for discussion of wider housing policy, I point out that there are other options available to Government to reduce the cost of providing housing and to ensure that house building meets social need instead of serving vested interests. For example, there was a previous policy commitment to a mechanism for land value capture resulting from planning or infrastructure investment; that commitment seems to have disappeared.

Anyway, all of that being my position, I tend to take a sceptical approach to exemptions. I think that the Government amendments seem fine, and I am broadly opposed to most of the others. I am more sympathetic to the argument for removing the exemption for hotels, as has been proposed, and I welcome the fact that the Government is open to coming up with some other solution to that.

I hope that, in those discussions, there would be some consideration for the risk that, by retaining

the exemption as it currently stands, we would create a perverse incentive for developers to propose developments ostensibly to be operated as short-term letting businesses, not build-to-rent under long-term tenancies, and then subsequently decide to get planning permission for change of use and sell the apartments off, thereby avoiding the tax. The current approach risks bringing in that perverse incentive.

The Convener: I ask Michael Marra to wind up and say whether he wishes to press or withdraw amendment 16.

Michael Marra: I will press the amendment.

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

Amendment 16 disagreed to.

Section 1 agreed to.

Sections 2 and 3 agreed to.

Section 4—Meaning of “new residential unit”

Amendment 1 moved—[Ivan McKee]—and agreed to.

Amendment 17 moved—[John Mason].

The Convener: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Thomson, Michelle (Falkirk East) (SNP)

Amendment 17 disagreed to.

Amendment 2 moved—[Ivan McKee]—and agreed to.

Amendment 18 not moved.

Section 4, as amended, agreed to.

Section 5—Exempt new residential units

Amendment 19 moved—[Meghan Gallacher].

The Convener: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

Amendment 19 disagreed to.

The Convener: Sorry—I have been told that I am going too fast.

John Mason: Could I ask that you give the result of the vote each time?

The Convener: Yes—I think I probably can, if you so wish.

John Mason: Thank you.

The Convener: I will do that in future—or do you want me to go back to the ones that we have already done?

John Mason: No.

The Convener: Okay—fair enough. I am just trying to get through the business. We are an hour in, and we are still on the first group.

Amendment 48 not moved.

11:30

Amendment 20 moved—[Liz Smith].

The Convener: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 20 disagreed to.

The Convener: Sorry—I am going a bit too quickly. I will slow down—apologies.

Amendment 21 moved—[Craig Hoy].

The Convener: The question is, that amendment 21 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 21 disagreed to.

The Convener: The question is, that amendment 21—

I am hearing that we have done amendment 21. Apologies. See, when you slow down, you just lose your momentum. *[Laughter.]*

Amendment 22 moved—[Meghan Gallacher].

The Convener: The question is, that amendment 22 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 22 disagreed to.

Amendment 49 not moved.

Section 5 agreed to.

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

Amendment 50 not moved.

The Convener: Amendment 3, in the name of the minister, is grouped with amendments 5, 6 and 46.

Ivan McKee: Group 2 contains a number of procedural amendments relating to consultation and parliamentary scrutiny when ministers make regulations under the bill. The group contains three Government amendments, which I invite the committee to support, and one non-Government amendment, which I ask the committee to resist.

I start with amendment 3, in my name. The bill as introduced allows Scottish ministers to modify their regulation of categories of buildings that are included in, excluded from or exempt from the definition of a new residential unit for levy purposes. While the bill already requires ministers to consult with persons they consider appropriate, amendment 3 adds to that by requiring that consultation must include persons who

“represent the interests of the residential property development sector”.

Under the amendment, local authorities must also be consulted. The amendment responds directly to recommendations that were made by the Delegated Powers and Law Reform Committee at stage 1.

Amendment 5 makes a similar modification, requiring consultation with representatives of the residential property development sector before regulations are made under section 10 to specify an alternative 12-month period to be treated as a financial year for levy purposes. Again, that reflects the Delegated Powers and Law Reform Committee’s view.

Finally, amendment 6 makes an equivalent change in relation to section 12, which provides for regulations on the levy-free allowance. The amendment ensures that ministers must consult with representatives of the residential property development sector before making regulations under that power, in addition to any other relevant stakeholders. Given the importance of the levy-free allowance in shaping the overall impact of the levy, it is right that those who are most directly affected are formally engaged before changes are made.

I turn to amendment 46, by Liz Smith, which would introduce a new procedural framework requiring ministers, before making regulations, to publish draft regulations for at least 90 days; set out their reasons and provide a formal representation; and then, before seeking parliamentary approval, consider representations received, any parliamentary resolutions and committee recommendations; publish a further statement explaining how those had been taken

into account; and secure Parliament’s approval only once all those steps had been completed.

The practical effect of the amendment would be to introduce an additional delay of at least 180 days before regulations could be made, alongside significant additional administrative and resourcing requirements for Government and Parliament. Although I recognise the intention behind the amendment, the Government does not consider it to be proportionate or appropriate in the context, or to be in keeping with the arrangements for other devolved taxes. The additional statutory timescale might prove problematic in cases in which there is an urgent need to modify one of the regulations.

Parliamentary scrutiny alone should be a sufficient check on the proposed regulations. The relevant regulation-making powers are already subject to the affirmative procedure, and the Delegated Powers and Law Reform Committee did not recommend enhanced scrutiny of that nature. For those reasons, the Government is unable to support amendment 46.

I move amendment 3.

Liz Smith: I thank the minister for amendments 3, 5 and 6, which will introduce further consultation with the sector. I have absolutely no concerns about that.

It will be no surprise to members to learn that I lodged amendment 46 because I am keen to have super-affirmative procedures to ensure that, when ministers seek to amend regulations that modify the types of building involved and the tax exemptions, we have as much scrutiny as possible. The clear outcome of our stage 1 scrutiny and report was that there is a need for better quality data to provide information that allows us to understand the impact of the levy. That is why I mentioned behavioural changes earlier. As a result of this process, the housing market will have significant changes placed on it. I want to ensure that additional scrutiny is in place through the super-affirmative procedure. That is why, in due course, I will move amendment 46.

Patrick Harvie: It is not unusual for amendments to various bills at committee stage to aim to improve or strengthen the scrutiny process. If that is done in a proportionate way, that is fine. On the Government amendments in the group, I have no particular objection to specifying that the building industry needs to be consulted, although I am certain that that would have happened anyway, even if it was not specified in the bill. I cannot imagine that any Government—today’s one or any future one—would conduct a consultation on such an issue that did not include the building industry, but I have no objection to specifying that.

However, on amendment 46, I point out the extraordinary scale of scrutiny that Liz Smith proposes. As I read the amendment, it seems that the provisions would apply even to regulations that modify the methodology for calculating floor space. A length of parliamentary scrutiny is being proposed that is comparable to that for documents such as the national planning framework and the climate change plan, which are major documents that set out the broad swathe of Government policy over the long term.

If I remember rightly, when the original legislation on both those documents was proposed there was a 60-day parliamentary scrutiny process, which was subsequently increased to 120 days. A period of 90 days would be firmly in that ballpark, for what are pretty minor tweaks to the detail of the operation of a single levy.

Liz Smith: The amendment was drawn up in consultation with the sector, because it feels that, as things stand, we do not have sufficient data to ensure adequate scrutiny of the likely behavioural changes in the marketplace. In several other aspects of Parliamentary processes, we have not had—in my view, anyway—sufficient use of the super-affirmative procedure to check that there has been adequate consultation with relevant stakeholders. That is the purpose of amendment 46.

Patrick Harvie: I will finish by saying that the consultation proposed by the Government, which will be strengthened by the Government's amendments, seems entirely adequate to hear from the industry or its lobbyists.

I simply think that subjecting the fine detail of regulations on an individual levy such as this to the level of parliamentary scrutiny that is required for major documents setting out long-term and broad policy direction from the Government seems unrealistic. If we expected every minor regulation to be subject to that level of scrutiny, with three days of parliamentary business a week, we would not get through half of what we need to across the entire session of Parliament.

The Convener: No other colleagues wish to contribute at this point, so I invite the minister to wind up.

Ivan McKee: I have no further comments.

Amendment 3 agreed to.

Section 6, as amended, agreed to.

Section 7 agreed to.

Section 8—Person liable to pay levy

Amendment 4 moved—[Ivan McKee]—and agreed to.

Section 8, as amended, agreed to.

After section 8

The Convener: Amendment 51, in the name of Michelle Thomson, is grouped with amendments 52, 59, 37, 9, 10, 38, 11, 12, 39, 60, 40, 61, 63 and 64.

I call Michelle Thomson to move amendment 51 and to speak to all amendments in the group.

Michelle Thomson: I will concentrate my remarks on amendments 51 and 52.

I remind members and the minister that amendment 51 in particular stems from a committee-wide agreement based on an understanding of the complexities and sensitivities of the housing market in Scotland. Despite that, by unanimous agreement, we wanted to ensure that we see evidence of an impact assessment being carried out, given our belief that the introduction of the levy will trigger behavioural impacts by developers.

I appreciate that amendment 51 is very detailed and specific and could bring in issues around capacity. However, I would reflect that the wider housing market is detailed and specific. In reality, many of the interventions that have been made over recent years have been because of a failure to view the housing market as multiple markets, particularly with reference to rural areas and to how small and medium-sized enterprises, as compared to large providers, fit into that.

Amendment 52 is, arguably, the nub of it. It is about the wish to see evidence of this type of work being carried out in advance. We have often seen policy provision being made without an understanding of the resultant impact. The amendment is an attempt to try and put that right, although I concede that it is detailed and specific.

It is also worth fleshing out consideration of how the levy might impact private capital investment in Scotland, including in relation to section 75. We have seen a lot of implications of that not having been considered in the past few years, and we cannot get to where we want to be without supporting private capital. It is very important that there is continued underpinning of investment in Scotland and that confidence in that is retained.

I move amendment 51.

Mark Griffin: My amendments 49 and 60 would require the Government to carry out and publish a series of assessments of the effect of the levy on the housing emergency and on housing supply before implementation. As recent Government stats show, there is a hugely concerning 8 per cent drop in all sector new build completions and a 5 per cent fall in starts. Although I believe that we should achieve viable funds for the implementation of cladding remediation, I do not think that we can

lose sight of the impact on the housing industry and the housing market, particularly in the context of the housing emergency and how we can build a way out of that.

John Mason: I note that the member includes the term “housing emergency” in his amendments. Is there a legal definition of that?

Mark Griffin: Yes. We agreed the legal definition in the Housing (Scotland) Act 2025, which was recently passed by Parliament, so the amendment relies on existing legislation.

My concern about the impact on the housing market and how we work through the housing emergency could be alleviated if the Government were required to carry out and publish such assessments. That is why the amendment calls for reviews of the effect of the legislation to be carried out in relation to the impact on the housing emergency and, critically, on private capital investment in new-build residential development. It is crucial that those assessments are linked to the housing emergency declared by the Scottish Government and with the definition in legislation that was recently passed by Parliament.

Further, amendments 60, 61, 63 and 64 propose that all required reports and assessments under the legislation must evaluate the levy against an all-tenure housing target, with delivery measured through completion events under building standards. The intention is to hardwire housing supply outcomes into levy governance, so that the policy is assessed not only on revenue raised but on whether the levy risks undermining housing delivery at a time when Scotland is facing a housing emergency, with fragile development viability and falling investment confidence.

I hope that the Government accepts the need to balance the levy’s impact with the impact on the housing market and will consider the amendments favourably.

The Convener: I call Liz Smith to speak to amendment 37 and other amendments in the group.

Liz Smith: I hope that the committee will bear with me, as this is an important group of amendments that raises significant issues. I welcome the minister’s amendments, and we support all the amendments from other members, including those lodged by Michelle Thomson and Mark Griffin.

As I have mentioned, the Parliament is being asked to hand over a substantial range of powers on the setting of the levy without having a clear understanding of its impact on the housing market at a time when, as Mark Griffin and Meghan Gallacher have pointed out, a housing emergency has been declared under other legislation. A clear

outcome from our stage 1 deliberations and our report was the need for much better quality data and information to understand the levy’s impact, including on the housing market, given the current circumstances. In the absence of a clear commitment from the minister in the stage 1 debate to producing a sensitivity analysis, I am supportive of placing a clear and detailed reporting requirement in the bill.

Amendment 37, like amendment 9 in the name of the minister, would give effect to the committee’s recommendation that a report under section 45 be prepared every three years, while amendment 38 seeks to set out what those regular reports should address in respect of the new-build housing market and the wider housing sector, including the Government’s all-tenure housing ambition, and to interconnect the nature and design of the levy, the rates and the cladding remediation programme that it seeks to fund. That mirrors Michelle Thomson’s requirements in amendment 51 with regard to the independent sensitivity assessment, and the issues that arose during our stage 1 scrutiny.

Amendment 39 would also introduce a requirement for the levy to be assessed for compliance against the Scottish Government’s principle of good tax policy making, as defined in the “Framework for Tax 2021”. Finally, amendment 40 is a technical amendment.

At this stage, I want to raise with the minister an issue that was brought to our attention last week. Immediately after the deadline for lodging amendments passed, the Scottish Government produced another document entitled “Accelerating home building in Scotland: a consultation on incentives and penalties to speed up housing delivery”. That could lead to the levy having considerable reliefs or supplements

“to intervene in the market, to stimulate or speed up delivery where build-out is not progressing at pace”,

as the Government’s language has it. I find the timing of that publication, given the possible further implications for behavioural change, not helpful, particularly given that, as I have said, the deadline for stage 2 amendments had passed by then. However, I will come back to the point a little bit later.

The Convener: I call the minister to speak to amendment 9 and other amendments in the group.

Ivan McKee: I hear Liz Smith’s point about the consultation not being designed with this timetable in mind. I can reassure her on that. There is clearly still scope for stage 3 amendments, but I hope that she appreciates the intent of the consultation, which has been under consideration for a period of time. Indeed, we have been indicating for a period of time, in discussion with the sector and others,

that this was on its way, in an attempt to stimulate build-out from the significant number of units that have planning permission but have not yet been started, never mind completed.

I will speak to the four amendments in my name in the group, and I encourage all members to support them. The Scottish Government has carefully considered the committee's recommendations on the reporting provisions in the bill, and I agree with the committee's broad view that the strengthening of reporting requirements will help industry to have confidence in the operation of the levy, in line with its stated objectives.

Amendment 10 gives further clarity on the Government's use of revenues by requiring reporting under the legislation, once enacted, to set out the work that has been fully or partly funded from the proceeds of the levy. Amendment 11 supplements that by allowing reports to refer to the annual progress report that is already required under the Housing (Cladding Remediation) (Scotland) Act 2024. Further to that, in line with the committee's recommendation, amendments 9 and 12 will require those reports to be laid at least every three years, with provision to lay them more frequently if necessary.

Amendment 37, in Liz Smith's name, delivers on the same intention as my amendment 9. I would ask her not to move that amendment, given our shared view on the matter. I believe that my amendment is preferable, as it allows more frequent reporting when appropriate while still containing a three-year minimum interval.

I am sympathetic to the aim of amendments 51 and 52, in the name of Michelle Thomson. It is right and proper for the Government to assess the impact of its policies, particularly in areas such as house building, which is not only a key economic driver but an important lever in tackling the housing emergency. The Scottish Government has already committed to undertaking and publishing an updated impact assessment of the levy, ahead of indicative rates being introduced in June. That will build on the draft and full business and regulatory impacts that the Government has already published on the levy. We will also produce triennial reports on how the proceeds from the levy have been used.

Amendment 51 seeks to put much of that work on a statutory footing, but there are three issues with the amendment. First, it mentions an "independent and competent expert". It is not clear how such a person would be identified and appointed without that being subject to challenge. Secondly, the list of impacts under subsection (2) of the proposed new section that the amendment would insert is broad and lacks specific indicators

or a way of measuring outputs. The industry is already subject to a range of external macroeconomic and social factors, and we believe that trying to assess the levy in isolation from wider factors is unrealistic. That would make any assessment subjective and ineffective in providing certainty to industry, and it would add recurring costs to the administration of the levy. Thirdly and lastly, amendment 51 would subject the levy to some of the most rigorous reporting requirements, if not the most rigorous, across the UK tax system, despite it being one of the smallest taxes in revenue terms. I therefore cannot support amendments 51 and 52 in their current form.

Similarly, the Government is unable to support amendment 38, in the name of Liz Smith. For the same reasons, the Government is also unable to support amendments 59 to 61, 63 and 64, in the name of Mark Griffin.

Michelle Thomson: On the points that have been made about amendments 51 and 52, part of the point, for me, concerns confidence about the sensitivity assessment that the minister is setting out and whatever early sight of the measures can be given. It is not unreasonable to say that there is quite a broad range of considerations in amendment 51, but, for me, it is a matter of giving confidence. Seeing what, specifically, will be measured by the Government as part of its sensitivity analysis as soon as possible would give the sector some confidence. What guidance or information can you give in that regard?

Ivan McKee: I take Michelle Thomson's point, and I am happy to engage with her and others on that in advance of stage 3, if necessary.

Michael Marra: On amendment 51, I was particularly keen on the aspect of monitoring or assessing impact across different local authority areas. I do not yet have clarity on whether the Government's intent is to produce almost a single national figure, or whether there will be detail on the differential impact in relation to viability in different parts of the country. That was a key feature of the evidence that the committee received, with concerns raised about whether different parts of the country will be rendered non-viable for house building. I believe that the committee would be keen to see the sensitivity analysis addressing that issue.

Can we have assurances from the minister that there will not just be one top-end figure for the whole country, and that we will get detail about what the impact will be in different parts of Scotland?

Ivan McKee: As I said, within the capability of access to appropriate data, we would want to provide information that could help in assessing the impact of the levy. As I have indicated, a range

of factors affect the housing market, so picking out the impact of the levy in isolation would prove challenging. However, I repeat that I am happy to engage with members in advance of stage 3 to give more information and assurance on that point.

I note that the UK Labour Government does not require a similar assessment to be carried out for its building safety levy in England. I also remind members that, as in other areas, the Scottish Parliament will have the ability to take stock of the levy scheme at any point, including when regulations are made or changed. I have no doubt that ministers will receive feedback once the levy is operational and will adjust as required.

I am sympathetic to the aim of the amendments that have been lodged by Michelle Thomson, Liz Smith and Mark Griffin. However, I ask them not to press or move those amendments but instead to take the opportunity to discuss with me ways in which the potential impacts of the levy can be measured and reported on as part of the strengthened three-year reporting requirement under amendments 9 and 10. Members across the Parliament will want to ensure that any policy that we enact has the desired effect, and I welcome suggestions on ways in which those impacts might be effectively monitored and assessed once the levy is in place.

Patrick Harvie: As was the previous group on enhancing parliamentary scrutiny, this is familiar territory. Many of our debates on bills involve discussions on how to improve assessments, reports or reviews of the legislation that we pass. However, when we take such action, we should ensure that it is clear, objective and deliverable, and that it will not unintentionally prevent the Government from exercising the functions that we are legislating to give it.

Some amendments in the group require assessments that are not only highly detailed but, by definition, subjective. Let us be honest: if we pass the bill and create the levy, there will always be disagreement between the Government and industry about the rate that should be set, and the industry will always make an effort to lobby for a lower rate and produce evidence to back up that view. The idea that a single objective assessment will answer the question about what the impacts will be is unrealistic; there will always be that difference of views, and the amendments in the group treat as objective something that will always be subjective.

Mark Griffin said that he wants to hardwire housing delivery outcomes. Probably most of us would agree that it would be great if we could do that. However, although a target in Government policy is always helpful in focusing minds and actions, there will always be factors that are

outwith Government control. We have just come through a period of pandemic, Brexit, economic changes as a result of energy prices and a host of other factors that will always have an impact on something such as housing delivery. It is therefore not realistic to think that any legislation that we pass in the Parliament can hardwire outcomes in the way that Mark Griffin has suggested.

Mark Griffin: The Government policy is that there should be a 10 per cent yearly increase in house building. Given the very low base that we are at, that is a modest target. If the Government were committed to hitting it, it would accept hardwiring it into legislation.

Patrick Harvie: On whether such a target can be met, I come back to the point that some factors are within Government control and others are outwith Government control. That does not change the fact that a target is helpful. However, I do not think it possible, in the real world, to legislatively hardwire, as Mark Griffin suggests, the outcome as opposed to the action.

Finally, on the proposed assessment against the framework for tax, the tax framework is a statement of the policy of the Government of the day, and I am not aware of any other legislation on tax or levies that requires a statutory assessment of that kind; it seems out of kilter with the more general approach.

The Convener: I invite Michelle Thomson to wind up and press or withdraw amendment 51.

12:00

Michelle Thomson: I am happy to accept what the minister has outlined and I welcome further discussions. Some good points have been made around the table, and I go back to my earlier points about finding the sweet spot. Perhaps more legislation should have come through the Finance and Public Administration Committee at stage 2, as that might have led to more rigour. However, that might be just my opinion.

I will not press amendment 51.

Amendment 51, by agreement, withdrawn.

Before section 9

The Convener: Amendment 23, in the name of Michael Marra, is grouped with amendments 24 to 29.

Michael Marra: Amendments 23 and 24 would require ministers to complete the sensitivity assessment and then publish indicative rates—in that order—before regulations that set the rates come into force. The amendments would also ensure that the Government keeps the minister's commitment to bring into force regulations that set

the rates at least 22 months after the indicative rates are published.

This morning, colleagues have covered a fair bit of ground in relation to our recommendation on the sensitivity analysis. I understand Michelle Thomson's decision to withdraw her amendment 51 and her intention for doing so, given the assurances from the minister. I am a little concerned about some of the minister's language around possibilities in the sensitivity analysis. We, as a committee, want that to be as strong as possible. Our recommendation was informed by a significant body of evidence that came from the sector, which cited serious concerns about the potential impact of the levy on house building, given the years-long grip of the housing emergency.

The detail of the impact on different geographical areas is critical. The issue came up when John Mason raised the situation in Edinburgh, the country's economic hotspot. Differential impacts would result from a national rate.

Patrick Harvie: Given that there could be differential impacts on different parts of the country, as well as different market conditions, land types and what have you, I have a question in my mind as to whether a sensitivity assessment that is worthy of that name can be conducted before the Government has published indicative rates or before it even says whether there will be different rates for different parts of the country. Surely, the Government setting out its approach to rate setting would be the start of the process of figuring out what the impacts might be, rather than the other way around.

Michael Marra: I understand Patrick Harvie's logic, but I disagree with it, as modelling could be undertaken on a variety of options. I do not agree with the minister's view on the issue either. Frankly, the regression analysis to control for different variables is not that complex. A fair point was made about the availability of the data sets and how detailed they are for different areas. That will be a constraining factor in how the analysis can be undertaken. However, there is nothing to suggest that different rates could not be modelled for their impact on different parts of the country, if data on those other variables is available. I therefore disagree with Patrick Harvie on that.

As I said, my amendments in the group seek to hold the Government to its commitment in relation to the 22-month period. I am also keen to ensure a specific sequencing of events, which I think is absolutely critical. First, the independent sensitivity analysis should take place, and then the indicative rates should be published, because that pre-modelling is critical. Then, after at least 22

months have passed, the rates can come into force. We have covered the problems that would be associated with, and the challenges of preventing, further cooling in an already sub-zero market.

In keeping with my amendments in the previous group, amendments 23 and 24 are intended to give the sector as much certainty as possible. There are more than 10,000 children who are living in temporary accommodation, and we must ensure that the bill will not have a negative impact on them getting the houses that they need.

I move amendment 23.

John Mason: Once again, I will speak to just my amendments—amendment 25, with the rest being consequential—which are all about one point. The basic point is to ask whether it is the value or the floor space of a house that would provide a better basis for the levy.

We should want all taxes to be as fair and progressive as possible, with the heaviest burden falling on those who have the broadest shoulders. It would be better to use the value of the house rather than its floor space as the basis for the levy. As things stand, using the floor space would mean that two properties of the same floor space but with different values would pay the same levy. A mid-terrace property in a poorer area will command a lower sales value than a detached bungalow or a smart flat in an upmarket area, and properties in the second category should surely pay more than those in the first.

Yesterday, I had my staff look for some examples. They found an example of new homes that have been built by Barratt Homes—I might as well say which developer it is. The houses are exactly the same, with the same description and everything, but they are being built in two different places: one is being built in the west side of Edinburgh, and the other is in Robroyston in Glasgow. The Glasgow house is selling for £273,000 and the Edinburgh house is selling for £370,000. That is a difference of 35 per cent, yet the levy would be the same for both houses, which seems strange. However, I accept that there are practical issues with whichever method is used, and, however we do the levy, section 9(5) will require regulations.

We heard in evidence that there are questions about how common areas would be dealt with under a floor space system. I also wonder what would happen if a house were to include an attic or a loft. That would presumably not initially be included in the floor space, but it could perhaps easily be converted into a bedroom by a new owner. Therefore, there will be loopholes with the floor space system, although I accept that there

could also be complications with a valuation system.

It has been argued that using a valuation system would provide less certainty for the builder or developer. However, my thinking is that the sales price would normally be the same as the value, and I understand that the selling prices of new properties are generally fixed early on; indeed, people sometimes buy a house at a fixed price before work on the house has even started. Those factors would be easily known to the developer and should not pose a major hurdle.

Patrick Harvie: I wonder whether the line of argument that John Mason is using would actually have been a stronger defence of his suggestion during the debate on the first group, which was that something such as corporation tax would be a better tax to raise revenue for the purpose of building safety than a building levy. To follow that logic would be to argue that a building levy is not the right approach in the first place.

John Mason: That widens the debate out a bit, but I agree with Patrick Harvie. The levy will raise £30 million per year and we will spend something like 10 per cent of that in the first year on the admin costs. There is a whole question about the levy. However, given that—I assume—the levy will go ahead, I am seeking to improve it a bit, and it would be an improvement to make it more progressive and affordable by basing it on the property's value rather than its floor space.

Ivan McKee: I will begin by talking about amendments 23 and 24, which were lodged by Michael Marra. Taken together, those amendments would introduce new statutory requirements for publishing rates and completing impact assessments before levy rates can be set.

Amendment 23 would require ministers to publish indicative levy rates only after commissioning and laying before the Parliament an independent sensitivity analysis of the levy's impact on the housing market. Amendment 24 would go further, by preventing ministers from laying regulations to set levy rates until the conditions in amendment 23 had been met, and by requiring a minimum 22-month period to elapse between the publication of indicative rates and the rate regulations coming into force.

The combined effect of the amendments would be to create new statutory preconditions and fixed timescales for rate setting, which would apply not only to initial rates but to any future revisions. Those are conditions that the UK Labour Government will not need to meet in relation to its building safety levy.

The Government has committed to publishing the first levy rates in June 2026, which gives

developers a 22-month lead-in time in advance of the levy coming into effect in April 2028. Any future changes to rates are likely to be more marginal—for example, to take account of changes in average house prices. There is therefore not the same rationale to provide 22 months' notice on each occasion.

The Government has a well-established fiscal cycle, in which tax policy is set as part of the annual Scottish budget, in accordance with best practice as identified by organisations such as the Organisation for Economic Co-operation and Development. Notwithstanding that, the Government recognises the importance of giving advanced certainty to developers and intends to set out rates and bands at the Scottish budget a year ahead of time. For example, the rates for 2031-32 would be set at the 2030-31 Scottish budget.

Therefore, I am not persuaded that a mandatory 22-month period or the well-established practice of setting devolved tax rates and bands at the Scottish budget need to be put on a statutory footing, nor am I persuaded that the levy needs to be subject to more stringent laying requirements than other devolved taxes or the UK Government's building safety levy in England. Neither this committee nor the Delegated Powers and Law Reform Committee recommends making the statutory duties to publish indicative rates or to conduct analysis a formal precondition for setting rates.

Amendments 25 to 29, lodged by John Mason, seek to replace the bill's current floor space approach to calculating the levy with an approach that is based on market value. The effect of the amendments would be to fundamentally redesign the levy. When the Scottish Government consulted on a market value approach during policy development, most respondents opposed it and cited concerns about uncertainty, complexity and the risk of dispute, particularly given that the new tax point is at the point of completion rather than at the point of sale.

John Mason: Were the respondents mainly from the industry or potential house buyers?

Ivan McKee: There was a range of respondents, but we can give more detail on that if required.

Basing the levy on market value would create significant practical and administrative challenges. At the point of completion, market value is often uncertain or not yet crystallised, especially in volatile or site-specific markets. In build-to-rent and purpose-built student accommodation developments, in which there is no intention to sell individual units, there might be no transaction price at all, meaning that formal valuations would be

required solely for levy purposes. Those issues would introduce additional costs and complexity for developers and, indeed, for Revenue Scotland. They would increase the scope for dispute and undermine the certainty and predictability that an approach based on floor space provides. Although the committee invited the Government to consider whether market value could better reflect local sensitivities, it did not recommend changing the tax base in order to express a preference for market value over floor space. For those reasons, if agreed to, amendments 25 to 29 would go beyond the committee's recommendations and amount to a fundamental redesign of the levy.

The Convener: Thank you, minister. I call Michael Marra to wind up and to press or withdraw amendment 23.

Michael Marra: The minister's argument against my amendments 23 and 24 seemed to amount to the fact that we have the same housing conditions as the rest of the UK, but that is simply not the case. We have a housing emergency in Scotland—the committee has been particularly concerned about that and about how we ensure that the levy is suitable for the perilous condition of the housing market in Scotland. It is in a terrible state at the moment, so we have to set rates on that basis.

I think that the amendments reflect the commitments that the minister has already made, but they are based on a logical sequencing. The points that the minister made about procedure do not amount to an argument at all, so I will press amendment 23 and will move amendment 24.

On amendments 25 to 29, I have sympathy with the logic and intent behind Mr Mason's proposals. I also recognise that some of the Government's approach—given the uncertainty and complexity that it would deliver into a fragile marketplace—is suboptimal. However, it is probably the more sensible approach in practice, given that the legislation must pass. For that reason, I intend to oppose those amendments.

The Convener: The question is, that amendment 23 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 23 disagreed to.

Section 9—Charging and rate of levy

Amendment 24 moved—[Michael Marra].

The Convener: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 24 disagreed to.

12:15

Amendment 52 not moved.

Amendment 25 moved—[John Mason].

The Convener: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Mason, John (Glasgow Shettleston) (Ind)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 25 disagreed to.

Amendments 26 to 28 not moved.

Section 9 agreed to.

Section 10—Calculation of total levy payable by a person in an accounting period

Amendment 29 not moved.

Amendment 5 moved—[Ivan McKee]—and

agreed to.

Section 10, as amended, agreed to.

Section 11—Reliefs

The Convener: Amendment 30, in the name of John Mason, is grouped with amendments 53, 31, 32, 54, 55, 33, 56, 57 and 44.

John Mason: Despite my reputation for backing lost causes, I am marginally more optimistic that we might get somewhere with these amendments. My two amendments—amendments 30 and 31—are linked but distinct.

Amendment 30 would strengthen the requirement for reliefs by switching the wording from “may” to “must”, which means that, instead of the Government being allowed to make provisions for reliefs, it would be required to do so.

Regarding amendment 31, I accept that the Government has indicated that it intends to have a range of reliefs, but it would be good to pin that down a little more clearly. I fully accept that we do not want all the rates of levies and reliefs to be in the bill, but it has been suggested by the Scottish Property Federation that it would be good to have a clear steer about relief for brownfield land by including a minimum relief—perhaps 50 per cent, which is the figure that I suggest would encourage the use of such land. To give a relevant example from my constituency, developers have been very keen to build on the green belt on the edge of Glasgow, where there are no shops or amenities and few, if any, public transport links. Meanwhile, at the heart of my constituency is the old Parkhead bus depot—previously a tram depot—which is on contaminated land but is ideal for housing and has excellent public transport links, shops, general practitioner surgeries, schools and churches all close by.

There is a wider issue here than just the levy; it is about how we encourage the use of brownfield land while protecting greenfield land, perhaps through an urban development company such as Clyde Gateway. In part of my constituency, it handles the land clean-up, so the issue is less acute there, but many brownfield sites across the country are not covered by such a scheme, so I want to see that relief—

Patrick Harvie: Will the member give way?

John Mason: Yes, on you go.

Patrick Harvie: I agree with the general argument that the bill might apply in a different way in different settings, including on brownfield land. However, as I understand it, the bill already allows for flexibility in setting different rates for different land types. Why is it better to specify in the bill what the relief should be than it is to allow for different rates? Is the member not suggesting a less flexible

means to achieve the same objective that the bill already permits?

John Mason: Amendment 31 would set a base level—it could be higher or lower than that—and we will see what the Government thinks about it. Patrick Harvie is correct that we do not need to include any reliefs or rates in the bill and, overall, that is what is happening. However, I want to pass on the point that the Scottish Property Federation suggested to me—I agree with it, because I see it happening in my constituency—that setting a level would set a marker that indicates that we want to take action on brownfield land.

I move amendment 30.

The Convener: I call Michelle Thomson to speak to amendment 53 and other amendments in the group.

Michelle Thomson: I do not intend to make any further remarks about amendment 53, which concerns first-time buyers. Amendments 54 and 55 are coming up in the group—do you want me to talk to them?

The Convener: The idea is to speak to other amendments in the group.

Michelle Thomson: Okay. I have nothing further to add on amendment 53, convener.

The Convener: That is fine. Do you want to speak to amendments 54 and 55, then?

Michelle Thomson: Yes. Amendments 54 and 55 would set the levy-free allowance at 29 units rather than 19. We have had a lot of discussion thus far about smaller builders and the delivery of housing in rural locations, and passing those amendments would certainly help to support that. Fundamentally, the amendments aim to reduce the cliff-edge effects whereby a marginal increase in output can trigger a disproportionate tax and administrative burden. My particular concern is that I want to see an environment in which SMEs are focused on growing their own companies because of the wider benefit, and I do not want the allowance to be restricted to only 19.

I note that the minister has previously conceded the point in a letter to the DPLR Committee. However, while the minister has now determined that the allowance will be set at 19, the sector has not been consulted on the specific decision to do so and no further consultation or explanation has been undertaken. Underlying data sources and evidence have not been shared with the expert advisory group. Given that, I hope that the minister will look favourably on amendments 54 and 55.

Craig Hoy: I will speak to amendments 32 and 44. I assure John Mason that he might not always be advocating for a lost cause, because I certainly think that, if there is a strong view that we should

be seeking a carve-out for brownfield sites, it would give greater assurance to the industry if that is on the face of the bill rather than being subject to change later.

Amendment 32 would introduce a viability-based relief that allows Revenue Scotland to reduce or remove levy liability when payment would make a development financially unviable. The evidence to the committee from Homes for Scotland and a number of developers was that development viability varies sharply and widely across Scotland depending on geography, site conditions, tenure mix and market values. That variation has become more pronounced in recent years as a result of rising business costs, longer planning timescales and increasing pressure on private capital investment and pools. Therefore, a levy that is applied without regard to viability risks stopping marginal developments from proceeding altogether, which would further slow the market. As the minister has stated, when that happens, there is no levy revenue, no associated LBTT receipts and no contribution to housing supply—three issues that are medium to long-term concerns for the committee.

Amendment 32 would provide a limited, controlled and safe mechanism that prevents that outcome, while retaining clear safeguards through evidential requirements that would be imposed on developers before Revenue Scotland considers any potential reductions or removals.

Amendment 44 is simply consequential to amendment 32. It would ensure that regulations that govern the operation of viability-based relief are subject to the affirmative procedure. Given that it is those regulations that determine who pays the levy and in what circumstances, it is appropriate that the Parliament has the opportunity to scrutinise and approve the framework that governs their use.

Meghan Gallacher: In the interests of time, I will focus my remarks on my amendment 33. Members of other political parties have an interest in it—Willie Rennie, for example, was concerned about the impact that the levy could have on SMEs. My understanding is that a vast number of SMEs believe that the levy will have a detrimental impact on their businesses. SME developers typically operate with lower margins—often less than 10 per cent—and they have cash-flow constraints. If the levy comes into force and no relief is put in place to support SMEs, they could be forced to pay the levy before they obtain full funds for the development.

I believe that, if the Government does not seek to intervene in this area, the levy could threaten the viability of smaller projects, which developers will potentially avoid, resulting in fewer homes being

built. Given the housing emergency, as we have discussed, we cannot afford to have fewer homes built, in particular in the affordable homes sector.

Ivan McKee: Given that, even with the 19-unit allowance—I will come on to talk about the 29-unit allowance shortly—79 per cent of developers would already be exempt from paying the levy, who in the market is the member targeting her amendment at?

Meghan Gallacher: Again, given the contribution that we have just heard from Michelle Thomson, I believe that the Government needs to go back and consult the sector thoroughly on what reliefs or schemes could be put in place to support people in the small and medium-sized enterprise sector. Although the minister has perhaps sought to mitigate some of the issues that the levy has brought forward, I believe that it simply does not go far enough to protect SMEs in this area, and that is the point that I am trying to make.

In rural and remote areas, SMEs deliver more than a third of new housing. We have already heard in relation to previous amendments that an exemption, or some type of relief, would help not only to protect but to increase the building of homes in rural and remote areas, which is, as we all know too well, another issue. That is why I have lodged amendment 33, and I hope that the minister will discuss it further with me with regard to what support we can give to SMEs in relation to the levy.

Patrick Harvie: First, I make the general point that every relief that we choose to add into the system would complicate it and require rate changes elsewhere in order to maintain revenue. Although a case can be made in isolation for any particular relief, it cannot be seen in isolation, as it would have a knock-on effect on the rest of the system. We need to consider that if we want the system to work—I acknowledge that some people probably do not want it to work—as the Government is proposing. If the levy is going to exist, that would be a consequence of bringing in additional reliefs.

Michael Marra: Would the member recognise that the figure for revenue is an arbitrary figure that the Government has arrived at of its own making? It is not related to the challenges in the cladding sector as a whole. We have seen no evidence that there is a relationship with what is required. We know that a big amount of money is required over time, but the figure of £30 million is an arbitrary one.

Patrick Harvie: I do not think that there is any suggestion that the levy is going to raise more than we require for the remediation programme. If we accept that the revenue is required, anything that reduces it in one place will have to be compensated for elsewhere, either within the levy

or, ultimately, if the member would prefer, through taxes elsewhere or cuts to public services, or other forms of investment.

I will move on. On the point about smaller projects, it seems to me that the very purpose of the levy-free allowance is to address that concern. I think that there is a fair argument as to whether we address the concern about small developments through an allowance or through a relief, but I find it hard to see why we would do both.

With regard to both the question of a viability-based relief and the argument for a multiyear approach to the allowance, I would raise a question: although a levy is not technically a tax, do we take the same approach to any other form of revenue raising? If people had the option to carry their personal tax threshold for income tax from year to year, we would see a significant drop in revenue. We do not do that, and I do not see why we would do it in relation to the levy-free allowance in this case. On viability, is there any other tax where we say to the taxpayer, "Actually, if you think this is too much for you to pay, you just don't have to"? Either we think that the levy is a legitimate way of raising the revenue that is required from the industry that is responsible for the fact that the remediation programme is necessary, or we do not.

12:30

Craig Hoy: Would Patrick Harvie accept this point? Property development is a very specific process. If a developer can prove that they will not embark on a development because of the levy, it is surely better if the levy is reduced and the Scottish Government gets the receipts that come from other routes—as we have identified—as well as a portion of the levy, rather than not getting it at all. If a developer can show Revenue Scotland that a development will not proceed because it would not be viable, it is surely better to take a reduced levy.

Patrick Harvie: To be honest, I am not sure how either proof or disproof of a claim of that kind could be relied on. Again, we need to be realistic: any industry that is faced with a levy like this is going to want to pay a lower rate, and to want as many reliefs, allowances and exemptions as it can lobby for.

As a final point, I am still unclear as to why the brownfield relief is a better way of achieving what John Mason is asking for than setting different rates. I ask the minister to respond to that point and clarify his view on what would be the best and most effective way to achieve an objective that I think we all share. That would be helpful.

The Convener: That is perfectly timed, because the minister is about to come in before John Mason winds up.

Ivan McKee: I thank members for lodging the amendments in this group. I start by addressing amendments 30 and 31, in the name of John Mason, which would place a requirement on ministers to introduce reliefs using their regulation-making powers in section 11, including a relief of no less than 50 per cent for units that are created on brownfield land. The Government has already committed to introducing a reduced rate of a maximum of 50 per cent for new residential units that are built on brownfield land, and amendment 31 would deliver a broadly similar effect.

In response to Patrick Harvie, I think that the answer is that both approaches would deliver the same effect. John Mason made the point about giving certainty in the bill at this stage to those who are seeking to develop on brownfield land, in order to encourage such development. The Government is sympathetic to that aim and we are, therefore, minded to support amendments 30 and 31.

With regard to amendments 32 and 44, in the name of Craig Hoy, a viability-based relief would significantly increase the complexity and administrative burden both for taxpayers and for Revenue Scotland, which would have to assess detailed commercial appraisals and make subjective case-by-case judgments of financial viability. That would move the levy away from a clear rules-based tax that applies equitably and fairly across the tax base to a system that would increase uncertainty for taxpayers and deliver inconsistent outcomes, and which would—I have no doubt—clog up the tax system with the number of assessments that would need to be carried out. In that context, it is difficult not to see these amendments as wrecking amendments, so the Government cannot support them.

I understand the aim of amendment 53, in the name of Michelle Thomson, as I did her earlier amendments on exemptions. However, I have already spoken to the operational challenges of ensuring compliance with an exemption for units that are sold to first-time buyers and the significant impact that that would have on the tax base, so I cannot support this amendment. I stress again that I am happy to discuss alternative measures to support first-time buyers.

On Meghan Gallacher's amendment 33, I note that the very purpose of having the levy-free allowance to begin with is to exempt smaller developers from the charge by way of an annual allowance of tax-free units; I will come on to talk about the threshold in a minute. As such, I am not clear on what Meghan Gallacher's amendment is seeking to address or what problem it is trying to

fix. Given that I have already indicated that more than 79 per cent of developers are exempt under the 19-unit allowance from interacting with the levy at all—and we could be about to increase that—who, exactly, is her amendment targeting support at? I asked her that question earlier and she could not answer.

Amendments 54, 55 and 57 seek to set a minimum levy-free allowance threshold at 29 units. During the stage 1 debate, I set out the Scottish Government's position that the levy-free allowance would be set at 19 units. That would exempt 19 per cent of new-build sales from the levy and, as I said earlier, remove 79 per cent of developers from any requirement to interact with the levy at all. A 19-unit allowance, combined with all other exemptions in the bill, would leave 53 per cent of the eligible tax base chargeable. I am sympathetic to calls from the industry, such as from Homes for Scotland, for the threshold to be raised to 29 units. It is important to look at the data. A 29-unit allowance would exempt around 23 per cent of new-build sales, which is an increase from 19 per cent. It would also remove 85 per cent of developers from the levy, which is an increase from the 79 per cent that I indicated earlier. A 29-unit allowance, combined with all other exemptions in the bill, would leave 50 per cent of the eligible tax base chargeable.

It is important to recognise that, given that 79 per cent of developers would be excluded under the 19-unit allowance, increasing the threshold to 29 does not, in fact, benefit the vast majority of small and medium-sized businesses. I take on board Michelle Thomson's point that some of those businesses might have aspirations to grow larger, which we would not want to stand in the way of. However, ironically, the benefit of increasing the threshold to 29 would fall disproportionately on larger developers. It would also have the effect of pushing up the levy per unit, because the tax base would be marginally smaller. There would therefore be a number of counter-implications. However, on balance, we are minded to support the principle of a 29-unit allowance, and the Government will therefore support amendments 54 and 55.

We are not able to support amendment 57 due to the restrictions that it would place on ministers' ability to tailor the allowance to reflect changing conditions in future. I therefore ask Michelle Thomson not to move amendment 57. Amendment 56, which is also in Michelle Thomson's name, would allow for the carrying forward of an unused allowance. Although such a provision could increase complexity in the administration of the levy, the Government is content to allow for the power to deliver a carry-forward provision, because we recognise that, on

the margin, it could prevent smaller developers from having to behave in a way that would be inefficient in seeking to complete or not complete units in order to meet arbitrary financial year-end dates. We are therefore minded to support that provision.

Michelle Thomson: I simply want to put on the record that I have neglected to talk to amendment 56. I am therefore grateful that I had the opportunity to meet the minister prior to this session and glad that we had that conversation. I apologise to the committee and the convener.

Ivan McKee: There is real value in that amendment, so the Government is content to support it.

I make the point that, contrary to what has been stated by some, the advisory group was consulted on setting the levy-free allowance at different levels, in order to gain its thoughts on that.

The Government's response to the amendments in the group demonstrates a balanced approach between listening to industry concerns and ensuring that a disproportionate level of costs does not fall on to a narrower subset of the tax base. For those reasons, we are happy to support amendments 30 and 31, in the name of John Mason, and amendments 54, 55 and 56, in the name of Michelle Thomson. However, we invite the committee to reject the other amendments in the group.

The Convener: I call John Mason to wind up and to press or withdraw amendment 30.

John Mason: I welcome the minister's flexible and balanced approach, as I think that he described it. It is interesting to see how different ministers handle amendments at different committees, and I welcome Ivan McKee's approach to the issues.

That is great in relation to amendments 30 and 31. I tend to agree with Ivan McKee on amendment 32. The word "viability" jumped out at me as being somewhat subjective. It would open up a huge amount of possible loopholes for developers, and also complexity. I therefore agree with the minister and will oppose amendment 32.

I press amendment 30.

Amendment 30 agreed to.

Amendment 53 not moved.

Amendment 31 moved—[John Mason]—and agreed to.

Section 11, as amended, agreed to.

After section 11

Amendment 32 moved—[Craig Hoy].

The Convener: The question is, that amendment 32 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Marra, Michael (North East Scotland) (Lab)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 32 disagreed to.

Section 12—Levy-free allowance

Amendment 54 moved—[Michelle Thomson].

The Convener: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Mason, John (Glasgow Shettleston) (Ind)
Smith, Liz (Mid Scotland and Fife) (Con)
Thomson, Michelle (Falkirk East) (SNP)

Against

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 54 agreed to.

Amendment 55 moved—[Michelle Thomson].

The Convener: The question is, that amendment 55 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Mason, John (Glasgow Shettleston) (Ind)
Smith, Liz (Mid Scotland and Fife) (Con)
Thomson, Michelle (Falkirk East) (SNP)

Against

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 55 agreed to.

Amendment 33 not moved.

Amendment 56 moved—[Michelle Thomson].

The Convener: The question is, that amendment 56 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Mason, John (Glasgow Shettleston) (Ind)
Smith, Liz (Mid Scotland and Fife) (Con)
Thomson, Michelle (Falkirk East) (SNP)

Against

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 56 agreed to.

Amendment 6 moved—[Ivan McKee]—and agreed to.

Amendment 57 not moved.

Section 12, as amended, agreed to.

Section 13—Use of proceeds of levy

The Convener: The next group of amendments is on use of levy proceeds. Amendment 34, in the name of Liz Smith, is grouped with amendments 35 and 36.

Liz Smith: The amendments in this group are supported by Homes for Scotland. Just as important, they seek to give effect to paragraphs 146 and 147 of our stage 1 report, in which we recommended that the proceeds of the levy should be used only for cladding remediation. I do not accept the minister's reasoning that a restriction in the bill would add to costs and complexity.

As colleagues will recall, we discussed at length the importance of ensuring that the levy will fund only the cladding remediation programme and that it will be time limited through the sunset clause that several members have referred to. Being clear about the use of the proceeds is, I think, imperative if the bill is to be improved—

John Mason: Will the member give way?

Liz Smith: Yes, of course.

John Mason: Does the member accept the argument that the cost of the cladding programme will be hugely greater than the levy and that,

therefore, the levy will easily be swamped by the whole programme?

Liz Smith: I accept that that is the situation, but the fact is that the Government has been slow in providing some of the moneys for cladding remediation. Moreover, as Mr Mason will remember, the committee made it very clear in its stage 1 report that the proceeds of the levy should be used only for cladding remediation. That is the purpose of my amendments.

John Mason: I am grateful to the member for giving way a second time. Does she accept the argument that was made to the committee that, when the cladding on a building is looked at, other issues will come up and that, as a result, it might be hard to separate other safety issues from cladding issues?

Liz Smith: Yes, I do. If I remember correctly, the minister and several witnesses made that point to the committee. However, it is impossible to legislate on that, given that we will not know what will be uncovered until the cladding remediation actually takes place. It is difficult for an amendment to deal with that eventuality, because we do not know what the circumstances might be. With my amendments, I am simply trying to reflect what the committee decided on the basis of the evidence that we took.

Moreover, when you

“intervene in the market, to stimulate or speed up delivery where build-out is not progressing at pace”,

to use the Government’s wording, charging the levy at a higher level if a development is not built to an agreed timeframe will rather cut across the purpose of a bill that, in our consideration, we have been assured will put in place a tax for meeting any building safety expenditure. That is the reason for amendments 34 to 36.

I move amendment 34.

12:45

The Convener: As no other member wishes to speak to this group of amendments, I call the minister.

Ivan McKee: I thank Liz Smith for lodging these amendments. The Scottish Government has been clear on its intention to use the proceeds of the levy to fund the work of the cladding remediation programme. The costs of the programme are currently estimated at between £1.7 billion and £3.1 billion, which is substantially higher than the £360 million to £450 million that the levy intends to bring in. Even on those estimates, it is clear that the levy will form only a contribution to that necessary and vital work.

Section 13 of the bill sets out that revenues from the levy

“must be used ... for the purposes of improving the safety of persons in or about buildings in Scotland.”

That wording aligns with the UK Government’s England-only levy, which was developed by the previous Conservative Government and introduced by the current Labour Government. In line with the specific power in the Scotland Act 1998, this matter was, with the agreement of both parties, devolved to the Scottish Parliament.

That said, I am sympathetic to the concerns of industry stakeholders that the current definition risks a kind of mission creep, whereby funds from the levy could be used for purposes other than cladding remediation. In that vein, I understand the aim of amendments 34 to 36 in seeking to narrow the scope and provide certainty to developers, and I have already taken steps to address that matter through my amendment to introduce a sunset clause to the bill.

Patrick Harvie: I am wondering why that is relevant to the issue of providing certainty for developers. Surely what developers need is certainty about how much they have to pay under the levy and under what circumstances they can get a relief or what have you. I do not understand why they need certainty about exactly what all the money is going to be used for. If some of it is used for some other building safety purpose, how does that hurt the industry?

Ivan McKee: The aim is to give certainty to the sector that we are taking forward the intent behind the bill, which is to provide funding for cladding remediation.

I have concerns that the definition of “Cladding Remediation Programme”, which is used in amendments 34 to 36, could unduly restrict the use of levy funds. The Housing (Cladding Remediation) (Scotland) Act 2024 provides a mechanism for the instruction of a single building assessment and remedial works where there is limited co-operation from the owners. As much of the programme involves work that is instructed voluntarily, not via the powers of the 2024 act, restricting the use of levy funds to only those works that are instructed under the act would exclude a significant proportion of the works that are instructed as part of the cladding remediation programme. As a result, the amendments could lead to a situation in which funding is not directed to those buildings where the risk is highest.

Liz Smith: The minister and I talked about that when we met to discuss the issue. Will he give a commitment that, prior to stage 3, he will work with me to ensure that we sort out the definitions and address the sector’s concerns that there might be some mission creep?

Ivan McKee: Liz Smith has pre-empted my final point—I was going to make that exact commitment. I am happy to meet Liz Smith in advance of stage 3 to find a suitable form of words that captures her intent and which focuses on all works that are part of the broader cladding remediation programme, so that a new amendment can be lodged at stage 3.

The Convener: I invite Liz Smith to wind up and to press or withdraw amendment 34.

Liz Smith: I have nothing further to say, except that I am grateful to the minister. We can discuss the issue further in order to find something that suits everybody's intentions and which will ensure that some of the unintended consequences that might occur do not.

Amendment 34, by agreement, withdrawn.

Amendments 35 and 36 not moved.

Section 13 agreed to.

Sections 14 to 16 agreed to.

Section 17—Cancellation of registration for levy

The Convener: We move to group 7. Amendment 7, in the name of the minister, is grouped with amendments 58, 8 and 13.

Ivan McKee: The amendments in group 7 relate to the administration of the levy and the information-sharing arrangements that will be needed to ensure that the levy can be operated effectively. The group contains three Government amendments that I invite the committee to support and one non-Government amendment that I ask the committee to resist.

Amendment 7, in my name, will make a practical and administrative improvement to the operation of the levy. It will require Revenue Scotland to cancel a person's registration where that person has notified Revenue Scotland and Revenue Scotland is satisfied that the person has ceased their activity and will not carry out any activity that could give rise to a levy liability.

Under the bill as introduced, developers can choose to register voluntarily in advance of completing any new residential units. That is helpful for large or phased developments, but it would also create a scenario in which someone might remain registered despite no longer intending to build. Amendment 7 will provide a clear and proportionate mechanism for addressing that situation. The amendment has been requested by Revenue Scotland, and it reflects standard practice across other devolved taxes.

Amendment 58, which was lodged by Michelle Thomson, would require levy liabilities to be paid in instalments over a minimum of a five-year period

for certain types of development, including build to rent and purpose-built student accommodation.

Although I fully recognise the cash-flow concerns that have been raised by parts of the development sector, I am unable to support amendment 58, because its effect would be to mandate a single-payment approach in primary legislation, regardless of the size of the levy liability, the type of developer, the behavioural or fiscal impacts, or the taxpayer's ability to pay. Creating such an unconditional arrangement would significantly increase the risks of non-payment and defaulting, which would ultimately undermine the revenues that are available to the cladding remediation programme.

Michelle Thomson: However, it could be argued that there is a midway point. While I can appreciate there being concerns about, for example, the use of special-purpose vehicles being a risk to tax receipts for the Government, there could well be a midpoint that front loads payment but still allows for staggered payments. That would not represent such a risk to the Government. Has the minister considered that?

Ivan McKee: I am happy to have a conversation about that. I think that we will need to take advice from Revenue Scotland and others on that. Without making a commitment, I am happy to have a conversation to understand whether there is something that would fit that scenario.

Both this committee and the Delegated Powers and Law Reform Committee were clear at stage 1 that matters such as payment time and administration are best dealt with through secondary legislation, precisely because that allows for adjustment in the light of operational experience. The bill already provides powers to make provisions on accounting periods and time for payment, which can be exercised in a way that is targeted, proportionate and responsive, instead of being fixed in primary legislation. That might address the issue that Michelle Thomson has raised.

Revenue Scotland works constructively and flexibly with taxpayers who experience difficulties in paying the tax that they are due to pay. It is important that we allow Revenue Scotland, as Scotland's national tax authority, to retain the discretion and flexibility to collect and manage the levy in an efficient and effective manner, in line with how it has done that with other devolved taxes.

I turn to amendments 8 and 13, which should be considered together. They will introduce a new regulation-making power to enable information sharing between Revenue Scotland and relevant public bodies, including local authorities, Registers of Scotland and the Scottish ministers. The levy is

designed as a self-assessed tax, but Revenue Scotland does not hold the key information that is needed to verify returns, such as data on building completions, ownership or exemptions. Without appropriate information-sharing arrangements, Revenue Scotland's ability to administer and enforce the levy effectively would be limited.

Amendment 8 will provide the necessary legal gateway to support targeted, secure and proportionate information sharing, while amendment 13 will ensure that regulations that are made under that power are subject to the affirmative procedure, reflecting the importance of appropriate parliamentary scrutiny. The proposals have been developed in close collaboration with Revenue Scotland, COSLA, Local Authority Building Standards Scotland, the Improvement Service and the Information Commissioner's Office. Together, the amendments will ensure that the levy can be administered efficiently and fairly and with appropriate data protection safeguards in place.

I move amendment 7.

Michelle Thomson: I will not labour my point too much, because I think that the minister has correctly expressed the fact that this area is a particular concern for the build-to-rent sector. I have raised these issues a number of times in evidence sessions. The critical point, which is recognised, is that the sector operates at scale. I regard it as a sector that is utterly fundamental to us achieving the volume of developments that we need at the pace that is required. We must have the sector on side—that is critical. It is also worth pointing out that the same issue could affect mid-market rent and student accommodation.

It is worth reflecting briefly on the business model, whereby, if there is no sale after completion, the developer will be left with such a large financial liability that that might cause some developers to consider whether it would be better to focus on developing in Leeds rather than Edinburgh, for example. That is the root of my—

Patrick Harvie: Will the member give way?

Michelle Thomson: Yes.

Patrick Harvie: There is clearly room for a legitimate debate involving differences of opinion on the desirability of the growth of build to rent or PBSA, but does Michelle Thomson acknowledge that it is a matter of fact that, rather than small businesses and small developments, we are talking about large businesses that extract significant profit from the housing system?

Michelle Thomson: We are definitely talking about large businesses. However, I come to this debate from the position that, if we are to get to the volume that we require, we need those large

operators. We must recognise that, because of the way the market works, they can make choices as to where they invest. I want them to be able to invest in Scotland because the limitations of their business model are recognised and understood by the Government. They could easily go elsewhere, but we need them in order to get to the scale that we need.

The Convener: I invite the minister to wind up.

Ivan McKee: In response to Michelle Thomson's remarks on cross-border competitiveness, I note that the reverse is also true. It is worth noting that the levy in England has no provision for any delay in payment—the whole payment is due up front. I look forward to our conversations to explore that issue.

Amendment 7 agreed to.

Section 17, as amended, agreed to.

Section 18 agreed to.

Section 19—Accounting for levy by return and time for payment

Amendment 58 not moved.

Section 19 agreed to.

Sections 20 and 21 agreed to.

After section 21

Amendment 8 moved—[Ivan McKee]—and agreed to.

Sections 22 to 44 agreed to.

Before section 45

Amendment 59 not moved.

Section 45—Report on operation of Act

Amendment 37 not moved.

Amendments 9 and 10 moved—[Ivan McKee]—and agreed to.

Amendment 38 moved—[Liz Smith].

The Convener: The question is, that amendment 38 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 38 disagreed to.

Amendments 11 and 12 moved—[Ivan McKee]—and agreed to.

13:00

Section 45, as amended, agreed to.

After section 45

Amendment 39 moved—[Liz Smith].

The Convener: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 39 disagreed to.

Amendment 60 not moved.

Section 46—Interpretation of this Act

Amendment 40 moved—[Liz Smith].

The Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

Abstentions

Marra, Michael (North East Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 40 disagreed to.

Amendment 41 not moved.

Amendment 42 moved—[Craig Hoy].

The Convener: The question is, that amendment 42 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 42 disagreed to.

Section 46 agreed to.

Section 47 agreed to.

Section 48—Regulation-making powers

Amendments 43 and 44 not moved.

Amendment 13 moved—[Ivan McKee]—and agreed to.

Amendment 61 not moved.

The Convener: We have one group of amendments left. I think that we should go for it and try to finish off stage 2 today.

Amendment 14, in the name of the minister, is grouped with amendments 45, 62, 15, 47, 65 and 66.

Ivan McKee: Convener, thank you for your efficient process in moving through the business this morning. It has been much appreciated by me and, I am sure, all members of the committee.

Amendment 15, which is in my name, inserts a new provision into the bill that will force the act to expire after a period of 15 years. That is the Government's proposed sunset clause, which is designed to ensure that the levy is in place for no longer than is absolutely necessary. That period of time is in line with the committee's recommendations in its stage 1 report and with the estimated lifetime of the cladding remediation programme.

If the amendment is agreed to, it will mean that, if the Government and Parliament do nothing, the levy will cease after the 15-year period. However, in recognition of the potential for unforeseen costs for the programme, ministers can take action by regulation to extend the lifetime of the levy. To ensure that the Parliament has appropriate

oversight of such action, amendment 14 will require that such regulations are subject to the affirmative procedure, which means that the Parliament must agree to any extension beyond the 15 years.

Additionally, subsection (3) of the new section inserted by amendment 15 will require ministers to lay before Parliament a statement of their reasons for extending the levy, which will ensure accountability for the decision. The Scottish Government believes that that is a fair position, and I hope that committee members will be minded to support amendment 15.

Amendment 47, in Craig Hoy's name, intends to deliver a similar effect to my amendment 15, although with some differences. Amendment 47 would shorten the period in which the levy would be in operation down to 10 years, which is five years fewer than the committee's recommended position at stage 1. Although amendment 47 contains a provision to extend the lifespan to 15 years, that extension could be applied for only in the ninth year of the levy's operation. Such a restriction would create issues with Revenue Scotland's continued operation of the tax and would risk creating uncertainty for developers, who will want clarity on whether the levy is to continue in advance of its final year. Although the aim of the amendment is understandable, its effect would unintentionally cause more uncertainty. I therefore ask the member not to move amendment 47.

The same reasoning applies to amendment 66, in the name of Liz Smith. I note the subtle differences between amendment 66 and amendment 47, such as the requirement to lay a statement of reasons before Parliament when ministers propose to extend the lifespan of the levy. I trust that that means that the member will welcome the similar provision in my amendment 15.

As with amendment 47, however, the 10-year limit for the levy that is proposed in amendment 66 does not match the committee's recommendation or the proposed lifespan of the cladding remediation programme. As with amendment 47, any extension could be enabled only at the end of the levy's lifespan, which would create uncertainty for all parties involved. For the same reasons, I therefore ask members not to vote for amendment 66.

Unlike my amendment 15 and the other amendments that I mentioned, amendment 65, in the name of Mark Griffin, would see a termination of the levy after 10 years, with no recourse to an extension. That represents a substantial departure from the UK Labour Government's approach to the building safety levy in England, which contains no such clause. I have been referring to the UK

Labour Government's approach in my remarks today in the hope that Labour members might reflect on that. However, given their newfound independence, they might not feel the need to do so.

I draw members' attention to the points that I made on amendments 47 and 66, and to the potential risks of funding shortages in the cladding remediation programme further down the line. I know that no one will dispute the need for the Government to undertake that critically important work. I ask members to consider the implication of placing a greater share of the costs of that work on to the wider public purse if the levy is forced to end prematurely, with no regard to emerging data on the costs of cladding remediation.

For the reasons that I have given, I ask members to support my amendments 14 and 15 in preference to the other proposed sunset clauses in the group.

I move amendment 14.

Craig Hoy: The minister says that the proposed sunset clauses in amendments 15 and 47 are broadly similar. However, if we look in detail at the minister's sunset clause, we find that the sun may never set, subject to regulations, so the levy could become part and parcel of the taxation framework. That concerns the industry, and the committee was clear that there should be a sunset clause with a legal backstop.

The financial memorandum for the bill that became the Housing (Cladding Remediation) (Scotland) Act 2024 says that the anticipated expenditure on cladding remediation would be for a period of five to 10 years. Therefore, a sunset clause at 15 years, as proposed by the Government, with no legal backstop, is probably not in the spirit of the original legislation. For the industry to have confidence that the levy will not simply become another aspect of the business operating environment, it is important that there is a clear sunset clause in the bill, and 10 years is a reasonable time span.

Under my amendment 47, it would be possible, with good cause, and subject to parliamentary consent under the affirmative procedure, for that to be extended to 15 years. I believe that my amendment would give clarity and certainty to the industry. Any extension to the lifespan should take place only if there is a clear case and that clear case is put to Parliament, rather than have the levy continuing by default, which is in effect what a 15-year period would mean, given that the general consensus seems to be that the period should be 10 years.

In relation to amendment 45 and making the extension of the life of the act subject to the

affirmative procedure, I note that that is similar to the minister's amendment 14. However, having come relatively late to that particular amendment, I am minded to press amendment 45 as well, just to ensure that there is absolute clarity that it will have the same effect as the minister's amendment 14. I will do that, unless the minister can say whether he has identified any difference between the application of my amendment 45 and his amendment 14.

Liz Smith: Amendments 62 and 66 are about an extension of the provisions in the bill. For the reasons that Craig Hoy has just given, we need to try to give the sector some certainty and a commitment that we will not let things go further down the road without holding to account the delivery of the building work that is being undertaken. If we were to allow that to happen, we would be in a circumstance of considerable uncertainty. That would be a difficult situation that none of us wants to get into.

Some of the witnesses that we heard from at stage 1 were very much in favour of sunset clauses to ensure that the situation cannot go on for ever or be shifted down the line without such a commitment being made.

Mark Griffin: The minister should be reassured that Labour MSPs will vote and act in line with the desires of their constituents and what best suits the people of Scotland. He may have taken the route of least resistance in the development of the bill by copying existing legislation from elsewhere, but I do not think that that is an appropriate route to take. Scotland has a different and a distinct housing market and we should take the opportunity to reflect that in the bill, as amendments in this group would do.

The Scottish Government has now lodged an amendment to extend the levy's lifespan to 15 years, with the possibility of a further extension to that period. I am concerned that, contrary to the findings of the consultation and the recommendations of the committee, the Government's amendment would give it the power to ensure that the collection of the levy can continue long after its stated purpose of providing funds for remediating buildings has been fulfilled. That would be contrary to the purpose of the legislation and damaging to the housing sector's confidence in being able to increase the supply of new homes.

I worked with the Scottish Property Federation in developing amendment 65 and I agree with its concerns about the levy going beyond the initial 10-year framework. That extension will leave the industry with a distinct fear of mission creep, a point that was touched on earlier in relation to the purpose of the levy.

I add my support to the amendments in the name of Craig Hoy and Liz Smith that attempt to limit the scope of the levy. There are concerns that the bill will leave open the possibility that the levy will remain in place in perpetuity as a source of revenue for the Government, rather than following its stated purpose, for remediating buildings that have dangerous cladding.

Patrick Harvie: Although a 15-year period would be more appropriate than a 10-year period, and I will not vote against having a 15-year sunset clause, my personal view is that, in general, sunset clauses are better placed in legislation that is intended to be very short term, such as emergency legislation. Sunset clauses have become a more regular feature of legislation in recent years, but they are more appropriate for shorter-term questions.

When we are talking about a date that is three parliamentary sessions into the future, rather than set a sunset clause, we simply ought to leave it to a future Parliament and Government to decide whether they want to repeal the legislation in the normal way. However, the balance of views is clearly in favour of some kind of sunset clause, and so a 15-year period would be more appropriate than a 10-year period.

The Convener: I am sure that we will both still be here in three sessions' time, Patrick.

Patrick Harvie: Speak for yourself.

13:15

Ivan McKee: I will just pick up a couple of points in winding up.

With regard to Craig Hoy's comments, the Government amendments will require the use of the affirmative procedure and the Parliament's approval to ensure that the legislation is not ended at that point in time. The provisions in the two amendments are broadly similar. As Patrick Harvie has pointed out, any future Parliament could extend or, indeed, repeal the legislation if it so chose, but the point of the sunset clause is to give the comfort that the industry was seeking with regard to the Government's intent.

Craig Hoy: If we are seeking to prevent future scandals of this nature, does the minister not accept that, in saying to the developers that this fund could be drawn on for the next 20 to 30 years—possibly in perpetuity—and that its scope could be wider, he is effectively giving them licence to misbehave in future? If he says, "This is for a specific purpose and for a specific period", rogue operators will not be able to build something that might come to light in 10 or 15 years' time as the cladding scandal mark 2. Indeed, being very

specific might send a positive signal to the industry.

Ivan McKee: To be honest, I find it hard to imagine that anyone who was seeking to create another scandal—if indeed they were seeking to do so—would decide whether to do so on the basis of this legislation giving them that opening.

That aside, I make it clear that we are proposing that the act will cease to be after 15 years, unless Parliament decides to extend it. That will not be down to Government ministers; Parliament will need to approve it through the affirmative procedure. That is very clear, and it provides the very clear end point that the sector has been calling for. Indeed, I think that this, in combination with the work that we will be undertaking with Liz Smith in advance of stage 3 on the scope of the use of the funds, will give the assurance that the sector is looking for.

Amendment 14 agreed to.

Amendment 45 moved—[Craig Hoy].

The Convener: The question is, that amendment 45 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 45 disagreed to.

Amendment 62 moved—[Liz Smith].

The Convener: The question is, that amendment 62 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 62 disagreed to.

Section 48, as amended, agreed to.

After section 48

Amendment 46 moved—[Liz Smith].

The Convener: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 46 disagreed to.

Sections 49 and 50 agreed to.

Section 51—Commencement

Amendments 63 and 64 not moved.

Section 51 agreed to.

After section 51

Amendment 15 moved—[Ivan McKee].

The Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

Against

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 15 agreed to.

Amendment 47 moved—[Craig Hoy].

The Convener: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

13:20

The Convener: There will be a division.

Meeting continued in private until 13:24.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 47 disagreed to.

Amendment 65 moved—[Mark Griffin].

The Convener: The question is, that amendment 65 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hoy, Craig (South Scotland) (Con)
Marra, Michael (North East Scotland) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mason, John (Glasgow Shettleston) (Ind)
Thomson, Michelle (Falkirk East) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 65 disagreed to.

Amendment 66 not moved.

Section 52 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank everyone for their contributions today, and I thank the minister, too. I should also say that the clerks put only one word in front of me—and that was “Slower”. I tried to stick to that.

Ivan McKee: I am glad that you ignored them, convener.

The Convener: I am just glad that we got through it all.

I ask members to stay behind for two more minutes so that we can look at our work programme. In the meantime, I will call a two-minute break to allow our witnesses and guests, those in the public gallery and broadcasting and official report staff to leave.

This is the final edition of the Official Report of this meeting. It is part of the Scottish Parliament Official Report archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba