

Finance and Public Administration Committee

30th Meeting 2025 (Session 6)

Tuesday 11 November 2025

Building Safety Levy (Scotland) Bill

Purpose

1. The Committee is invited to take evidence as part of its scrutiny of the Building Safety Levy (Scotland) Bill at Stage 1 from—

- Fionna Kell, Director of Policy at Homes for Scotland
- Julie Jackson, General Counsel and Company Secretary of Miller Homes
- Natasha Douglas, Land and Planning Manager at Bancon Homes

And then from—

- Hazel Johnson, Director at Built Environment Forum Scotland
- Anna Gardiner, Senior Policy Adviser at Scottish Land and Estates
- Josie Sclater, Senior Policy Officer at the Scottish Property Federation

2. The Committee ran a [call for views](#) for the Bill which closed on 15 August 2025 and received [39 responses](#). A [summary of responses](#) has been published.

3. SPICe produced a [research briefing](#) for the Bill which includes potential areas of parliamentary scrutiny.

4. This paper provides background information on the Bill, details of previous evidence sessions and some key points from the written responses submitted by the witnesses.

5. Annexe A contains the written submissions to the Committee's Call for Views received from the above witnesses.

Background

6. The [Bill](#) was introduced by Shona Robison MSP, Cabinet Secretary for Finance and Local Government on 5 June 2025. The Bill creates the Scottish Building Safety Levy (SBSL), a tax on residential construction in Scotland which is to be charged in relation to a step in the building control process, and its revenues are intended to be used to fund improvements to building safety in Scotland. The SBSL will be administered by Revenue Scotland.

7. The [policy memorandum](#) explains that the overarching policy aim of the bill is to seek a contribution from the housebuilding sector to support the Scottish Government's Cladding Remediation Programme.

8. Building construction and safety are devolved policy areas. A [joint consultation](#) by the UK and Scottish governments which sought views on the devolution of powers to the Scottish Parliament for a SBSL stated that “there is no option to extend the UK Building Safety Levy to Scotland”.
9. The SBSL’s policy objective mirrors “the UK government’s objective for its own Building Safety Levy (BSL), which is proposed for introduction in England in Autumn 2026”. The policy memorandum goes on to say that “the differences in building control regimes mean that the English and Scottish levies will not be analogous”.

Outline of Bill provisions

10. Part 1 of the Bill defines the levy and gives responsibility to Revenue Scotland to collect and administer the tax. The levy will be charged on certain ‘building control events’, which Section 3 of the Bill defines as an event related to building completion.
11. Part 2 contains key concepts underlying the tax including—
 - setting out that a tax is imposed on ‘new residential units’,
 - providing that the person liable to pay the levy is the ‘owner of the new residential unit’ when the application for the building control certificate or permission is made.
12. Part 3 sets out how the levy is calculated and how the proceeds of the levy are to be used, including that—
 - the rate is an amount prescribed by the Scottish Ministers and is based on the square metres of the new residential unit,
 - different rates may be set for (i) different geographical areas, for (ii) different types of land on which the new residential unit is situated or (iii) with reference to any other factor that the Scottish Ministers consider appropriate,
 - the Scottish Ministers may make provisions for a ‘levy-free allowance’,
 - the Scottish Ministers must use the proceeds of the levy “for the purposes of improving the safety of persons in or around buildings in Scotland”.
13. Part 4 contains various provisions on administration covering returns, registration and special cases.
14. Part 5 imposes penalties in relation to the levy.
15. Part 6 makes provisions on what decisions of Revenue Scotland can be reviewed and appealed.
16. Part 7 contains general provisions which include reporting, interpretation, regulation-making powers and commencement.

Policy approach

17. The SBSL is intended to be one of the revenue streams for Scotland's Cladding Remediation Programme. According to the policy memorandum, the SBSL will “complement the existing funding streams available and ensure that the associated costs of cladding remediation do not fall onto affected homeowners or disproportionately onto the general taxpayer”.
18. The tax charge for the SBSL is generally “the date of acceptance of a completion certificate”. The person liable to pay the tax is the owner of the ‘new residential unit’ when the completion certificate is submitted to the verifier. The policy intention is for the SBSL to be paid by those responsible for residential development.
19. The policy memorandum explains that the tax point was placed “closer to the point of sale” to “assist in mitigating cash flow issues for developers”. The policy memorandum further states that “in many cases the developer will be in receipt of funds from the sale of the property by the time the liability to the SBSL is due for payment”.
20. Section 4 of the Bill defines what buildings are within scope of the SBSL. Broadly, this includes constructed or converted buildings which are intended to be used as a dwelling or other accommodation. It outlines that—
 - the definition includes purpose-built student halls of residence and build-to-rent developments,
 - the definition is intended to exclude the following (this list is not exhaustive):
 - (i) hotels or other temporary accommodation,
 - (ii) institutions providing residential accommodation with personal care
 - (iii) hospitals or hospices,
 - (iv) prisons,
 - (v) residential accommodation for school pupils.
21. Any ‘new residential unit’ is in scope of the SBSL provided that it is not an “exempt new residential unit”. Exempt new residential units include: (i) social housing, (ii) affordable housing and (iii) any building on a Scottish Island.
22. The SBSL is a self-assessed tax and is calculated “as a proportion of the total floorspace of the new residential unit multiplied by the levy rate”. As noted above, Scottish Ministers are able to set a levy-free allowance. Given that the policy intention is for the SBSL to be paid by property developers, it is expected that the level of the levy-free allowance will be sufficient to exclude self-builds from scope.
23. The proceeds from the levy are to be used for “building safety expenditure”. Although the definition is wide, the policy memorandum says that the current intention is that the levy will be used “to support the funding of the Cladding Remediation Programme”.

24. Some of the differences between the SBSL and the English equivalent are as follows:

- a) The SBSL is administered by Revenue Scotland whilst the BSL is administered by local authorities. The Scottish Government notes that “a local authority-approach administration for a national tax would not reflect stakeholders’ desires for a centralised and nationally consistent approach”.
- b) The tax point for the SBSL is the issuance of acceptance of a completion certificate. For the BSL the tax point is at an earlier point in the building process (the application for a building warrant). The Scottish Government chose the tax point to be set later in the construction process to provide more certainty for taxpayers and to alleviate potential cashflow problems.
- c) The SBSL uses a levy-free allowance to protect small developers. In England, the UK Government proposed an “exemption for sites that are under 10 units”. The Scottish Government decided against an exemption based on the number of units for specific reasons. These include the risk of avoidance that could arise by pursuing a site-based exemption given that it is “common for developers to parcel up the site into separate developments”. Another reason given for not pursuing the unit-based exemption is that smaller sites may also be “made up of high-end properties”. In this case the use of small sites “may not reflect the developer’s ability to pay the SBSL”.
- d) In Scotland penalties relating to the SBSL are administered by Revenue Scotland and include fixed, daily and percentage-based penalties. In England, a certificate of completion will not be issued if the BSL has not been paid, “effectively making the building unusable”. The Scottish Government decided against the approach adopted in England because “it places an administrative burden on local authorities”. Such an approach would also require a “flow of data” between Revenue Scotland and the relevant local authority which, it states, “is likely to increase resource costs and complexity”.

Public engagement

UK Government engagement

25. The policy memorandum notes that the Scottish Government’s consultation “should be seen in context with the larger, UK-wide level of engagement on funding cladding remediation”. The UK Government issued consultations in [July 2021](#), [November 2022](#) and [January 2024](#).

26. The policy memorandum also says that “the English and Scottish Levies will not be analogous, [but] the policy aim for both remains the same”. For this reason, “the Scottish Government has therefore taken into account the feedback provided on UK consultations”.

Scottish Government engagement

27. The Scottish Government also convened “an expert advisory group, comprised of representatives from the residential property industry, and local government and tax stakeholders”. The policy memorandum goes on to say that “the purpose of the [group] is to help shape the design of the SBSL and consultation, as well as to consider more detailed aspects of policy development”. The group has met on five occasions since its inception.
28. The Scottish Government also issued a [public consultation](#) in September 2024 “to inform the development of the Bill”. The consultation received 78 responses.
29. The policy memorandum further states that “the consultation asked a wide range of questions”. This includes “the scope of the tax, exemptions, calculation methods, tax administration, compliance and impact on businesses, children, equalities and island communities”.

Outcomes of the Scottish Government engagement

30. The policy memorandum notes that in the consultation “there was a general opposition to the introduction of a SBSL to fund cladding remediation efforts”. However, “no immediate alternative solutions are being offered by respondents to address the funding challenge associated with cladding remediation”.
31. The majority of respondents which consisted mainly of “developers and [...] the residential property industry” noted that the SBSL would be an additional burden on developers.
32. The consultation found that there was “strong support to exempt affordable housing from the SBSL”. A majority of respondents were also in favour of “the proposed approach for Revenue Scotland to administer the SBSL”.
33. The majority of respondents “opposed using market value as the calculation method for SBSL, with emphasis on the need for stability and certainty for developers in understanding their tax liability”.
34. When discussing the impact of the SBSL, respondents noted “the cumulative impact on housebuilding from a wider package of proposed policies and new regulatory burdens”.

Financial memorandum

35. The SBSL will seek to raise £30m per annum and, as noted above, is intended to be one of the revenue streams for the Scottish Cladding Remediation Programme. The level of SBSL revenue is set at £30m because this is the amount in “Barnett consequentials that the Scottish Government might have received had the UK Government England-only levy been extended to Scotland”.

36. The financial memorandum (FM) estimates that the introduction of the SBSL will, until 2027-28, give rise to costs of around £3.7m broken down as follows (approx.):

- a) Scottish Government – £160,000 is expected to be spent on the staff introducing secondary legislation as well as on other administrative tasks including producing a report. The costs of developing primary legislation were not included in the FM as they were met from existing resources.
- b) Revenue Scotland - the total costs for Revenue Scotland amount to £3.5m. This includes £1.6m in non-staff costs (mainly IT). The staff costs include set-up costs of £1.3m and operational staff costs of £0.5m. The operational staff costs are for the provision of a dedicated SBSL team.
- c) Costs for other public service organisations – some costs are expected for other organisations such as the Scottish Fiscal Commission (£50,000) and the Scottish Courts and Tribunal Service (£35,000). Local authorities are not expected to have any material costs.
- d) Costs on businesses – the costs for businesses in the FM comprise the value of the SBSL plus any associated administrative costs. The FM states that “stakeholders feel unable to estimate anticipated costs accurately” without sight of Bill provisions. Some stakeholders estimated set up costs of up to £100,000 while others suggested that the costs would be “limited or minimal”.
- e) The Bill is not expected to give rise to costs on individuals.

Meeting on 7 October 2025: key issues discussed

37. The following key issues were discussed at the [Committee’s evidence session on 7 October 2025](#) with the Scottish Fire and Rescue Service (SFRS) and with the Royal Incorporation of Architects in Scotland (RIAS)—

- When discussing the way to improve building safety in the future, both witnesses concurred that the levy should be seen as only one element of the solution. Future building safety requires a ‘whole system approach’ involving stronger oversight of the implementation of building standards.
- Building problems tend to appear “about every 10 to 15 years” so it is likely that the building safety fund will have to widen beyond cladding remediation to cover future issues.
- Some of developers responsible for cladding issues are no longer active and can no longer be held accountable for remediation work. The use of Special Project Vehicles by builders was also seen as preventing the legal assignment of liability given that these vehicles are usually dissolved after the building project.
- Different building professions may be involved in building processes at different stages. This is often done “on a limited service” and “professionals do not tend to be involved at the stages where things go

seriously wrong”. The Code of Conduct for architects or for chartered building engineers do not require them to “work a full project”.

- RIAS would prefer the tax point to be at the “point of application for the building control certificate” and not at the point of sale. This is because the processes around completion are well understood by the sector.
- Building on brownfield sites has additional costs related to the remediation and decontamination of the land. RIAS believes that the levy should make allowances for these costs to put “brownfield sites on an equal footing with greenfield sites”.

Written submissions

38. The submissions provided by the witnesses made the following key points—

Homes for Scotland

39. Homes for Scotland (HFS) does not agree that a levy should be introduced. It noted that its members already contribute to cladding remediation through the UK-wide Residential Property Developers Tax and through self-remediation. Its submission went on to say that other parts of the supply chain also have a part to play in the current cladding issues and that those parties should be subject to a financial remedy “before further asks are made of the homebuilders”.
40. HFS expressed concern that the levy is intended to be applied to a narrow tax base. It noted that in Scotland there is a “low number of completions across all tenures” in combination with “high numbers of homes which would be exempt from the levy as they are affordable housing”. It further explained that a narrow tax base “inflates the likely levy on the remaining liable properties” with an estimated average levy per new home of £3,500.
41. The submission noted concerns regarding the impact of the levy on cashflows. This is because “profit is only made at the point at which a development (rather than an individual home) is nearing completion”. Application of the levy on the sale of individuals homes, it argued, “will likely render many developments unviable”.
42. HFS further suggested there could be some potential behaviour changes following implementation of the levy. The submission outlined that in the rest of the UK “SME protections are now proposed to increase 5-fold, on sites of fewer than 49 units, which is substantially more competitive for housing investment than the levy proposals which remain ill-defined”. This could lead to a shift of investment location away from Scotland.

Miller Homes

43. The Miller Homes submission suggested that the levy “could reduce the number of new homes being delivered due to the lack of viability” which could result in an increase in price of available new homes. It went on to say that housebuilders may “avoid investment in rural and marginal urban areas” which could

“exacerbate inequalities and reduce housing supply in the areas it is most needed”.

44. Miller Homes argued that the Bill should have provisions “for discretionary exemptions from the SBSL, similar to the Financial Viability Assessment system used in England”. This, it noted, should be granted where “evidence shows a site will not be viable if subjected to the levy”.
45. Miller Homes also noted that the £30 million annual target for the levy is calculated so that it provides proportional revenues in Scotland when compared to a similar levy due to be introduced by the UK Government. The submission further highlighted that the “make-up of Scotland’s housing market is materially different from that of England” and that affordable housing completions in Scotland represent 44 per cent of the market compared to 19 per cent in England. Given this difference, the submission argued that the affordable housing exemption from the levy “places a disproportionate burden on private homes” in Scotland.
46. The submission explained that “a significant number of the affordable homes in Scotland are built through Section 75 agreements¹ and are linked to private home developments”. It then went on to suggest that “the levy will likely make some commercial developments unviable” which in turn will “will have a knock-on effect, reducing the affordable housing supply”.

Bancon Homes

47. In its submission, Bancon Homes argued that the “the SBSL fails to acknowledge that many developers in Scotland have not delivered buildings that are unsafe” and that many SME developers are being penalised by being asked to “subsidise the costs of the remediation programme”. The submission further noted that it is unfair for developers to be the only ones penalised when others, such as consultants, contractors and Local Authorities who signed off the required approvals, contributed to the delivery of unsafe buildings.
48. Bancon Homes stated it has “grave concerns” over the viability of its developments. It has sites that have “been purchased at an agreed sum which did not take account the implications of the SBSL”. The submission further explains that these sites “will be stalled” if there “is not scope in the profit margin to absorb this cost”.
49. When discussing the effects of the levy on the housing market, the submission argued that “there can be no doubt” that the levy “will negatively impact on development viability”. This, it says, will “reduce the number of homes being delivered in Scotland” which it sees as “unacceptable” at a time of a National Housing Emergency.

¹ Section 75 agreements are contracts between the landowner and the local planning authority. They are designed to regulate the use of land and can include a requirement for the provision of affordable housing.

Built Environment Forum Scotland (BEFS)

50. BEFS explained that the levy “is a logical route for setting foundations” to protect people from situations where building defects are discovered a long time after constructions and the owners and other stakeholders “do not have access to the level of resources required to deal with them”.
51. BEFS noted that “it may be unfair or unreasonable to ask small local schemes [...] to pay a levy given the small margins they operate on”. The submission goes on to say that an “ideal outcome” would be for the levy to be charged on “medium and large developments” given that the levy is more affordable for commercial housebuilders.
52. The submission highlighted that the levy should align with existing and proposed legislation “to ensure a coherent approach across the wider policy landscape”. BEFS also suggested that “not enough action is being taken in policy and practice to promote the productive reuse of vacant and derelict buildings and brownfield land, including for housing”.

Scottish Land and Estates

53. Scottish Land and Estates did not agree in its submission that a levy should be introduced “on the construction of residential property in Scotland in the manner proposed by this Bill”. It also expressed concern that the levy “unfairly targets developers who had no involvement in the installation of substandard cladding systems”.
54. The submission noted that the scope of the Bill “relies heavily on estimations and assumptions derived from data originating in other parts of the UK” and that it presumes a similar scale of remedial work. It then went on to say that this approach is “questionable at best” and that it “highlights the weak evidential foundation upon which the levy is being justified”.
55. The submission further explained that the levy will “disproportionately affect smaller developers and projects with tighter margins” and that it will discourage investment “in areas where housing need is already acute”. From a rural standpoint, the levy was seen as risking “creating unintended consequences, discouraging development, penalising responsible builders, and adding complexity for small operators”.
56. Scottish Land and Estates further outlined that although “the SBSL is not directly tied to construction standards”, there could be indirect risks to housing quality should cost-cutting measures be adopted to keep house prices down.

Scottish Property Federation

57. The Scottish Property Federation (SPF) does not agree with the introduction of the levy because it does not believe that “government policy should be designed to constrain the supply of new homes at this time”. The submission noted that by making the development of new home harder, the Government will undermine

the ability of the private sector to support the “delivery of all forms of tenure, including affordable housing”.

58. The SPF stated that there is a lack of differentiation between different housing models which “may result in disproportionate impacts on [the] Build-to-Rent sector” which “operates under fundamentally different financial structures and long-term investment models”. In particular, there are no immediate sales revenues for Built-to-Rent developments which means that “a levy paid on completion cannot be recouped immediately”.

59. It also called for the definition of affordable housing to be broadened. This is because, it went on to say, the current definition “ignores the increasingly important role of privately delivered affordable housing which includes mid-market rent or discounted market rent”.

60. The SPF further highlighted the need for clear guidance on transitional provisions given that some businesses use “forward-funding models, where build costs are agreed with funders early in the process”.

Next steps

61. The Committee will conclude its evidence sessions on Tuesday 18 November when it hears from the Cabinet Secretary for Finance and Local Government and is expected to report on its findings in December 2025.

Committee Clerking Team
November 2025

Written Submission from Bancon Homes

Information about your organisation

Bancon Homes is a SME housebuilder based in Banchory, Aberdeenshire.

Bancon Homes, the new homes development company within the Bancon Group, have been building homes for more than 40 years and are widely recognised as one of the north east of Scotland's foremost homebuilding brands.

1. Do you agree, in principle, that a levy should be introduced on the construction of residential property in Scotland?

No. The SBSL fails to acknowledge that many developers in Scotland have not delivered buildings that are unsafe. This is particularly true of the SME developers. Yes despite that they are being penalised and are now required to subsidise the costs of the remediation programme.

The SBSL fails to recognise that whilst developers brought the now unsafe buildings to the market there were delivered following advice from consultants, contractors and having received the approval of building warrant and sign off from Local Authorities. As such it seems unfair that the developer is the only individual to be penalised.

The recent (May 2025) Supreme Court Ruling URS Corporation Ltd (Appellant) v BDW Trading Ltd (Respondent) has found that developers can pursue claims against consultants and designers for building safety defects, even after the developer has sold the properties and regardless of whether the remediation was voluntary. As such one must question why the Scottish Government is seeking to only tax developers when it is clear that other parties including consultants and contractors who would have been responsible for defects should be pursued. It is vital that companies who played a part in delivering buildings with defects contribute to the remedy. If the Government sought taxation from those individuals it would allow those, who can demonstrate that they have not delivered unsafe cladding, to avoid the taxation ensuring that it is fair.

2. To what extent does the proposed Scottish Building Safety Levy (SBSL) align with the Scottish Government's 2024 Tax Strategy and with the principles of good tax policy making included in the Framework for Tax 2021 (namely: proportionality, certainty, convenience, engagement, effectiveness and efficiency)?

As we understand it, The Bill was introduced in response to the Grenfell Tower fire tragedy in June 2017. This incident led to the implementation of the Scottish Government's Cladding Remediation Programme (CRP).

The CRP specifically targets multi-residential domestic buildings constructed or refurbished between 1 June 1992 and 1 June 2022, with a height of 11 metres or more, and that feature an external wall cladding system. The CRP requires significant funding with expenditure estimated by the Scottish Government Cladding Directorate to reach between £1.7bn and £3.1bn over 15 years. It is estimated that the implementation of the SBSL will bring in approx. £30 million a year.

The Scottish Governments 2024 tax strategy (The Strategy) states that their priorities for the existing system is to have 'A stable tax system allows taxpayers to better manage their finances and helps businesses to plan and make investment decisions with confidence.' At present the SBSL is at odds with this insofar as there is no clarification on exempt businesses or the rates at which the tax will be charged; we understand that this is to come later. Without such information it is impossible to make business plans and plan for investment and growth as we do not know what the implications will be. No information has been provided to indicate when this information will become available.

As a business we have grave concerns over the viability of our developments. There are sites within our control, that will not be complete by 1st April 2027 and as such will be liable for taxation. Without sight of what the rates will be or even comfort that all SMEs based on HMRC definition will be exempt, it is impossible to determine if these sites will continue to be viable. This is because the site will have been purchased at an agreed sum which did not take account the implications of the SBSL; because it is not known. As such the implication of this would and could not have been factored into appraisals and will impact on the viability of those sites. If there is not scope in the profit margin to absorb this cost it is likely that sites will be stalled. This is in no ones interest as it results in the creation of new quality places not being complete and detracts from the economic quality of the area. Whilst one may suggest that the cost of the SBSL may be transferred to the buyer via the property cost it is not as simple. In the markets where Bancon Homes operate, and indeed many SMEs, they are not as boyant as say where PLC's operate and incentive such as part exchange, LBTT, Flooring, legal fees etc are offered to encourage sales. These are offered at a cost to the business and the inclusion of the SBSL will be another cost to absorb. Given the level of incentives offered to encourage sales there are markets where it simply cannot sustain higher property costs. In any event, the homes are valued for mortgage purposes and home buyers will be unable to obtain a mortgage for a property if the cost surpasses its value.

The Strategy goes onto state 'On Economy and Tax: Our priority is creating the conditions for economic growth that increases employment and earnings, lifts people out of poverty, and raises living standards.' Again the SBSL would be at odds with this as it has the potential to disincentivise investment in Scotland.

The number of SME homes builders in Scotland is at a 20 year low. This is largely due to the constant cost increases incurred. The addition of the SBSL

has the potential to further erode the number of SMEs operating in the country and that is at odds with creating opportunities for growth and employment.

In discussing Administration, The Strategy states that 'We will make it easier for Scottish taxpayers to understand and navigate the tax system'. The Bill at present provides no clarity on exemptions or rates payable and as such it is at odds as this does not make this part of the tax system easy to understand or navigate.

Page 11 of The Strategy directs that the tax system is fair and progressive. It is not contended that the SBSL is a fair taxation. This is because it will apply to all new residential buildings of all heights despite CRP targeting multi-residential domestic buildings constructed or refurbished between 1 June 1992 and 1 June 2022, with a height of 11 metres or more, and that feature an external wall cladding system. Furthermore the SBSL does not differentiate between developers. There are multiple developers in Scotland who have, and continue, to deliver safe buildings having never developed buildings with unsafe cladding, yet under the SBSL they are penalised; this does not accord with a fair tax system.

3. What would be the impacts of the SBSL for the housing market, if any?

As discussed in response to Question 1 Bancon Homes are concerned that some developments will no longer be viable. Please refer to our response to Question 1.

There can be no doubt that, the introduction of the SBSL will negatively impact on development viability. There will undoubtedly, be development sites within Scotland that will be stalled. This will in turn reduce the number of homes being delivered in Scotland; at a time of National Housing Emergency this is unacceptable and will result in a failure of the government to reduce child poverty.

The reduction in the number of dwellings being delivered could, see the demand for those available homes increase and in turn it may result in the value of those homes increasing. However, it may also be the case that the cost of those new homes may be higher if the housing market in specific areas is such that the values would enable developers in those areas to pass on the cost of the SBSL to new home purchasers. This would only be true of high performing and competitive housing markets such as Edinburgh other more remote areas would be unable to sustain this.

It is worth noting that in Scotland the supply of allocated new housing sites in area where people want to live is greatly reduced due to the delay in the delivery of new Local Development Plans allocating new housing sites. Whilst the Scottish Government has a target of May 2028 for the delivery of the new LDP's this is unrealistic with many not being forecast to be adopted until 2029, with a 18 month window to facilitate obtaining all the necessary technical consents needed to enable development and a 6 month period to build the

new home it is unlikely that those much needed new homes will be available until 2031. What this means in real terms is that there is more pressure on the available allocated sites meaning they are more costly to purchase and subsequently the sell price may be higher if the market can sustain the price increase. When taken together with the impact of the SBSL the cost of new homes could be higher or if the market cannot sustain it sites may not come forward for development.

At a challenging time for the industry and during a National Housing Emergency more should be done to support the House Building sector. As it stands this is another cost expected to be born by the developer. At a time when SME house builders are at a 20 year low this has the potential to see further reduction and will detrimentally impact on the delivery of new homes in areas that are dependant on SMEs for new housing delivery.

4. Do you foresee any behavioural changes or impacts arising as a result of the implementation of the SBSL?

As recognised in the Financial Memorandum there will be a cost associated with collection of the SBSL by the Government. However it fails to account the cost to the private developer of managing the payment of the SBSL. Both parties will need to undertake further of training of staff which will result in an additional cost. It may also be the case that further staff are needed to manage the collection of funds. This creates a further cost to the business in addition to the taxation itself.

At a time when SME house builders are at a 20 year low this has the potential to see further reduction and will detrimentally impact on the delivery of new homes in areas that are dependant on SMEs for new housing delivery.

The introduction will impact on site viability and may result in an increased number of stalled sites in Scotland. At a time of National Housing Emergency this is undesirable.

5. Are there any provisions in the draft legislation that may give rise to unintended effects, including to opportunities for tax avoidance?

As we understand it Part 1 of the Bill gives the responsibility to Revenues Scotland to collect the tax and Part 2 sets out the events where a levy is imposed namely a building control event. We also understand that the 'person' liable to pay is the owner of the new residential unit when the application for the building control certificate or permission is made. As such it is the developer who would be liable. We do not see there being opportunities for tax avoidance.

6. The Bill sets out: (i) the buildings that are specifically included and excluded from SBSL (section 4(2) & (3)) and (ii) the buildings that are exempt from SBSL (section 5). Do you have any views on these inclusions, exclusions and exemptions?

Bancon Homes would agree with the exemptions classifications for building type. Bancon Homes had understood from the 2024 consultation that the Scottish Government were seeking views on excluding smaller developers from the charge of the SBSL however The Bill is not clear whether SME House Builders are excluded from The Bill. Bancon Homes would ask that SMEs defined by the HMRC

(https://assets.publishing.service.gov.uk/media/6731e5cff8ac0a8bd93d138a/Supplementary_Guidance_-_Defining_Small_and_Medium_Sized_Enterprises_FINAL.pdf) definition are excluded from the SBSL.

Failure to do so will unfairly penalise those SME developers; resulting in the country seeing a further decline in SME house builders who the country is heavily dependant on for delivering much needed new homes in rural areas and unlocking brownfield sites.

As an SME Bancon Homes are concerned that the introduction of the SBSL will have dire consequences for their business and will result in sites no longer being viable. If this happens and sites are stopped it will result in job losses, unfinished developments which will detract from the economic potential of areas. Research published by Homes for Scotland (HFS) shows that for every newly built home 3.5 jobs are supported. SMEs are crucial to supporting job creation within local communities, providing training and skills pathways for new entrants seeking a career in homebuilding. They need support to continue and without an exemption from the SBSL the number of SMEs will decline and will be unable to continue to deliver much needed new homes, provide employment security, and facilitate further economic growth in the country.

Research undertaken by Homes for Scotland (HFS) has found that since 2007, the number of SME home builders in Scotland has plummeted by two-thirds. 2023 alone saw a record number of dissolutions. HFS believe that the sector is being squeezed out by complex regulation, sluggish planning systems, and outdated funding models in addition to the continual rise in costs associated with the delivery of new homes.

New regulations introduced since 2021 have added more than £20,000 to the cost of building a single home. The addition of the SBSL is simply not another cost that can be sustained by SMEs; especially when its highly unlikely that they ever delivered an unsafe home.

7. Are the arrangements for penalties and appeals as set out in the Bill appropriate?

Bancon Homes have no comment on the penalties proposed.

8. Do you consider that the estimated costs set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?

As highlighted in paragraph 79 'without sight of Bill provisions, stakeholders feel unable to estimate anticipated costs accurately. It was, however, noted that the total cost to businesses will be the value of the SBSL plus any associated administrative costs'. As far as we can ascertain, no further information has been provided on what the rates will be. This makes it impossible to assess the impact on our business.

As noted in our response to the 2024 consultation, this will have dire consequences for many of our developments and may make them unviable. As we understand it, the Bill will come into effect on 1st April 2027. In terms of our business we will have sites that have been purchased in advance of that date but are yet to complete. The Bill will therefore impact on the viability of those developments. As an SME we operate to a specific profit margin which is set to ensure the business remains profitable. This margin is agreed with our lending facility. Any deviation to that results in sites being less profitable and whilst there can be some flexibility to accommodate unforeseen costs it is not sufficiently flexible to accommodate unknown tax costs. As an SME we have concerns that unless we are exempt, the introduction of the SBSL will result in sites within our control no longer being viable. Not only is this undesirable for our business but has further ramifications including job losses, unfinished places which is not conducive to positive economic growth and most importantly failure to deliver much needed new homes at a time of national housing emergency.

9. Do you have any other comments regarding the Bill which have not been captured by the previous questions?

It is apparent from the Financial Memorandum that the revenue stream from the SBSL is only going to provide partial funding. Likewise there are costs associated with the running of the scheme. One must question why, given there are other revenue streams available to the Scottish Government, such as Developer Led Remediation, Residential Property Developer Tax, Capital Budget Allocations why the Government is progressing with the SBSL. It is important to also acknowledge the recent (May 2025) Supreme Court Ruling *URS Corporation Ltd (Appellant) v BDW Trading Ltd (Respondent)* which found that developers can pursue claims against consultants and designers for building safety defects, even after the developer has sold the properties and regardless of whether the remediation was voluntary. With that in mind, one would have thought that there would have been an opportunity for a further revenue stream, one that did not ask developers who had not delivered unsafe buildings to subsidise those who had.

Bancon Homes have noted their concerns that the implementation of the SBSL will have a negative impact on the viability of sites and will see sites stalled. Likewise unless exempt, it will detrimentally impact on the SMEs that

operate within Scotland; who the country is dependant on to unlock brownfield sites and deliver much needed new homes in the rural areas. It is estimated that since 2021 the additional costs from legislation are over £20,000 per housing unit not only is this not sustainable for SMEs but will rise with the addition of SBSL. This is not a cost that can be accommodated by SMEs and Bancon Homes would ask that SMEs, as defined by the HMRC, are exempt from SBSL. Failure to do so will see many more disband and this cannot be the objective of the Scottish Government.



Building Safety Levy Bill

Homes for Scotland response to Call for Views

August 2025

Introduction

Homes for Scotland (HFS) represents home builders of all tenures and sizes and includes both Registered Social Landlords (RSLs) and private home builders. Together our members deliver the vast majority of all homes built to rent or own across Scotland. We look to change, challenge and collaborate on behalf of the sector to ensure that the housing needs and aspirations of all those living in Scotland are met.

HFS and our members are committed to dealing with, and protecting homeowners from, life critical fire safety issues associated with external wall cladding systems. Our membership is engaged in ongoing voluntary remediation, estimated to be worth around £400m of investment, while many larger members already contribute to a Residential Property Developers Tax which is estimated to produce £200m in Barnett Consequential for the Cladding Remediation Programme in Scotland.

The sector has been working closely with the Scottish Government and other relevant stakeholders to progress cladding remediation for over three years and we therefore welcome the opportunity to contribute to the scrutiny of the Building Safety Levy Bill.

As the representative body of the sector the levy is to be targeted at therefore, we look forward to providing oral evidence to the Committee during the stage 1 evidence sessions.

We are grateful for the Committee's consideration of this Bill and remain ready to support all members in their scrutiny with whatever data and evidence is required by the Committee.

Q1: Do you agree, in principle, that a levy should be introduced on the construction of residential property in Scotland?

Homes for Scotland (HFS) does not agree, in principle, that a Scottish Building Safety Levy (the levy) should be introduced on the construction of residential property in Scotland.

While HFS and our members remain fully committed to addressing life-critical fire safety issues and have worked closely with the Scottish Government on the Cladding Remediation Programme and Developer Contract, we believe the case for a levy remains fundamentally flawed and unjustified in its current form.

Existing contributions

The sector has been working closely with the Scottish Government and other relevant stakeholders to progress cladding remediation for over three years, including through the Expert Advisory Group on the Building Safety Levy. Whilst we welcome the progress that has been made since 2024, we believe the lack of urgency from the Scottish Government to address both resident and sector concerns has led to unacceptable delays in making progress in this crucial area.

Many of our members already contribute to cladding remediation in two significant ways: (1) via the UK-wide Residential Property Developers Tax (RPDT), which will yield approximately £200 million in Barnett consequential for Scotland, and (2) through voluntary self-remediation actions, estimated at around £400 million in value. Introducing a third financial obligation through a new levy imposes a "triple dip" on developers and threatens the viability of housebuilding businesses at a time when Scotland is facing a housing emergency.

Wider supply chain

It is clear that other parts of the wider supply chain have a part to play in remediation and, as yet, have not been subject to any financial remedy to contribute to resolving the matter. This matter should be addressed before further asks are made of the homebuilders. This is an area which now requires critical and urgent action, and we would urge the Finance and Public Administration Committee to withhold support for the Bill until manufacturers are made subject to financial remedy to contribute to the remediation of affected buildings.

As the Scottish Government's response to The Grenfell Inquiry report states, the report sets out, "a catalogue of dishonest behaviours and practices from manufacturers of cladding and insulation materials [were] used in the refurbishment". In March 2025, the Public Accounts Committee recommended to the Ministry for Housing Communities and Local Government (MHCLG) that it "bring forward, by the end of 2025, detailed proposals as to how construction manufacturers should be required to pay a share of the fire safety remediation costs and how this will relieve the pressure on leaseholders and tenants;"¹.

HFS understands The Scotland Act 1998 (Specification of Devolved Tax) (Building Safety) Order 2024 does not empower the Scottish Parliament (and Government) to seek recourse from other parties. HFS members are of the view the further enabling powers should now be sought from the UK Government. As stage 1 of this Bill is not expected to conclude until December², the role of the supply chain and the contribution it must make to remediate affected buildings, in addition to the necessary changes to the order, must be addressed before the Bill proceeds.

¹ [The Remediation of Dangerous Cladding](#)

² Aligning with the timeline that MHCLG has been provided to respond by the Public Accounts Committee

In the context of the above, HFS does not consider the levy a fair or justified proposition to generate revenue to fund the Cladding Remediation Programme. Neither HFS nor its members can support or sanction a levy which further increases the cost of building homes for the people of Scotland at the time of a housing emergency and threatens the viability of members' businesses.

Evidence base

The Scottish Government continues to fail to provide a sufficiently accurate evidence base to justify the levy, and the basis for a £30m annual funding target. As acknowledged in its own documentation, critical data is missing on the number of buildings that require remediation, the full scope and cost of the programme, and a proper understanding of the tax base. This lack of transparency undermines the principles of proportionality, efficiency, and certainty, as set out in the Scottish Government's own Framework for Tax (2021)³.

In its estimates published at the time the Bill was laid, the caveats and limitations chapter of the Scotland's cladding remediation estimates⁴ reports the substantial difficulties the Scottish Government has had in estimating the cost of its fledgling Programme. As a result, the home builders who will be liable to pay the levy have no confidence that the Scottish Government's sums add up. It is this poor evidence base that undermines the levy's adherence to the Scottish Government's principles for taxation. The caveats and limitations are wide-ranging, demonstrating that the case for the tax, and the apparent funding gap, has not yet been established with the necessary degree of confidence required. It states:

- "The data quality and assumptions used could overstate or understate the numbers."
- "available data does not permit us to identify which of Scotland's residential buildings, which are 11 metres or more in height, might require work to alleviate EWS life-safety fire risk."
- "The quality of the height data in the datasets used is uncertain...buildings might be counted that are actually below 11 metres and miss some buildings that are above 11 metres."

The practical performance of the Cladding Remediation Programme further undermines any confidence in the programme. In Scotland's Cladding Remediation Programme update: Q2 2025 published on 29 July 2025, the Scottish Government revealed that only three Single Building Assessments (SBAs), based on the specification published in June 2024, had been completed. It is on this basis that the Scottish Government lacks the genuinely Scottish data to help it refine its estimates. Furthermore, progress has been slow to establish this evidence base; data concerning the Pilot phase of the programme revealed it took two years to determine that just under half of buildings in the pilot were determined to be out of scope⁵. For context, the UK Government has reported that remediation in England is substantially underway: "2,490 buildings (48%) have either started or completed remediation works. Of these, 1,767 buildings (34%) have completed remediation works."⁶

During consultation the Scottish Government undertook in autumn 2024, HFS made clear its view that government must evidence and have genuine assurance of what the scope and costs of the programme are (including developer remediation, and what the funding gap is) before any levy is

³ [Supporting documents - Framework for Tax 2021 - gov.scot](#)

⁴ [Remediation estimates - Scotland's cladding remediation estimates: June 2025 - gov.scot](#)

⁵ [Cladding Remediation Programme pilot - Cladding Remediation Programme: factsheet - gov.scot](#)

⁶ [Building Safety Remediation: monthly data release - June 2025 - GOV.UK](#)

considered. Based on the Scottish Government's own assessment of the data it holds, it has not yet provided that necessary evidence for its £30m funding target.

The estimates published in June are the latest in a series of wide-ranging estimates. These estimates almost doubled the number of buildings estimated to be in scope after the Cabinet Secretary for Finance and Local Government previously narrowed assumptions⁷, from a previous estimate in the Building Safety Levy consultation that there were "around 1,000 high rise and 5,000 medium rise buildings within the scope of the Programme"⁸. According to the methodology for the latest estimates, these estimates are heavily reliant on English estimated proportions applied to Scottish data. The reliance on these inflators from a different housing market with different stock and density is that the estimates inflate the number of buildings that may be in scope. We urge the Committee to establish the impact these inflators have had on the estimates government has published.

SME home builders

In response to the Scottish Government consultation, HFS agreed that SME home builders should be removed from the levy. While powers to provide a levy-free allowance are included in the bill SMEs remain unclear as to the extent to which all or part of their activity will be removed from the levy.

HFS Research published in June 2024, [Scotland's SME Home Builders 2024: Data Review and Industry Insights](#), demonstrates that SME home builders are key to a number of the Scottish Government's housing objectives. The report find that SMEs have a vital role unlocking brownfield sites and delivering housing in rural and remote areas, where they deliver more than a third of new homes, a much higher proportion than in urban areas. The unintended consequences of making the homes they deliver subject to the levy would therefore harm those objectives.

Our follow-up report, [Scotland's SME Home Builders in 2025](#), found that the number of SME home builders active in Scotland has fallen by two thirds since the Global Financial Crash, and 88% of SMEs surveyed were concerned that the levy would be detrimental to business, while 58% SME home builders estimated the additional cost of building a home had increased by more than £20,000 due to regulation since 2021.

The uncertainty and severe lack of clarity SMEs have as to whether their businesses will be protected from the levy, have continued through the Scottish Government's consultation process. SMEs have been variously asked to consider: a site size metric (10 homes or fewer) for which no existing datasets exist to estimate how many businesses would be removed from the levy; a metric based on homes sold per year (HFS definition of 3-49hpa); in a BRIA consultation

⁷ In a [letter](#) to the Convener of the Finance and Public Administration Committee, Cabinet Secretary for Finance and Local Government, date 30 October 2024, advised:

"In the Financial Memorandum to the then Cladding Remediation Bill, data assumptions were provided that suggested around 382 buildings above 18 metres may require some level of remediation, and around 500 buildings between 11-18 metres may require remediation works. These assumptions include buildings of different tenure types and so includes, in principle, buildings that will not be for the Scottish Government to assess and if needed remediate"

⁸ [Part A: Principles - Scottish Building Safety Levy: consultation - gov.scot](#)

government referred to SMEs as those in line with the EU, UK and Scottish Government definition, (by employee number <250); and, the bill now includes a Levy-free allowance, but this lacks the necessary detail of the level this will be set at. There remains no indication the levy-free allowance threshold will be announced through parliamentary debate or left for further consultation after enactment.

At a Scottish Government engagement session with SME home builder members in autumn 2024, officials heard members highlight that their funding arrangements are very different from larger builders. Members report that further regulation will impact their cashflow and ability to deliver more homes, particularly in the rural areas and on brownfield sites in which they are most active. Members also cited that in rural areas, and low-value urban areas, the increased cost of constructing a home (due to regulation) can now be more than the potential market sale value, and disincentivise the construction of homes for private sale. SME members advise that some rural locations, for example in the Highlands and Islands, are already entirely reliant on public-funded affordable housing delivery for the supply of new homes, as private home building is simply not viable; these areas may increase in size, the area where private delivery does not take place growing further toward the central belt.

Other SME members highlighted that there is an inherent unfairness in SME home builders being required to contribute to the costs of remediation when they had never previously delivered properties within scope of the Cladding Remediation Programme, for example having only ever built 2 storey family homes. While the Policy Memorandum states that SG “will continue to consider the merits of an exemption or relief for rural developments, in discussion with stakeholders, with a view to considering introducing this through the delegated powers provided in section 6 of the Bill” it is unclear what definition of rural will be used, and when engagement on this relief will begin.

Market distortion

The Scottish Government has not provided an indicative cost of the levy, which has promoted confusion amongst members who sought clarity through their participation in the engagement sessions. Having early certainty and clarity at an early stage about the Scottish Government’s assumptions for the levy in Scotland would have been beneficial.

To support members to understand potential liability of the levy that must achieve the £30m revenue target we considered possible likely estimates of a crude average flat levy on each new home. In doing so, we are able to isolate specific flaws in the government’s approach:

First, HFS believe the £30m funding gap Scottish Ministers seek to fill contributes to the proposal for the levy being highly punitive on new build homes for private sale in Scotland. This is because the gap is determined as being in proportion to the revenue estimate for an English Building Safety Levy rather than being based on a proportional funding need for the Programme.

Second, our estimates demonstrate the stark differences in the make-up of Scotland’s housing market compared to England substantially distorts the tax base from which government seeks to achieve its funding target. When affordable housing is removed from the tax base, the tax base is reduced substantially more than in England where 19% of completions are affordable housing, compared to 44% of all completions in Scotland. ,

Third, the low number of completions across all tenures, combined with the high numbers of homes which would be exempt from the levy as they are affordable housing, narrows the tax base further. The effect is this inflates the likely levy on the remaining liable properties. It is on this basis

that we recommended to government that it focus on growing the tax base, to increase the tax base across all tenures, before the levy is introduced. Overall, we estimate that a levy will be in excess of £3,500 per new home, if the levy were a crude average.

Q2: To what extent does the proposed Scottish Building Safety Levy (SBSL) align with the Scottish Government's 2024 Tax Strategy and with the principles of good tax policy making included in the Framework for Tax 2021 (namely: proportionality, certainty, convenience, engagement, effectiveness and efficiency)?

The proposed levy does not align with all six principles set out in the Scottish Government's 2024 Tax Strategy or the Framework for Tax 2021.

From the outset, HFS recognised this framework Bill undermines both Parliament's ability to scrutinise the proposed levy, and the ability of our members to assess the proposal against the principles. In particular, the use of framework legislation continues to undermine any sense of certainty for home builders about the scope, rates and potential liabilities they face. Much of the detail of the levy is still to be consulted on and made public during the passage of the bill after enactment.

Until data gaps are filled with genuinely Scottish data, meaningful stakeholder input is acted upon, and balanced, evidence-based impact assessments and modelling are provided, the levy cannot be considered aligned with the Tax Strategy or Framework for Tax principles.

We remain concerned the Scottish Parliament is being asked to pass legislation which may in the end lead to significant liabilities for home builders in excess of what is required to remediate buildings in Scotland.

The proposed levy falls short, for the following reasons:

1. Proportionality

The levy is not proportionate. It imposes a further financial burden on developers, particularly those who already contribute via the UK-wide Residential Property Developer Tax (RPDT) and through voluntary remediation of buildings they constructed. At the same time, no financial contribution is being sought from other responsible parties, such as manufacturers or non-UK based developers, creating a deeply punitive tax burden for Scottish home builders at a time of a housing emergency when efforts to grow supply should be prioritised.

By excluding homes delivered through the Affordable Housing Supply Programme (AHSP), which make up 44% of completions in Scotland vs. 19% in England, the proposed design creates an artificially narrow and distorted tax base, further undermining proportionality. The resulting cost per private home is expected to exceed £3,500 (based on a crude average).

2. Certainty

The proposal fails to provide the clarity and predictability developers need, and the framework legislation continues to undermine any sense of certainty. No levy rates have been set, no sunrise or sunset clauses or transitional arrangements have been outlined, and the levy-free allowance to protect SMEs remains undefined. These gaps leave builders unable to forecast the costs of developments with confidence, an issue which will impact land acquisition and viability modelling.

These issues of uncertainty have been repeatedly communicated by HFS members in all engagement with the Scottish Government. Home builders require cost certainty well before a sale is agreed (at the planning or building warrant stage, not post-completion) so they can budget and price developments accordingly. This lack of certainty is compounded by ongoing delays in establishing the Cladding Remediation Programme's scope, cost, and duration, as the Scottish

Government pursues a £30m funding target that is not based on accurate estimate of the work required or funding gap.

3. Convenience

The lack of clarity about how and when the levy will be applied raises significant practical concerns. For example, members have cited that even though payment of the levy will not be due upon issuance of completion certificates, concerns about the impact on cash flow of a development, particularly for SME builders and rural developments, have not been listened to. Often, profit is only made at the point at which a development (rather than an individual home) is nearing completion. Seeking payment on the sale of the first home, and each thereafter, will likely render many developments unviable. Members' preference would be for payment of the levy to be permitted upon completion of the whole development or phase.

4. Engagement

Despite participating in consultation exercises and government-led sessions, **industry feedback has not been meaningfully reflected** in the current legislative proposals, and there has been no formal response to the consultation from the Scottish Government. For example, in its response to the Scottish Government's consultation, HFS advocated for:

- a sunset clause, to provide clarity to the sector the levy will end in 10 years;
- a sunrise clause to incentivise the Scottish Government to grow the tax base;
- transitional arrangements that exempt development already in the planning and building standards regime;
- a lower rate of levy on smaller/starter homes to support the market for first time buyers;
- a discretionary exemption where they can provide evidence that a site or homes will not be viable; and,
- provisions preventing expenditure on remediation beyond the current scope of the Cladding remediation Programme,

and concerning the poor evidence in support of the proposals:

- completion, and independent verification of, the cumulative impact assessment of regulation in the home building sector;
- an analysis of the state of the home building sector in Scotland, as referenced in the partial BRIA, to understand the taxpayer profile; and,
- modelling to estimate how an SBSL would affect the pipeline of marginal developments

HFS is therefore particularly concerned that there has been neither a formal response to the consultation exercise. Furthermore, on the basis the consultation did not seek alternative proposals, it is misleading that the Policy Memorandum states "no immediate alternative solutions are being offered by respondents to address the funding challenge associated with cladding remediation".

As stated above SMEs continue to report that they lack clarity on their inclusion or exemption. Engagement appears to have been treated as procedural rather than delivering substantive results.

5. Effectiveness

Without accurate data on the scale and cost of the cladding issue in Scotland the government cannot know its funding gap or have confidence that a levy is required and can be effective in achieving its intended goals. We urge the Committee to undertake detailed and careful scrutiny on the data and evidence government has used in support of its policy development, including through independent assessment of the suitability of the data used in the policy and financial memorandums and the Business and Regulatory Impact Assessment (BRIA). We ask that particular attention is drawn to:

Scotland's cladding remediation estimates: June 2025

We state at question 1 our concerns about the estimates the Scottish Government have produced, including the uncertainty officials have over these, and the repeated changes in its estimates. With no robust Scottish-specific evidence to support its assessment of the funding requirements needed in Scotland, this deficiency must be overcome before the Bill proceeds.

Tax base: affordable housing

Throughout our engagement we have been concerned that the Scottish Government has underestimated the number of homes completed under the affordable housing supply programme. HFS analysis of the affordable housing completions in the period 2019-2024, shows that 44%⁹ of completions across all tenures are for affordable housing, averaging 9,100 a year. The Financial Memorandum states that the total percentage of the tax base that will be exempt from the levy is 34%. This understates the number of properties exempt and therefore overstates and distorts the likely tax base. By overstating the tax base – providing an inaccurate picture – the effect is that revenue assumptions about potential levy rates incorrect or could be deployed to suggest home builder concerns are overstated. The likelihood is review will then require the levy to be increased having further and greater damage on the home building sector. We have repeatedly drawn the government's attention to completions statistics cover notes that state many affordable homes are initially counted as private housing before being transferred to another agency after completion; we remain concerned that this has not been understood and urge the Committee to thoroughly interrogate the numbers of affordable homes that are being built into tax base assumptions¹⁰.

Scottish Housing Market: price elasticity assumptions

We have real concern that the BRIA overstates the value of the Scottish new build housing market by £1.4bn, 44%, and the impact of this on the supply price elasticity calculations provided at section 5.1. The BRIA relies on an "indicative annual market value in the region of £4.6bn" based on multiplying the average new build sales price with completions. On this basis the BRIA states "As the proposed revenue target is £30m per year, the levy would be equivalent to around 0.6% of

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	2019-20	2020-21	2021-22	2022-23	2023-24	2019-24	Source
All-sector completions	22,224	15,882	21,357	23,778	19,943	103,184	March 2025 - All Sector new build
AHSP completions	9,290	6,479	9,757	10,466	9,514	45,506	March 2025 - Affordable Housing Supply Summary Tables
Per cent AHSP	42%	41%	46%	44%	48%	44%	

¹⁰ "A dwelling is completed when it is ready for occupation, whether it is in fact occupied or not and, if occupied, whether or not a full completion certificate has been issued. If a dwelling is transferred to another agency after completion it is considered to have been completed by the first agency. When we are made aware of the completion of a dwelling retrospectively, we make every effort to revise our figures to include the house in the quarter in which it was in fact completed."

the market value.”. This is then fed into calculations of price elasticity. The Registers of Scotland Property market report 2024-25¹¹, although published on 10 June 2025, is an annual report and has provided data on the value (£million) of new build residential property sales by house type in Scotland since 2003-04. It states that the value of the new build sector in 2024-25 was in fact £3.2bn, and averaged £3.4bn since 2020-21, meaning that the levy revenue target is 0.93% of the market value in 2024-25.

6. Efficiency

The current target of £30 million per annum is an arbitrary figure, based on a proportional estimate of what the UK Government hopes to raise. The resulting policy risks generating unintended consequences such as reduced housing delivery and increased costs, risking meaningful remediation outcomes. Overall, the levy may encourage members to leave the private/for-sale home building sector altogether or focus on affordable or contracting delivery so to remove themselves from this further regulation and the requirement to register and pay the levy.

The prospects of revenue proposed are not balanced against the potential for unintended behavioural responses including reduced home building and economic activity.

Members cite concerns that the levy-free allowance may influence decisions to limit their growth to remain under the allowance, particularly if this “cliff edge” is set too low.

A levy will lead to Scottish home builders will have reduced capital available to reinvest in their businesses and the supply of new homes if introduced. Faced with additional costs, a developer has two choices of how to cover these costs. They can either absorb the costs thus challenging site and business viability, or they can try to pass on the costs to the consumer in the price of the home. That choice is not straightforward, however.

It is considered by the Competition and Markets Authority (CMA) that on a local basis there is a strong correlation between new build prices and second-hand pricing; in effect the local housing market regulates prices. We welcome acknowledgement of this finding by the CMA in a letter from the Cabinet Secretary for Finance and Local Government to the Convener of the Finance and Public Administration in October 2024, where she cites their finding:

“...while they [housebuilders] have some price-setting power, our view overall is that the second-hand market is a constraint on new build prices”¹².

While the Cabinet Secretary discusses the levy having the potential to lower land prices, she also accepts that this may lead to a reluctance from landowners to accept lower prices and sell; such a consequential impact will further reduce housing supply. This has not been independently modelled or assessed for government.

The introduction of the levy in Scotland could therefore increase the fragility of home building businesses in Scotland, resulting in both fewer home builders and, subsequently, the delivery of fewer homes at a time of a housing emergency.

Members urge the Committee to recognise this could be particularly acute in rural areas, and low-value urban areas, and will reduce the supply of starter or first-time buyer housing. In these areas the increased cost of constructing a home (due to regulation) is approaching (or has already passed) the potential market sale value and is simply less or not viable. The result is that the

¹¹ [Property market report 2024-25 - Registers of Scotland](#)

¹² [Letter from the Cabinet Secretary for Finance and Local Government to the Convener of 30 October 2024](#)

home builder will not invest in this area as construction of homes for private sale is disincentivised. Members cite that if a per square meter rate is the same across one local authority, there will be both behavioural responses and unintended consequences in some localities. There will be higher relative cost impact in low value areas (regardless of floorspace differences), as more of the levy will be recoverable in the higher-value sale area. For example, were the same levy rate applicable across the entire Edinburgh region where house prices vary significantly, it would be more likely that the cost of the levy could be recovered in higher value areas and developers may in turn build fewer homes in lower cost areas where the cost of the levy is less likely to be recovered.

The prospect of the revenue is not therefore balanced against the risk of reduced housing supply. The levy will likely see reduced economic home building activity in lower-value, peripheral rural, starter and first-time buyer market areas, which will worsen the housing emergency.

As stated above, we are concerned that the Scottish Government has not commissioned independent analysis of the cumulative impact assessment of regulation in the home building sector, an analysis of the state of the home building sector in Scotland, and the necessary modelling to estimate how a levy would affect the pipeline of marginal developments.

Q3: What would be the impacts of the SBSL for the housing market, if any?

The introduction of the Scottish Building Safety Levy (SBSL) would have wide-ranging and negative impacts on the Scottish housing market. These impacts would be felt across the delivery of new homes, affordability, viability, investment, and market confidence at a time when Scotland is facing a housing emergency.

Affordability, viability and supply

The levy is expected to increase the cost of building a new home by around £3,500 per home on average¹³. This is in addition to cost already added through other regulations introduced since 2021 and expected in coming years. This level of additional cost significantly affects site viability and will likely result in fewer homes being built, particularly in marginal or low-value markets where the sale price cannot absorb the added cost. As indicated in response to question 2, a levy will reduce the capital Scottish home builders had available to reinvest in their businesses and the supply of new homes if introduced. Faced with additional costs, a developer has two choices of how to cover them they can either absorb the costs thus challenging site and business viability, or they can try to pass on the costs to the consumer in the price of the home. That choice is not straightforward, however. It is considered by the Competition and Markets Authority (CMA) that on a local basis there is a strong correlation between new build prices and second-hand pricing; in effect the local housing market regulates prices.

Developers typically assess land purchases and site viability years in advance. The lack of certainty around the levy's rate, scope, exemptions and implementation timeline makes it impossible for developers to model financial risk accurately. Members have already advised Ministers directly that where developers operate cross-border, capital may be redirected to other parts of the UK, where policy and regulatory conditions are more stable and predictable. For Scottish-only developers the levy will disincentivise delivery in rural areas, and low-value urban areas, and will reduce the supply of starter or first-time buyer housing, which are markets they may exit.

Additionally, any assumption that the levy will reduce land prices is misguided. Landowners are unlikely to absorb these costs by lowering prices, particularly where there is no obligation to do so. They may simply refuse to sell the land. This will create further bottlenecks in the land market, limiting land availability and slowing housing delivery.

The levy could also disincentivise the construction of smaller, more affordable homes, as developers may choose to focus on higher-value units to recover costs. This would undermine both affordability and the diversity of housing, especially for first-time buyers.

SMEs and rural areas

SMEs, who are crucial to delivering homes in rural communities and unlocking brownfield sites, operate on tight margins and are more exposed to cashflow shocks, particularly when capital is tied up in lengthy planning and consenting processes, while development finance is costly and has terms which is detrimental to development. These existing financial impacts limit their ability to be nimble and invest in future projects. HFS SME members are particularly concerned that payment at an early stage would have direct cashflow impacts. Members wish for the Committee to have a greater understanding of the home building process and highlight that it costs a significant amount

¹³ While HFS accept the that the Scottish Government proposal is for the levy to be applied on a per square metre basis, the government has been unable to provide any indicative rates of the levy upon which we can assess the likely cost and these are not expressed in the framework bill.

of money to open up a site, put infrastructure in place, construct the homes, and proceed with sales before surplus funds are available to pay the levy. Securing sales is necessary to fund that investment. This means that profit is often only made at the point at which a development is nearing completion. Seeking payment on the sale of the first home, and those thereafter, will likely render many developments unviable. SME members cite that some rural locations, for example in the Highlands and Islands, are already entirely reliant on public-funded affordable housing delivery for the supply of new homes, as private home building is simply not viable; the area where private delivery does not take place may grow closer to the central belt. Members' preference would be for payment of the levy to be permitted upon completion of the development. This would assist with cash flow, provide further protection to SMEs and reduce administrative burden.

SME development put at risk from further increased cost of construction and may lead to SMEs to make decisions to retreat from specific markets (rural, starter, low-value) or home building altogether. [Scotland's SME Home Builders in 2025](#), found that the number of SME home builders active in Scotland has fallen by two thirds since the Global Financial Crash, and 88% of SMEs surveyed were concerned that the levy would be detrimental to business.

While SMEs continue to await details of the levy-free allowance, they continue to lack the certainty they need to grow and invest. There is an inherent unfairness in SME home builders being required to contribute to the costs of remediation, particularly for those in rural areas they had never previously delivered properties within scope of the cladding remediation programme, for example having only ever built 2 storey family homes. While the Policy Memorandum states that SG "will continue to consider the merits of an exemption or relief for rural developments, in discussion with stakeholders, with a view to considering introducing this through the delegated powers provided in section 6 of the Bill" it is unclear what definition of rural will be used, and when engagement on this relief will begin.

Secondary consequences

The levy could also undermine the government's housing, economic and social objectives, by impacting affordable housing delivery, as reduced private development will lead to lower planning obligations for affordable homes (e.g. Section 75 requirements). In a housing emergency, where the people of Scotland urgently need more new energy-efficient, high-quality homes, this would be at odds with government missions to eradicate child poverty and grow the economy. Furthermore, the increased cost base could impact developer contributions to local infrastructure (schools, transport, open space), thereby affecting community development and long-term place-making. Home building in Scotland also generates over £3bn in annual GVA and invests £332m in affordable housing contributions and a further £179m supporting infrastructure such as schools, healthcare, public open space, transport and sport, leisure and community facilities per annum.

The levy risks creating serious negative consequences for Scotland's housing market. It will increase the cost of homes, reduce supply, distort delivery patterns, weaken investor confidence, and disincentivise construction in the very areas where new homes are needed most. Without a robust, evidence-based approach and protection for SMEs and marginal sites, the levy threatens to disincentive a recovery in the supply of new build homes during a housing emergency.

Data quality

Throughout our engagement we have been concerned that the Scottish Government has underestimated the number of homes completed under the AHSP and therefore may be overstating the tax base. HFS analysis of affordable housing completions in the period 2019-2024,

shows that 44% of completions across all tenures are for affordable housing, averaging 9,100 a year. The Financial Memorandum states that the total percentage of the tax base that will be exempt from the levy is 34%. This understates the number of properties exempt and therefore overstates and distorts the likely tax base. By overstating the tax base – and not providing a true picture – the effect is that assumptions about potential levy rates will be lowered or be used to suggest home builder concerns are overstated. It may therefore raise insufficient funds and require the levy to be reviewed and increased.

Q4: Do you foresee any behavioural changes or impacts arising as a result of the implementation of the SBSL?

Throughout engagement sessions, organised by both HFS and the Scottish Government, members have reported potential behavioural changes of varying severity among home builders, landowners, and investors, many of which would be detrimental to housing delivery and affordability in Scotland. Several of these have been included in this wider response and are summarised below.

Shift in investment location: developers with operations across the UK are already being incentivised to redirect investment away from Scotland. For example, the substantial supply side reforms to speed up the English planning system, and the mission-led target of delivering 1.5m homes, where the policy and regulatory environment is more stable and predictable, is attracting investment into England.

Regarding the Building Safety Levy, though it is not supported by the sector, the UK government has announced the rates, guidance, and methodology well ahead of the expected implementation date with a clear 18-month lead-in period and provided this critical information simultaneously with a new implementation date. In addition, SME protections are now proposed to increase 5-fold, on sites of fewer than 49 units, which is substantially more competitive for housing investment than the levy proposals which remain ill-defined.

Selective site development: as indicated throughout this response, members cite that if a per square meter rate is the same across one local authority, there will be higher relative cost impact in low value areas (regardless of floorspace differences), as more of the levy will be recoverable in the higher-value sale area. We provide detail at questions 2 and 3 about the process under which new build pricing is determined, and how this is limited by local market conditions, which impacts the ability for costs to either be absorbed or in limited circumstances passed on (to home buyers or landowners).

The Committee must recognise the added costs of a levy will be particularly acute in rural and low-value urban areas and will reduce the supply of starter or first-time buyer housing. In these areas the increased cost of constructing a home (due to regulation) is approaching the potential market sale value and is simply less or not viable. The result is that the home builder will not invest in this area as construction of homes for private sale is disincentivised.

Developers may increasingly prioritise higher-value sites and postpone or avoid investment in rural lower-value, and marginal urban areas, where the costs of the levy would render development unviable, with particular impacts for starter or first-time buyer housing supply. There are a number of effects that would occur from this. Members acknowledge there could be widening in the gap between the average sales prices of new build/existing stock, if fewer low-value homes come to market. This could also exacerbate localised inequalities and reduce housing delivery in the very areas that need it most.

SME responses: overall, SMEs may choose to exit low-value or marginal markets, or the sector altogether. SME members cite that in some rural locations already entirely reliant on public-funded affordable housing delivery for the supply of new homes, as private home building is simply not viable; these areas may increase in size, the area where private delivery does not take place growing. The levy may encourage members to leave the private/for-sale home building sector altogether or focus on affordable or contracting delivery so to remove themselves from this further regulation and the requirement to register and pay the levy.

Members cite concerns that a cliff edge could be created by any levy-free allowance if it is set too low because this would be more substantial than the impact on an SME than it would on a PLC or larger homebuilder, who would expect to surpass the allowance earlier in the year. This may influence decisions to limit their growth to remain under the allowance and would therefore undermine efforts to grow their business and footprint, having direct availability of housing in rural areas.

Delayed completions: to manage cash flow and delay tax liabilities, home builders may alter construction phasing or defer application for completion certificates to as late in the process as possible. Although the Policy Memorandum, at paragraph 64 states “the issuance of a completion certificate and the sale of the property generally take place in short order” members advised officials throughout engagement sessions that this is not always the case. The levy may encourage placing pressure on the local authority and sales process, should delays be experienced.

Landowner reluctance to sell: as referenced in response to question 3, where the home builder cannot pass on the additional costs of the levy in the house price, they will have to absorb the cost or seek a reduction in land value. There is a limit however to the lower prices that landowners are expected to accept to accommodate the cost of the levy; there may be a reluctance to sell land considering reductions. This could significantly constrain land supply, which is essential for future housing delivery.

Q5: Are there any provisions in the draft legislation that may give rise to unintended effects, including to opportunities for tax avoidance?

Many of the unintended effects of the levy are highlighted in response to question 4, and these are restated or summarised here. Several of these have been included in this wider response and are summarised below. Unintended effects will be of varying severity but will impact home builders, home buyers, landowners, and investors, which would be detrimental to housing delivery and affordability in Scotland.

Shift in investment location: developers with operations across the UK are already being incentivised to redirect investment away from Scotland to markets where the policy and regulatory environment – including where there is greater certainty on an English Building Safety Levy – is more stable and predictable.

Selective site development: if a per square meter rate is the same across one local authority, construction of homes for private sale is disincentivised in low-value localities. There will be **higher relative cost impact in low value areas (regardless of floorspace differences)**, as more of the levy will be recoverable in the higher-value sale area.

Prioritise higher-value sites: Developers may increasingly postpone or avoid investment in rural lower-value, and marginal urban areas, where the costs of the levy would render development unviable. This would have particular impacts for starter or first-time buyer housing supply in all areas.

SME responses: overall, SMEs may choose to exit low-value or marginal markets, or the sector altogether if they are insufficiently protected. SME members cite that some rural locations are already entirely reliant on public-funded affordable housing delivery for the supply of new homes, as private home building is simply not viable; these areas may increase in size. The levy may encourage members to leave the private/for-sale home building sector altogether or focus on affordable or contracting delivery so to remove themselves from this further regulation and the requirement to register and pay the levy.

Unfair competitive advantage: in marginal rural areas (beyond those where the only housing delivery is publicly-funded affordable housing) where some private delivery is maintained, home builders are already in direct competition with affordable housing supply providers for viable land. An affordable housing exemption would provide RSLs with an unfair competitive advantage.

Levy-free allowance an inhibitor to SME growth: Members cite concerns that the cliff edge that is created by any levy-free allowance would be substantial to SME, comparative to a PLC who would surpass it quickly. This may influence decisions to limit their growth to remain under the allowance and would therefore undermine efforts to grow their business and footprint, having direct availability of housing in rural areas.

Delayed completions: to manage cash flow and delay tax liabilities, home builders may alter construction phasing or defer application for completion certificates to as late in the process as possible. Delays may also put pressure on the local authority and sales process.

Landowner reluctance to sell: where the home builder cannot pass on the additional costs of the levy in the house price, they will have to absorb the cost or seek a reduction in land value. Landowners may not accept reductions, as is their right, and refuse to sell. This could significantly constrain land supply, which is essential for future housing delivery.

Q6: The Bill sets out: (i) the buildings that are specifically included and excluded from SBSL (section 4(2) & (3)) and (ii) the buildings that are exempt from SBSL (section 5). Do you have any views on these inclusions, exclusions and exemptions?

Affordable housing

HFS members disagree that affordable housing should be removed from the levy because the exemption is so substantial it is distortive to the tax base – piling greater pressure and costs on each private home delivered.

Scotland is in a housing emergency and HFS recognises the importance of increasing the supply of homes of all-tenures. Our membership spans SMEs and RSLs, through to larger private companies and PLCs, building across all market segments. Members recognise the governments desire to exclude affordable housing delivered through the AHSP to prevent the circularity of funding. Members who work in partnership with the RSLs to deliver these homes are also clear that any levy must not be added to contract costs and be borne by the builder. From the outset, it must be acknowledged that Scotland's housing sector is different and unique to England.

Fundamentally, the number of affordable homes delivered in Scotland (through the supply programme and outwith it) is much larger than the number of affordable homes delivered in England. This difference substantially distorts the tax base of any levy in Scotland.

We identify in response to question 2 that throughout our engagement we have been concerned that the Scottish Government has underestimated the number of homes completed under the AHSP, and therefore the overstating the tax base its assumptions are based on. HFS analysis of the affordable housing completions in the period 2019-2024, shows that 44% of completions across all tenures are for affordable housing, averaging 9,100 a year. The Financial Memorandum states that the total percentage of the tax base that will be exempt from the levy is 34%. This understates the number of properties exempt and therefore overstates and distorts the likely tax base. By overstating the tax base, the effect is that *assumptions* about potential levy rates will be lower when the reality may be the opposite.

The distortion to the tax base is intensified due to the Scottish Government's intended revenue target of £30m per annum, which is considered to be proportional to the amount the UK Government intends to raise. While the Policy Memorandum states that "Scottish Ministers' objective of ensuring that there is parity in the funding arrangements between the Scottish and UK governments, and that the costs of cladding remediation do not fall directly onto homeowners or disproportionately onto the general taxpayer." The exemption of affordable housing, which is more than twice the size of that in England, in terms of its proportion of the market, does not reflect the reality of the make-up of the Scottish market which differs from England. This also ignores that UK Government seeks to substantially grow the tax base in England, through its ambition to deliver 1.5m homes.

As in our previous responses to the Scottish Government's consultation on the levy, we would urge the Scottish Government to consider implementation of the levy only once the tax base – the number of homes for private sale – grows and surpasses industry targets¹⁴, through the use of a sunrise clause, to ensure the amount of levy applicable to each and every new home is lessened.

¹⁴ Homes for Scotland believes the Scottish Government should set an all-tenure housing target to deliver at least 25,000 homes per year in Scotland

As stated elsewhere in this response, SME members cite and our own research demonstrates that some rural locations are already entirely reliant on public-funded affordable housing delivery for the supply of new homes. In areas where some private delivery is maintained, these home builders are already in direct competition with affordable housing supply providers for viable land, and this exemption would provide them with an unfair competitive advantage.

Members who deliver affordable housing under contract or through land-led deals, who may be the landowner at the acceptance of a completion certificate, and may fall on the wrong side of this exemption. Should the exemption proceed, the government and Revenue Scotland must be very clear that homes constructed for a Registered Social Landlord must qualify for the exemption.

Finally, we note at paragraph 91 of the Policy Memorandum the government considered the inclusion of a rebate mechanism for developers to claim back the costs of the levy for 'opportunistic' purchases post completion, also known as off-the-shelf acquisitions, but decided this would "add significant administrative complexity". It would clearly be unfair for acquisitions made in this way to be excluded. It is noted that this is at odd with the government's Housing to 2040 strategy, which states that in the latter five years of the AHSP target period government expects to make "more use of off-the-shelf purchases and buy-backs"¹⁵.

SMEs/ levy-free allowance

Throughout this response, we have indicated that SME home builders in Scotland are in decline and may choose to exit low-value or marginal markets, or the sector altogether if they are not sufficiently protected from the levy. Clarity and certainty on the level and extent of protection is now urgent.

Our report, [Scotland's SME Home Builders in 2025](#), found that the number of SME home builders active in Scotland has fallen by two thirds since the Global Financial Crash, and 88% of SMEs surveyed were concerned that the levy would be detrimental to business, while 58% SME home builders estimated the additional cost of building a home had increased by more than £20,000 due to regulation since 2021.

The uncertainty and severe lack of clarity SMEs have as to whether their business will be protected from the levy, has continued through the Scottish Government's consultation process. SMEs have been variously asked to consider, without any real result, the following proposals:

- a site size metric (10 homes or fewer) which for which no existing datasets exist to estimate how many businesses would be removed from the levy;
- a metric based on homes sold per year (HFS definition of 3-49hpa);
- in a BRIA consultation government referred to SMEs as those in line with the EU definition (employee numbers <250); and,
- the bill now includes a Levy-free allowance, but this lacks the necessary detail of the level this will be set at. There remains no indication if this clarity will come through parliamentary debate or left for further consultation after enactment.

Should the levy-free allowance be set too low this may encourage members to leave the private/for-sale home building sector altogether or focus on affordable or contracting delivery so to remove themselves from this further regulation and the requirement to register and pay the levy.

¹⁵ [Supporting documents - Housing to 2040 - gov.scot](#)

The mechanics of the levy-free allowance should be considered very carefully. Members cite concerns that the cliff edge that is created by any levy-free allowance would have a greater impact on an SME than it would on a PLC or larger homebuilder, who would expect to surpass the allowance earlier in the year. This may influence decisions to limit their growth to remain under the allowance and would therefore undermine efforts to grow their business and footprint, having direct availability of housing in rural areas.

Members have advised officials that even though payment of the levy will not be due upon issuance of completion certificates, concerns about the impact on cash flow on a development, especially important for SME builders and rural developments, have not been listened to. Often, profit is only made at the point at which a development is nearing completion. Seeking payment on the sale of the first home, and those, thereafter, will likely render many developments unviable. Members' preference would be for payment of the levy to be permitted upon completion of the development.

First-time buyers and less viable developments

First-time buyer, starter and smaller homes should be exempt from the levy.

The Committee must recognise the added costs of a levy will be particularly acute in rural and low-value urban areas and will reduce the supply of starter or first-time buyer housing in all areas. In these areas the increased cost of constructing a home (due to regulation) is approaching the potential market sale value and is simply less or not viable. The result is that the home builder will not invest in this area as construction of homes for private sale is disincentivised.

Members believe government should provide a discretionary exemption where they can provide evidence that a site or homes will not be viable if they are subject to a levy. A [Financial Viability Assessment](#) is used in the English planning system and should be adopted to ensure home builders can deliver much-needed homes.

Developers may increasingly prioritise higher-value sites that have greater viability and postpone or avoid investment in rural lower-value, and marginal urban areas, where the costs of the levy would render development unviable, with particular impacts for starter or first-time buyer housing supply. There are a number of effects that would occur from this. Members acknowledge there could be widening in the gap between the average sales prices of new build/existing stock, if less low-value product comes to market. This could also exacerbate localised inequalities and reduce housing delivery in the very areas that need it most. As a result of the significant role of SMEs in these areas, they could retreat from these markets or exit the sector, particularly in remote, rural, and island communities.

Q7: Are the arrangements for penalties and appeals as set out in the Bill appropriate?

Members recognise there is a need to recover liabilities from home builders where there is persistent or major non-compliance, particularly when their counterparts are paying the levy. However, it is viewed that sufficient mechanisms are already afforded for persistent or major non-compliance, and the specific penalty previously considered – restricting access to the building standards system – is unlikely to alleviate any business or cash flow issues that would allow payment. The unintended consequence could restrict the supply of much-needed new homes, and reduce the ability of the home builder to comply.

Q8: Do you consider that the estimated costs set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?

No. For home builders, there is continued lack of clarity on levy rates and methodology, making it impossible for developers to assess potential liabilities to their business or accurately model site viability. Without this detail, home builders cannot meaningfully determine whether the costs are reasonable, and this is reflected in the Financial Memorandum.

We are concerned that in preparing the Financial Memorandum the Scottish Government has not commissioned independent analysis of the cumulative impact assessment of regulation in the home building sector, an analysis of the state of the home building sector in Scotland, and the necessary modelling to estimate how a levy would affect the pipeline of marginal developments. This information would have better informed the impact and costs on the sector as businesses and the housing market more widely. Until data gaps are filled with genuinely Scottish data, the levy cannot be considered aligned with the Tax Strategy or Framework for Tax principles.

We remain concerned the Scottish Parliament is being asked to pass framework legislation which may in the end lead to significant liabilities for home builders in excess of what is required to remediate buildings in Scotland.

HFS believe the estimated calculations – specifically for the Cladding Remediation Programme, and for the tax base for the levy – presented in the Financial Memorandum (FM) for the Bill are **neither reasonable nor accurate**. As this forms part of the justification underpinning the need for a levy, the flawed, incomplete, and poorly evidenced estimates undermine the case for the levy overall.

We have highlighted in response to questions 1 and 2 specific concerns in relation to –

Scotland's cladding remediation estimates: June 2025, which states clearly in the publication that the high-level estimates are fraught with caveats and limitations. It is our view that the critical work to determine and plan a robust cost, scope and timeline for the Programme is yet to have the necessary degree of confidence to justify the funding gap and therefore a need for a levy.

With no robust Scottish-specific evidence to support its assessment of the funding requirements needed in Scotland, it is clear these estimates are over-reliant on English data. The Financial Memorandum states that “it is recognised that Scotland may not be like the rest of the UK due to differences in the profile of the building stock and building regulations” and that although there is continuing work to “[appraise] assumptions for the Scottish context... these estimates may not represent what will be spent on cladding remediation in any given financial year.”.

On this poor evidence base, it would be unacceptable for Parliament to accept the bill as proposed.

Tax base: affordable housing

HFS analysis of the affordable housing completions in the period 2019-2024, shows that 44% of completions across all tenures are for affordable housing, averaging 9,100 a year. The Financial Memorandum states that the total percentage of the tax base that will be exempt from the levy is 34%. This understates the number of properties exempt and therefore overstates and distorts the likely tax base. By overstating the tax base, the effect is that assumptions about potential levy rates will be lowered.

The exemption of affordable housing, which is more than twice the size of that in England, does not reflect the reality of the make-up of the Scottish market which differs from England. This also ignores that UK Government seeks to substantially grow the tax base in England, through its ambition to deliver 1.5m homes.

We have repeatedly drawn the government's attention to completions statistics cover notes that many affordable homes are initially counted as private housing before being transferred to another agency after completion; we remain concerned that this has not been understood and urge the Committee to interrogate the numbers of affordable homes that are being built into tax base assumptions¹⁶.

Scottish Housing Market: price elasticity assumptions

We have real concern that the BRIA overstates the value of the Scottish new build housing market by £1.4bn, 44%, and the impact of this on the supply price elasticity calculations provided at section 5.1. The BRIA relies on an "indicative annual market value in the region of £4.6bn" based on multiplying the average new build sales price. On this basis the BRIA states "As the proposed revenue target is £30m per year, the levy would be equivalent to around 0.6% of the market value.". This is then fed into calculations of price elasticity. The Registers of Scotland Property market report 2024-25¹⁷, although published on 10 June 2025, is an annual report and has provided data on the value (£million) of new build residential property sales by house type in Scotland since 2003-04. It states that the value of the new build sector in 2024-25 was in fact £3.2bn, and averaged £3.4bn since 2020-21, meaning that the levy revenue target is 0.93% of the market value in 2024-25.

¹⁶ "A dwelling is completed when it is ready for occupation, whether it is in fact occupied or not and, if occupied, whether or not a full completion certificate has been issued. If a dwelling is transferred to another agency after completion it is considered to have been completed by the first agency. When we are made aware of the completion of a dwelling retrospectively, we make every effort to revise our figures to include the house in the quarter in which it was in fact completed."

March 2025 - All Sector new build

¹⁷ [Property market report 2024-25 - Registers of Scotland](#)

Q9: Do you have any other comments regarding the Bill which have not been captured by the previous questions?

This framework Bill undermines both Parliament's ability to scrutinise the proposed levy, and the ability of HFS members to assess the proposal against the Scottish Government's own principles for tax. In particular, the use of framework legislation continues to undermine any sense of certainty for home builders about the scope, rates and potential liabilities they face. Much of the detail of the levy is still to be consulted on and likely to only be made public either during the passage of the Bill or after enactment.

We remain deeply concerned that the government does not have a good grasp of the costs, scope and length of its Cladding Remediation Programme that the levy is to contribute to, owing to the lack of genuinely Scottish data underpinning its planning. These concerns are compounded by concerns that the Scottish Government lacks a fundamental modelled assessment of the impacts a levy would have on the new home building sector as a whole.

This undermines scrutiny of this framework legislation and the basis for the levy. The Parliament is being asked to pass legislation which may in the end, once outcomes are fully understood, lead to significant liabilities for home builders in excess of what is required to remediate buildings in Scotland.

Just as the UK Public Accounts Committee has instructed MHCLG to conduct and publish by the end of 2025, an impact assessment of its cladding remediation policies¹⁸, **we urge the Committee to require the Scottish Government to:**

- Commission an independent verification of the cumulative impact assessment of regulation in the home building sector
- An analysis of the state of the home building sector in Scotland, as referenced in the partial BRIA, to understand the taxpayer profile, and the impacts of a levy on the supply of housing in all tenures
- Modelling to estimate how a levy would affect the pipeline of marginal developments, including those in rural and low-value areas, and for first-time buyer or starter markets

Home building in Scotland has substantial social and economic benefits which are felt far beyond the housing sector. The levy will have substantial secondary impacts on society in a housing emergency and which urgently needs more new energy-efficient, high-quality homes. For example, as a sector, home building in Scotland supports 79,200 jobs as well as improved health and education outcomes. It also generates over £3bn in annual GVA and invests £332m in affordable housing contributions and a further £179m supporting infrastructure such as schools, healthcare, public open space, transport and sport, leisure and community facilities per annum. We are not satisfied the Scottish Government has assessed or understood what the second-round impacts of a levy in the wider economy and Scottish public service provision will be.

Our responses to questions throughout this consultation have indicated our concerns about the data that the Scottish Government has relied on to justify the Programme cost estimates and

¹⁸ The Public Accounts Committee made a recommendation that "MHCLG should, by the end of 2025, publish a formal assessment of the impact of its remediation policies (including the Building Safety Levy) on housebuilding projections in both the social and private sectors and what action needs to be taken to ensure the building of 1.5 million homes is not affected by these policies."

<https://publications.parliament.uk/pa/cm5901/cmselect/cmpubacc/362/report.html>

therefore the necessity for a levy. **We urge the Committee to commission independent verification of this data, including its estimation of:**

- the value of the Scottish Housing Market, underpinning its price elasticity assumptions,
- the tax base, in particular the affordable housing data it is using to estimate what the tax base will be once exemptions are applied
- the distortive impacts from exempting affordable housing from the tax base, and how this compares with the English tax base, upon which many assumptions have been based
- its cladding remediation estimates, in particular the quality and degree of genuinely Scottish data it has access to

We urge the Committee to take steps to incentivise the Scottish Government to grow the tax base for the levy before it can be introduced. Only once the tax base – the number of homes for private sale – grows and surpasses industry targets, through the use of a sunrise clause, will government be able to ensure the amount of levy applicable to each and every new home is lessened, which will have positive impacts for wide-ranging policy areas touched by housing, including affordable housing, education, employment, leisure and recreation facilities. We have also highlighted the risks to first-time buyer and starter homes in all areas, and marginal developments in rural and low-value areas; **we urge the committee to consider how the bill can be amended to exempt first-time buyer and marginal developments from the levy.**

Clarity and certainty on the level and extent of protection afforded to SMEs is now urgent and we urge the Committee to ensure this clarity is provided through stage 1. Throughout this response, we have indicated that SME home builders in Scotland are in decline and may choose to exit low-value or marginal markets, or the sector altogether if they are not sufficiently protected from the levy. Our report, [Scotland's SME Home Builders in 2025](#), found that the number of SME home builders active in Scotland has fallen by two thirds since the Global Financial Crash, and 88% of SMEs surveyed were concerned that the levy would be detrimental to business, while 58% SME home builders estimated the additional cost of building a home had increased by more than £20,000 due to regulation since 2021. In doing so, we ask the Committee to press the Scottish Government to provide this clarity and certainty by giving recognition to the UK Government's proposals to increase their protections for SMEs five-fold, for sites smaller than 50 homes. SMEs in Scotland must be provided a levy-free allowance that is established in this context.

In the coming months the Public Accounts Committee expects MHCLG to provide “detailed proposals as to how construction manufacturers should be required to pay a share of the fire safety remediation costs”. It is clear that other parties of the wider supply chain have a part to play in remediation and, as yet, have not been subject to any financial remedy to contribute to resolving the matter. This matter should be addressed before further asks are made of the homebuilders, and while the bill passes through Parliament. This an area which now requires critical and urgent action, and **we urge the Finance and Public Administration Committee to withhold support for the Bill until manufacturers are made subject to financial remedy to contribute to the remediation of affected buildings.**

Finally, on a point of clarity, while the Scottish Government's consultation on the levy did not seek alternative proposals, it is misleading that the Policy Memorandum states that “no immediate alternative solutions are being offered by respondents to address the funding challenge associated with cladding remediation”. Throughout this response we have demonstrated the detailed and positive approach to engagement HFS members have undertaken in discussions with the Scottish

Government, and this includes proposals to mitigate the sharpest impacts of a proposed levy on their businesses. We have consistently reiterated the need for good quality evidence and data to assess the impacts of the proposals, which the Scottish Government has not commissioned. HFS remains particularly concerned that there has been neither a formal response to the consultation exercise and that that input has been misrepresented in the Policy Memorandum.

Written Submission from Miller Homes

Information about your organisation

Founded in 1934, Miller Homes has a long-standing reputation for building high quality family homes and providing exceptional customer service.

We are committed to building better places where people and the planet can prosper, creating communities with an emphasis on placemaking and design.

1. Do you agree, in principle, that a levy should be introduced on the construction of residential property in Scotland?

No. The proposals are fundamentally flawed, would disadvantage Scottish developers across all tenures, and undermine efforts to tackle the housing emergency.

The proposed levy exacerbates the disparity between Scotland and England in relation to recovery from third parties. It would punish Scottish developers for the poor building control standards, poor workmanship and lack of regulation within the cladding industry. The lack of legislation in this area prohibits developers (and Scottish Government) from recovering costs from the parties engaged in the design, construction and specification of the cladding.

Scottish Government's own response to The Grenfell Inquiry report states, the report sets out, "a catalogue of dishonest behaviours and practices from manufacturers of cladding and insulation materials used in the refurbishment". Additionally, in March 2025, the Public Accounts Committee recommended the Ministry for Housing Communities and Local Government (MHCLG) should "bring forward, by the end of 2025, detailed proposals as to how construction manufacturers should be required to pay a share of the fire safety remediation costs and how this will relieve the pressure on leaseholders and tenants."

The proposed legislation puts disproportionate burden on the housing industry compared to others who should have shared liability.

Miller Homes and other housebuilders have already committed to undertake remedial works to buildings with combustible cladding. The levy could result in larger housebuilders paying three times for these works: via our own remedial works, via the new proposed levy, and as a result of the existing obligation to pay Residential Property Developer tax (4% on profits above £25m, yielding approximately £200m in Barnett consequential for Scotland). Paying three times for this work threatens the viability of a critical sector.

Furthermore, the evidence base for the levy is not clear, compelling, or transparent, particularly in relation to the £30m annual target. There is no confidence that the full scope and costs of the remediation programme are

known, therefore we have no confidence the levy is needed or justified in its current form.

This levy could also impact the delivery of both private and affordable homes in Scotland. The increased tax burden may bring new developments closer to the viability threshold and developers may be forced to seek means of reducing costs or passing costs onto house purchasers. If any levy was imposed, developers would need a minimum of 18 months lead time between the levy being agreed and implemented to avoid having to pass the costs onto the consumer.

The levy may also lead to fewer affordable homes being delivered through Section 75 deals. In Scotland a significant number of affordable homes are delivered by the private house building sector. These issues may be more prominent in areas where house prices are lower or where construction costs are higher. A levy would increase construction costs, threaten the viability of the housebuilding sector and our supply chain, and have a negative impact on housing supply.

This is counterintuitive against a backdrop of Scotland's Housing Emergency and the journey to Net Zero. The imposition of the levy has the potential to reduce the supply of private and affordable homes, and impact margins for developers, which could reduce the level of investment into sustainable building, design and technology.

2. To what extent does the proposed Scottish Building Safety Levy (SBSL) align with the Scottish Government's 2024 Tax Strategy and with the principles of good tax policy making included in the Framework for Tax 2021 (namely: proportionality, certainty, convenience, engagement, effectiveness and efficiency)?

Given the lack of clarity and transparency around the evidence base for the levy, we remain concerned the Scottish Parliament is being asked to pass legislation which may in the end lead to significant liabilities for home builders in excess of what is required to remediate buildings in Scotland. Without accurate data on the need for a levy, it is impossible to ascertain the effectiveness, efficiency or proportionality of the tax.

Parity with Scottish and UK-wide developers is essential. The regulatory burden and imposition of different processes and liabilities across the UK has a direct impact on inward investment in Scotland. The levy as proposed is not limited to remediation of buildings identified under the Cladding Remediation Scotland Act but extends beyond to building safety matters where there is no governing legislation in Scotland. This further increases the uncertainty of the amount of the levy and the impact on Scottish housing delivery over the long term.

The lack of clarity around the calculation, implementation, longevity and rates of tax creates distinct uncertainty in an already challenging environment, which will disincentivise investment.

Financial viability and planning will become increasingly difficult as a lack of transparency on rates means developers will struggle to determine the level of tax to be paid. For most sites, viability studies are undertaken sometimes years before homes are sold. As the rates of tax are unknown at this stage, it is difficult to offer an informed view on the level of impact this will have on the housebuilding industry.

As drafted, the proposed bill leaves room for debate on who is liable to pay the tax. The definition of “owner” in Section 8 of the bill creates uncertainty around who the owner is, referencing a person who has a “right to the unit whether or not that person has completed title to the unit”. This should not capture plot purchasers or forward funders, therefore clarity is required.

3. What would be the impacts of the SBSL for the housing market, if any?

The SBSL would significantly impact the market for new-build homes in Scotland.

The imposition of the levy could reduce the number of new homes being delivered due to the lack of viability. This would in turn increase the market price for the new homes that are available.

Developers typically assess land purchases and site viability years in advance. The lack of certainty around the levy’s rate, scope, exemptions and implementation timeline makes it impossible for developers to model financial risk accurately.

The uncertainty around site viability and potential delivery delays could lead to a lack of inward investment in Scotland’s housebuilding sector. This would impact both the delivery of new homes as well as the wider supply chain spend in Scotland.

Slowing of the new build private housing market (owing to a lack of financial viability and additional administrative burdens) will result in less affordable homes being delivered as many affordable homes are delivered through Section75 agreements with private developers. These agreements also contain costs developers pay to support local infrastructure (like schools, parks, transport and more). Therefore, the levy may also have unintended consequences for investment in infrastructure.

Many existing contracts for the purchase of land are subject to the landowner receiving a minimum value for the land. The levy may result in many contracts being no longer viable reducing the pipeline for homes in the future. Developers and land promoters may not be able to secure the land value and thus cease promotion of a site through a costly and uncertain planning process. This will reduce the number of pipeline homes in Scotland and in turn reduce the amount of money collected through the levy.

If introduced, a transitional period of at least 18 months would be needed once the tax was introduced to help prevent sites becoming unviable. This would support developers to reverse engineer costs to try and avoid passing on costs to the consumer. This would create delays and uncertainty in the market whilst homebuilders worked toward a resolution.

This would be particularly necessary in the following cases:

- where a development was underway and homes were being sold
- sites had been acquired and the development was due to commence
- sites had achieved a planning consent but had not yet been acquired and
- sites that had been contracted but not yet acquired.

4. Do you foresee any behavioural changes or impacts arising as a result of the implementation of the SBSL?

We foresee the potential for numerous behavioural impacts.

The increased regulatory burden in Scotland has already shifted housing investment to other parts of the UK, and this levy has the potential accelerate this trend. This can be seen by the paucity of the Build to Rent market in Scotland. While the UK government has unveiled a Building Safety Levy, there is more clarity around the rates, guidance and methodology as well as a clear 18-month delay to implementation, providing increased clarity and ease for investors and developers alike.

Homebuilders may also prioritise higher-value sites and postpone or avoid investment in rural and marginal urban areas, where the levy could render sites unviable. This could exacerbate inequalities and reduce housing supply in the areas it is most needed. Meanwhile, landowners may be reluctant to sell, given homebuilders will be looking to pass on the cost of the levy into the land value. Option contracts which are subject to planning may no longer meet minimum land value tests and homebuilders and land promoters may shelf projects as no longer viable.

We are also concerned that local authority resource could be placed under additional pressure if the levy adds additional criteria or administrative requirements to warrant or other applications. This would seem untenable given the lengthy delays already experienced within our stretched planning and building control system in Scotland.

Finally, some home purchasers may experience increased costs if developers have no other option but to pass the levy onto the consumer. This could mean customers have reduced confidence in the new build market, leading to a slowing of the market and increased pressure on the second-hand or existing housing stock market.

5. Are there any provisions in the draft legislation that may give rise to unintended effects, including to opportunities for tax avoidance?

We have detailed both the unintended effects of the levy and lack of a clear case for its implementation elsewhere in this response. Generally, volume UK housebuilders may opt to invest elsewhere if there is lack of certainty or increased costs in Scotland where there is already higher housebuild costs than in the rest of the UK due to cumulative regulation

The purpose of the levy appears wider than just cladding remediation and general wider building safety. The money raised should only be used in the context of cladding remediation otherwise it will be impossible to quantify the cost. There is no building safety legislation in Scotland.

6. The Bill sets out: (i) the buildings that are specifically included and excluded from SBSL (section 4(2) & (3)) and (ii) the buildings that are exempt from SBSL (section 5). Do you have any views on these inclusions, exclusions and exemptions?

The exemptions set out in the Bill significantly reduce the tax base from which the government can raise £30m a year from. The tenure make-up of Scotland's housing market is materially different from that of England. Affordable housing makes up just 19% of completions in England, versus 44% in Scotland (based on Homes for Scotland's analysis). Therefore, removing affordable housing from the tax base, places a disproportionate burden on private homes.

The Financial Memorandum on the Bill states the percentage of new homes that will be exempt from the tax will be 34%, but this underestimates the volume of affordable housing being built and fails to understand the real size of the tax base. This is particularly concerning given the intended target for the levy is £30m, opposed to a transparent per unit tax.

We understand from the Policy Memorandum that the Scottish Government aims to ensure funding arrangement party between Scottish and UK governments, and this is the basis for the £30m target. However, this calculation doesn't recognise the lack of parity between the UK and Scottish housing markets, therefore the calculation is flawed and unintentionally works against the Scottish Government's stated aim.

Additionally, and as stated previously, a significant number of the affordable homes in Scotland are built through Section 75 agreements and are linked to private home developments. Exempting affordable homes from the levy will not protect the delivery of them from being impacted by the levy. The levy will likely make some commercial developments unviable, and this will have a knock-on effect, reducing the affordable housing supply that would have been delivered through Section 75s.

We recognise that the broadest shoulders must often bear the most load, however given the challenging operating environment we have already laid

out, we strongly caution the government against placing further burdens on large developers in Scotland. It will lead to fewer homes being built of all tenure at a time when more homes are needed.

Additionally, provisions should be made for discretionary exemptions from the SBSL, similar to the Financial Viability Assessment system used in England. This exemption would be granted where evidence shows a site will not be viable if subjected to the levy – minimising some of the damage to project completions inflicted by this Bill.

We agree that student accommodation and BTR schemes should be included in the ambit of entities to pay the levy.

Given the high level of affordable housing in Scotland we do not agree that RSLs and affordable housing providers should be exempt from payment of the levy.

We do not agree that small developers (sites of less than 49 units) should also be exempt. This should be reduced to 10 units.

7. Are the arrangements for penalties and appeals as set out in the Bill appropriate?

1. Provision of security (s32 – 33 of the draft Bill)

We note that these provisions are almost identical to existing Scottish legislation, found in s36 – 37 of the Aggregates Tax and Devolved Taxes Administration (Scotland) Act 2024. Although current drafting reflects existing tax legislation, we are of the view that the use of securities registered against land held by developers is not workable and not reasonable and may prevent some housebuilders from securing finance for build.

2. Penalties (s35 – 43 of the draft Bill)

The new penalties appear to be consistent with the existing penalties for other devolved taxes. From a brief review, we have not identified any particular concerns.

3. Reviews and appeals (Part 6 of the draft Bill)

The provisions appear to be consistent with those for other devolved taxes and, from a brief review, we have not identified any particular concerns.

8. Do you consider that the estimated costs set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?

No, we feel there continues to be a lack of clarity and transparency on the rates and methodology behind the calculations.

Until there are clear and transparent data assessments that reflect the unique Scottish housing market as well as the detailed remediation needs and costs, and we know what the per unit levy would be, we are not able to comment on how our financial position aligns to the costs we might incur.

As a developer that is both fully committed to remediating buildings with cladding and actively doing so, we are concerned about the methodology and calculations that form the basis of this levy. We feel the negative impacts may outweigh or dilute the increased tax revenue.

Another failure of the methodology and calculations is the absence of an end date to the levy. There needs to be clarity as to when the scheme will conclude – at what point will the levy have raised enough to fund the remediation programme and will therefore no longer be needed. Only the required volume of funds, and no more, should be raised through the scheme, particularly in light of the wide-ranging use proposed in Section 13 of the bill.

The tax needs to operate and be applied on an equal footing across Scotland and the rest of the UK. Part of achieving this parity is reflecting the differences within the housing markets. Failure to do so will disincentivise future housing investment in Scotland.

A comprehensive BRIA has not yet been conducted. This needs to be actioned as soon as possible. There is concern that the existing BRIA overstates the value of the Scottish new build housing market, estimating it to be in the region of £4.6bn. Meanwhile, the Registers of Scotland Property Market Report 2024 – 2025, states the value of the new build sector to have been £3.2bn that year, and has averaged £3.4bn since 2020-2021.

Clear regulations need to be issued around how the tax is assessed and what the proposed rates of tax are. This should be done prior to the comprehensive BRIA to better inform and understand what the impact is likely to be on homebuilders.

9. Do you have any other comments regarding the Bill which have not been captured by the previous questions?

We reiterate that the levy as proposed in the Bill will lead to unintended consequences that may reduce the housing supply in Scotland amidst the backdrop of a housing crisis. Reducing the housing market instead of growing it will have a knock-on effect for the Scottish economy and supply chains.

For developers to adequately prepare, transitional arrangements must be put in place and consulted on, to establish a clear timeline for the introduction of the tax.

The viability of developments which would be subsequently subject to the SBSL must be considered. Developers need to be able to make financially viable decisions based on current and upcoming projects. This is currently

uncertain, which may lead to delay in site starts and delivery of private and affordable homes.

The legislation should not allow ministers to increase the levy based on reviews or previous years' collections for the same viability reasons noted above. As cautioned, the levy may lead to reduced housing supply, so continually increasing the burden on the remaining new homes will create a damaging cycle that could continue to erode Scotland's new housing supply.

There is concern that, given the delays incurred to date in spending the Scottish Government's remediation budget, the acquired funds would not efficiently be used. We would hope the funds are spent in a timely manner for their intended use, with a clear operational plan to prioritise the highest risk buildings.

Written Submission from Built Environment Forum Scotland

Information about your organisation

Built Environment Forum Scotland (BEFS) is an umbrella body and membership-led forum for organisations working in the built environment in Scotland. As a strategic intermediary body for Scotland's built environment sector, BEFS informs, debates, and advocates on the strategic issues, opportunities and challenges facing Scotland's historic and contemporary built environment.

1. Do you agree, in principle, that a levy should be introduced on the construction of residential property in Scotland?

Yes, with regard to certain types of new construction. As referred to in the linked consultation responses above, BEFS Members and stakeholders are concerned about the discovery of serious defects in Scotland's built environment, including those relating to the use of Reinforced Autoclaved Aerated Concrete and cladding, that create unacceptable health, safety and fire risks, and dangerous living conditions. It is also essential that data in relation to new and developing technologies is comprehensive and robust. The Committee will be aware that the practicalities of resourcing and delivering the necessary remediation works is a live – and challenging – discussion for public bodies and the wider built environment sector. The spread and scale of defects, and the major costs involved in undertaking remediation, which is complicated by challenges in skills capacity, supply chains, rising inflation, and public finance pressures, does not create the conditions for a straightforward resolution.

An appropriate levy on future residential builds is a logical route for setting foundations to protect people from this situation, in which defects are discovered years or decades after construction, but public bodies, owners and other stakeholders do not have access to the level of resources required to deal with them. The intention to use levy funds complement other investment streams in support of the nationwide Cladding Remediation Programme is welcome.

One caveat raised by BEFS Members is that it may be unfair or unreasonable to ask small local schemes, including community led developments and social housing, to pay a levy given the small margins they operate on. An ideal outcome is for the levy to be charged on medium and large developments, where a levy is more affordable for commercial housebuilders.

As BEFS argued in our responses to two 2024 consultations on the development of the levy, it is vital that repair, maintenance and retrofit works are not included. This will disincentivise retrofit works, at a time in which we need to go sharply in the other direction, to promote more action on retrofit in

the climate emergency context and the urgent need for appropriate adaptation to many of our older buildings.

We would also urge that a levy take full cognisance of other existing and nascent Scottish legislation to ensure a coherent approach across the wider policy landscape; a consistent framework is essential, and that clear and transparent measures must be supported by joined up legislation; across Building Standards, the National Planning Framework 4 (NPF4) and any related legislative consultations.

9. Do you have any other comments regarding the Bill which have not been captured by the previous questions?

BEFS wishes to highlight its position that not enough action is being taken in policy and practice to promote the productive reuse of vacant and derelict buildings and brownfield land, including for housing.

Additional efforts on this will reduce the need for new-build residential developments on greenfield sites, and in doing so, will contribute to a wide range of national policy priorities including the housing emergency response, local living, addressing the climate emergency, preserving heritage, and improving health and wellbeing.

BEFS Members would also like to see the Scottish and UK Government regularly exchange on levy development and implementation across the UK, to support its introduction and evolution, share learning outcomes, and collaborate on responding to unexpected issues and unintended consequences.

Written Submission Scottish Land and Estates

Information about your organisation

At Scottish Land & Estates (SLE), our vision is a prosperous and sustainable future for rural Scotland, delivering benefits for all. We do this by championing and supporting rural businesses that provide economic, social and environmental benefit to the countryside. Our members represent a diverse community passionate in promoting rural Scotland, and we've acted as their voice for over 100 years.

Scottish farms and estates play a vital role in supporting rural communities, providing homes for over 13,000 families across the country. With limited activity from mainstream housebuilders beyond Scotland's urban centres and commuter belts, many landowners have stepped up to deliver much-needed housing in less accessible areas, often working in partnership with local SME builders. These efforts are driven by a commitment to sustaining local economies and reversing rural depopulation.

However, the viability of rural housing projects remains a persistent challenge. We are deeply concerned that the proposed Scottish Building Standards Levy (SBSL), without clear exemptions for rural developments and the SMEs that support them, risks further undermining confidence in this fragile sector. This sector, and the delivery of small to medium sized developments that is vital to support housing growth and choice in rural areas, is already in decline due to existing financial, planning and regulatory pressures in advance of the levy. If not carefully calibrated, the SBSL could exacerbate housing shortages and economic decline in rural Scotland.

1. Do you agree, in principle, that a levy should be introduced on the construction of residential property in Scotland?

The aim of the Building Safety Levy (Scotland) Bill is to seek a contribution from the housebuilding sector to support the Scottish Government's cladding remediation programme. We do not agree, in principle, that a levy should be introduced on the construction of residential property in Scotland in the manner proposed by this Bill.

While we fully support the Scottish Government's commitment to addressing unsafe cladding and ensuring the safety of residents, we are concerned that the proposed levy unfairly targets developers who had no involvement in the installation of substandard cladding systems and have no need to draw finance from the cladding remediation scheme. Such businesses therefore are gaining no benefit from the consequential public expenditure into the sector. It could be argued that the levy would essentially be a double tax on such developers. The BRIA identifies many of the challenges already faced by SME businesses delivering housing.

SLE has consistently advocated for legislation to be underpinned by robust, high-quality data. We are concerned that the scope of the Building Safety

Levy (Scotland) Bill relies heavily on estimations and assumptions derived from data originating in other parts of the UK, particularly England, and presumes a similar development profile and scale of remedial work. Given the significant differences in population density and rurality between Scotland and England, this approach is questionable at best and highlights the weak evidential foundation upon which the levy is being justified.

The SBSL Bill sets out a blanket financial obligation that does not distinguish between those who contributed to the problem and those who did not. In our view, this undermines the principle of fairness and accountability that should underpin any remediation funding mechanism.

We are further concerned about the potential impact on housing delivery, particularly in rural areas which are already significantly more expensive to deliver due to their location and smaller scale: Delivery of single homes or small-scale development in rural areas can be double the cost of mainstream housing . (For example: Large scale main steam homes will have a budget build cost of £1,200-1,400/sqm while it is now common to see small scale build costs at between £2,500 – £3,000/sqm.)

The levy will disproportionately affect smaller developers and projects with tighter margins, discouraging investment in areas where housing need is already acute. While we acknowledge that some exemptions have been proposed, and there is inference that more might be covered in secondary legislation, we believe the Bill neither goes far enough to protect rural communities, nor does it protect SME builders working in tight margin environments. Even before these proposed changes, the sector faces significant challenges: Scottish house prices often fail to justify rising construction costs, particularly for small-scale or single-home developments, where the end value may be lower than the build cost. This makes financing difficult, excluding many lower earners from rural or self-build opportunities. Additionally, increasing material costs, recent building regulations, and upcoming Passivhaus standards will further raise costs, without corresponding market value or clear benefits.

In conclusion, while we support the goal of funding cladding remediation, we do not support the introduction of a levy that places the burden on developers who were not responsible for the original failings, given that there is nothing to suggest that they would benefit from the funds raised by the levy. A more targeted and equitable approach is needed that does not undermine the viability of SME's operating in rural Scotland and therefore Scotland's future rural housing supply.

2. To what extent does the proposed Scottish Building Safety Levy (SBSL) align with the Scottish Government's 2024 Tax Strategy and with the principles of good tax policy making included in the Framework for Tax 2021 (namely: proportionality, certainty, convenience, engagement, effectiveness and efficiency)?

While the SBSL aligns with the Scottish Government's goal of funding building safety, its current design falls short of several key principles in the Framework for Tax 2021, particularly proportionality, certainty, and efficiency. From a rural standpoint, the levy risks creating unintended consequences, discouraging development, penalising responsible builders, and adding complexity for small operators.

SLE has concerns that this policy would not fully meet the Framework for Tax principles. Namely "providing economic and social stimulus" and "encouraging taxpayers to change their behaviours". What is proposed in the bill could harm investment in housing in rural Scotland, leading to fewer economic and social benefits, counter to the principle. Similarly given there are laws to prevent the use of such cladding in the future, there seems little need to change behaviour in the sector as this is not current behaviour.

It is hard to see how it will meet "promoting equal society through redistribution" as it will further reduce investment and housing in rural areas, which already have an unequal share of house building in Scotland. While this may "raise money for public services" it does so in a way which penalises the other elements of the framework.

We are concerned that The SBSL applies a levy on developers at the point of completion, regardless of their size, location, or involvement in the cladding crisis. While we are pleased to see developments on the Scottish islands expressly exempted, a concern repeatedly flagged in the Consultation Analysis is that small rural developers, who often operate on tight margins and build fewer units, may be disproportionately affected compared to large urban developers. This could discourage rural housing delivery and undermine efforts to sustain rural communities. This is especially the case where market housing is required to support the cost of building affordable housing options.

Too much of the detail for this legislation is being reserved for secondary legislation, including the potential treatment of rural developments and SMEs. Furthermore, there is no definition for "developer" and "residential unit", and the true scope of the levy is left subject to the regulations. This leaves many threads of ambiguity which could create confusion and deter participation in housing initiatives. In addition, the rate of levy, the verification of floor area, the approach to different geographical areas and other variations to the application of the levy will remain unknown until the regulations, to be set out in secondary legislation, are published. This plays into uncertainty around the impact of the legislation and is likely to reduce confidence in the housing sector. To mitigate this, the supplementary regulations need to be presented to parliament for scrutiny at the earliest opportunity.

We appreciate that creating a tax paid via Revenue Scotland is designed to keep payment simple, however we feel there is oversight of the many small or occasional developers in rural areas for which this process will certainly add administrative burden. (The lack of detail in s.11 with regard to what will reliefs are to be granted and to what extent are problematic for this question.) For small rural builders the process will mean added administrative work which is particularly disproportionate where the levy bears no relevance to developments they have undertaken in the past or are likely to carry out in the future.

SLE would like to see a full Rural Impact Assessment to be carried out on this legislation and better direct engagement with rural stakeholders to refine the levy's design.

3. What would be the impacts of the SBSL for the housing market, if any?

The full impact is difficult to assess given that so much detail has been reserved for secondary legislation. Generally, it is fair to conclude that SBSL is likely to have disproportionate and potentially adverse impacts on the rural housing market, unless carefully mitigated through exemptions, or at the very least substantial reliefs.

Rural housing developments typically face higher per-unit costs, lower economies of scale, tighter margins and limited access to capital. The introduction of a flat-rate levy at the point of completion risks making small-scale developments unviable, particularly in areas with acute housing need and fragile populations. This could result in postponement or cancellation of rural housing projects, reduced investment in rural communities and increased pressure on already limited housing stock.

The SBSL is to be charged at the point of completion. While the intent is to fund cladding remediation, the economic reality is that developers will be forced to pass the cost on to buyers in higher house prices, especially where margins are tighter. Increased delivery costs will reduce the number of units that can be built on a site and, in marginal or rural markets, the added cost may make some developments financially unviable. Therefore, an unintended consequence of this levy is that the delivery of new homes across Scotland will slow, which is not ideal in a housing emergency.

To mitigate against the impact on the housing market, the SBSL needs to support better flexibility and more nuanced exemptions.

4. Do you foresee any behavioural changes or impacts arising as a result of the implementation of the SBSL?

Consideration should also be given to the possibility of developments being displaced as developers shift activity to locations where the margins can be absorbed more readily in the local market. This is likely to have implications

for the delivery of housing in low margin rural locations, reducing land supply, increasing house prices and accelerating the decline in the rural housing sector.

While the SBSL is not directly tied to construction standards, there are indirect risks to housing quality where cost-cutting measures might be adopted to keep house prices down. To mitigate against this, rebates could be offered for developments that deliver higher quality housing. Developers in many areas are already prioritising luxury or high-margin developments to offset the current high build costs and the levy will accelerate this problem, leaving an even greater shortfall in lower value housing delivered by the private sector. The impact on affordability will vary regionally, with rural communities already more vulnerable to price increases and supply reductions.

Ultimately developers may see rural housing, which is already higher cost with lower margins as not worth the risk.

5. Are there any provisions in the draft legislation that may give rise to unintended effects, including to opportunities for tax avoidance?

As referred to in Q2, while we appreciate the perceived simplicity of collecting the levy via Revenue Scotland, however we feel the process overlooks the burden it places on small or occasional rural developers. Requiring them to navigate administrative steps, possibly only to claim an undefined relief, adds disproportionate complexity. It is likely that the opportunity for unintentional mistakes or oversight is higher with these developers.

6. The Bill sets out: (i) the buildings that are specifically included and excluded from SBSL (section 4(2) & (3)) and (ii) the buildings that are exempt from SBSL (section 5). Do you have any views on these inclusions, exclusions and exemptions?

Reviewing section 4 in respect of inclusions and exclusions, it seems that little regard has been made of the nature of rural property in the development of the SBSL Bill. For example, given the aim of this levy, it seems arbitrary that a traditional stone-built farm steading converted to housing might be subject to the levy. There is a concern that failing to frame exclusions or exemptions in low margin locations will discourage speculative housing development and promote alternative uses. This is counterintuitive given the depopulation and housing supply issues prevalent in rural areas.

Section 5(a) needs to be clarified. We believe it is relating to works to an existing dwelling that does not change the number of units, but it is unclear. It also appears that the subdivision of a home to incorporate a self-contained “granny flat” would fall into the scope of the levy, while refurbishment of an existing block of flats that does not change the number of units would be excluded – which seems disproportionate given the driver for this legislation.

While we appreciate that one-off type developments by individuals may be accounted for in reliefs set out in regulations provided for in s11 and the levy-

free allowances in s12, it is not helpful that there is no indication whether this will be the case or what these might be.

We would like clarification that privately delivered housing supported with funding from the public sector, such as the Rural and Islands Housing Fund, would be exempted under section 5(c). It follows that affordable housing built under a section 75 planning obligation should also be exempted.

We welcome the exclusion of islands in Section 5(d). However, Scottish Government regulations on local business taxation have already acknowledged that some rural mainland areas, such as Knoydart, Scoraig, and Cape Wrath, face similar levels of inaccessibility and challenges as island communities. It would be inconsistent therefore for exemptions for rural developments to be limited to islands alone. This point highlights the need for the primary legislation to address the unique difficulties faced by rural areas alongside those of island communities.

In England, the Building Safety Levy applies to “major residential developments” and therefore exempts developments of fewer than ten units, categorised as “small residential developments”. It also applies a discounted rate for developments on previously developed (brownfield) land. These provisions help reduce the impact on small-scale and sustainable developments.

We urge the Scottish Government to consider introducing similar measures directly onto the face the Bill at Stage 2 of the legislative process. However, the economics of rural delivery of housing in England is not the same and accordingly we would suggest that an exemption in the region of 50 units would provide a more meaningful degree of protection in rural Scotland. Such exemptions would also mean that clarity is provided that smaller rural developments, self-build developers and small conversions will not be within scope of the levy. However, we also suggest that if not of a size to be exempt, rural housing developments are subject to a meaningful level of relief provided for by s11, so that high-impact rural housing developments are not unintentionally restricted. This would help to maintain confidence in the rural sector. (The low margins of rural housing developments are illustrated plainly by the development at Leet Haugh, Coldstream, where the house values have not kept up with construction costs resulting in the delivery being stalled until the market corrects).

We welcome the provision in S.15 that would enable the Scottish Ministers to grant exemptions from registration by regulation, however we feel this does not go far enough and such provisions should be placed on the face of the Bill. To avoid mistakes, clear guidance must be provided so that there is no ambiguity over whether a development is in scope or not, and if it qualifies for an exemption or relief. Requiring registration for properties that are exempt or eligible for 100% relief introduces unnecessary bureaucracy, particularly when the planning process already reveals whether a property falls within the scope of the levy.

7. Are the arrangements for penalties and appeals as set out in the Bill appropriate?

Without sight of the regulations specifying what properties will be subject to relief it is difficult to assess the risk in terms of small developers being exposed to more risk of mistake due to the burden of additional administration. Penalties and the appeals process should take account of such risk and Revenue Scotland should be prepared to provide guidance and support accordingly.

8. Do you consider that the estimated costs set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?

We feel other organisations would be better placed to comment more fully on the costs required to be incurred by the public sector in setting up the operations for the SBSL as set out in the Financial Memorandum.

It is not possible to draw any further conclusions on the cost to businesses in the rural sector with so little relevant detail within the Bill as introduced to parliament. What should be noted is that the Financial Memorandum provides no detail or explanation as to what value the levy will return to SME rural developers who have no requirements or obligations so far as cladding remediation is concerned. There is no doubt therefore that the cost to such developers will be disproportionately higher.

9. Do you have any other comments regarding the Bill which have not been captured by the previous questions?

Scottish Land & Estates is of the firm opinion that a full Rural Impact Assessment should be carried out on this legislation prior to it becoming operational. Depopulation and housing shortages are undermining the rural economy as it is. Any further measures that feed into a downward spiral should be avoided at all costs.

Written Submission from Scottish Property Federation

Information about your organisation

The Scottish Property Federation (SPF) is the voice for the real estate industry in Scotland. As a part of the wider British Property Federation, we include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers. Our members build Scotland's workplaces, homes, shops, schools and other facilities and the infrastructure that serves them. Our industry is therefore a core component of the Scottish economy.

1. Do you agree, in principle, that a levy should be introduced on the construction of residential property in Scotland?

No, we believe that the timing is wrong and that the industry is already making significant contributions both voluntarily and via UK taxation to remediate cladding that they were led to believe was safe at the time of application. There is a housing emergency, and these costs will impair the ability of new housing supply to be brought forward because it will negatively impact the development viability of projects. Our industry members note that there are already many major demands on developers for taxation or financial contributions – the UK Residential Property Development Tax, s75 contributions covering affordable housing, education, transport and wider contributions. This is on top of LBTT and wider business taxation. We would add that there must surely be a question of fairness too as many housebuilders who may potentially be subject to BSL liability may have had nothing to do with cladding at all. In short, we do not believe that government policy should be designed to constrain the supply of new homes at this time. New homes have strict and well-founded criteria for safety and standards in Scotland, so this concern is already covered for new build properties. By making development harder, the government will also undermine the ability of the private sector to support new forms of housing and support for the delivery of all forms of tenure, including affordable housing.

2. To what extent does the proposed Scottish Building Safety Levy (SBSL) align with the Scottish Government's 2024 Tax Strategy and with the principles of good tax policy making included in the Framework for Tax 2021 (namely: proportionality, certainty, convenience, engagement, effectiveness and efficiency)?

While we appreciate the necessity and urgency to rectify buildings with unsafe cladding and understand the motivations behind the levy, we do not think that the Bill aligns with the principle of 'fairness'. There is a lack of differentiation between different housing models e.g., for sale vs for rent which may result in disproportionate impacts on Build-to-Rent sector. This sector operates under fundamentally different financial structures and long-term investment models

and is also a sector which has been significantly undermined by other policy interventions.

It is worth noting that we welcome the engagement thus far with the Scottish Government and other key stakeholders including the opportunity for an early consultation period in November 2024. It is also encouraging that steps have already been taken to address some of the issues previously highlighted such as delaying the 'go-live' date until 2027 and considering potential exemptions for BTR, MMR and SMEs.

3. What would be the impacts of the SBSL for the housing market, if any?

Our members have strongly relayed their concerns about the negative impact of the Scottish Building Safety Levy (SBSL) on the housing market. They believe that by further taxing developers, the levy will make it harder for projects to proceed by seriously impacting their viability. Developers have raised specific concerns about the timing of levy payments and the effect on cash flow. Significant upfront investment is required to acquire land, install infrastructure, and construct homes. Developers often only realise profit near project completion, so early-stage levy payments could render some developments unviable by creating a financial strain before any return on investment is achieved.

In the context of this consultation, we are speaking for two crucial segments of our membership: those who develop and own Build-to-Rent (BTR) buildings and Purpose-Built Student Accommodation (PBSA). Both sectors play a vital role in expanding housing supply. Build-to-Rent, in particular, serves as an additional source of housing by attracting new capital investment and developers to deliver large-scale rental housing, thereby accelerating the supply pipeline. Similarly, PBSA adds to the overall housing supply and helps to alleviate pressure on other housing stock in towns and cities with higher education institutions.

Furthermore, rental products such as Build-to-Rent serve a vital purpose in the housing market by providing quality homes to individuals whose access to homeownership or social housing is limited. By placing greater taxes on Build-to-Rent homes, which is still nascent in Scotland, the sector's ability to serve these people will be diminished. This could result in a reduced number of homes available for those with significant housing needs.

If the intention of the levy is to raise funds from those who are at fault for historic defective buildings, then the current proposals are failing to achieve this objective. The levy, as it stands, seems to be a tax on all new developments rather than a specific measure to target those responsible for past failures.

4. Do you foresee any behavioural changes or impacts arising as a result of the implementation of the SBSL?

The Scottish Building Safety Levy (SBSL) is also likely to create significant changes in the housing market concerning rent and house prices, ultimately intensifying the country's housing emergency. The financial burden of the levy, which will be an additional cost to developers, will have to be absorbed or passed on. It is here that we foresee the most significant repercussions for consumers. Build to Rent is already struggling with viability challenges as a result of policy uncertainty with the Housing Bill in recent years. It is a nascent market in Scotland with only 4000 units and with over 13,000 units in pipeline that could be impacted by this levy.

Developers will be under pressure to recoup the costs of the levy, which could lead them to increase the prices of new homes. While the market for new builds is often constrained by the wider second-hand market, in areas with high demand, developers may be able to pass on at least some of the cost. The impact on rent is equally worrying. As the levy will apply to Build-to-Rent (BTR) and Purpose-Built Student Accommodation (PBSA) developments, it will add a new cost to the delivery of these vital housing types. In a market where demand for rental properties already outstrips supply, this reduction in new homes would undoubtedly put upward pressure on rents, making housing less affordable for tenants.

It has been more than 15 months of nationally declared housing emergency and government has already acknowledged the seriousness of this situation, and yet the SBSL, as currently proposed, risks undermining the very goal of increasing housing supply. By adding thousands of pounds to the cost of new homes and rental properties, it could deter investment and development at a time when Scotland desperately needs more of both.

5. Are there any provisions in the draft legislation that may give rise to unintended effects, including to opportunities for tax avoidance?

If the threshold for exempt properties is set too low, there is potential for developers to deliberately slow down housing delivery or some SMEs on the cusp of the threshold may choose to reduce their scale of delivery to avoid eligibility for the levy. The unintended consequence is that fewer houses could be delivered by SMEs who are a crucial element of Scotland's various housing delivery models particularly in rural areas. If the levy applies to Build-to-Rent, there is the potential for the costs to be transferred onto tenants, resulting in higher rents as explained in Question 4.

6. The Bill sets out: (i) the buildings that are specifically included and excluded from SBSL (section 4(2) & (3)) and (ii) the buildings that are exempt from SBSL (section 5). Do you have any views on these inclusions, exclusions and exemptions?

We strongly urge Built-to-Rent, SMEs and affordable housing providers to be excluded from the levy to ensure the delivery of much-needed housing and to protect the viability of smaller scale housing providers who operate on much tighter margins. While we welcome the proposed exemptions for social and affordable housing, the current drafting does not go far enough to protect the

viability of essential housing delivery models. Below we identify several considerations:

Built-to-Rent:

We urge Build-to-Rent to be exempt from the levy to encourage its growth at a crucial time to assist in tackling Scotland's housing emergency. Moreover, the unique nature of BtR developments also mean they are particularly disadvantaged by the proposed levy in ways such as having a:

Higher levy burden - even if the levy is based on floor space, BtR will incur higher levy bills, because they typically have larger communal spaces (e.g. lounges, gyms, co-working spaces), which will inflate the chargeable floor space.

High density and accelerated build-out rate - BtR can deliver between 300-400 units per development and is typically completed over one or two phases. This means that the levy will be triggered all at once and places a heavy financial burden on the owner.

No immediate sales revenue - BtR is not built for onward sale, rather based on long-term rental income. Therefore, a levy paid on completion cannot be recouped immediately.

Cumulative impact – the growth of the BtR sector has been significantly stunted by recent rent control legislation which has undermined investor confidence in the sector. With only 4000 homes built and operational in Scotland, it is a sector which is still in its infancy and significantly lags behind England in terms of overall BtR provision. On a per capita basis, around 50% more BTR homes have been delivered in England than Scotland. If we are to improve the housing crisis and restore investor confidence, this sector must be encouraged by supportive policy.

The Housing Investment Taskforce Report (2025) clearly identifies Build-to-Rent (BtR) as a strategic priority for Scotland's housing future:

“The Build to Rent market in particular should be a priority for Scotland in providing new housing supply (including family homes) as an established route for private capital investment at scale.

On the assumption that exemptions [for rent controls] are delivered, there should be ongoing work between the Scottish Government and investment and property development sectors to communicate positively and assertively that Scotland is open for business for both Build to Rent and Mid-Market Rent sectors.”

The proposed levy undermines the policy direction from this report as it serves as a financial disincentive for development.

SMEs:

SMEs are essential housing providers who are well suited to smaller-scale and more complex sites such as developing in rural areas, brownfield land and infill sites. These developments are also crucial in supporting local housing strategies and local economies. However, recent evidence suggests this sector has a declining market share with the number of new homes built by SMEs (3-49) falling from 40% in 2017 to just 20% in 2023. This sector is particularly vulnerable to higher financial, market and operational risks. There is a clear need to provide additional protections for this sector to ensure its future viability and would suggest that the threshold is set at 50 units or below built per year to be exempt from the levy.

Affordable Housing:

The draft exempts some affordable housing but only those defined under section 1 or 2 of the Housing (Scotland) Act 1988 or section 92 of the Housing (Scotland) Act 2001. This means only publicly funded housing is exempt. We urge this definition to be broadened because it ignores the increasingly important role of privately delivered affordable housing which includes mid-market rent or discounted market rent. Both are a form of 'affordable housing' where rents are set between social and market rate. We therefore urge that the exemption for affordable housing is based on affordability criteria, regardless of the funding model or provider.

Indeed, the Housing Investment Taskforce Report explicitly explores how private capital can be mobilised to support affordable housing. If the Scottish Government is actively promoting this model as part of its long-term housing strategy, then it is inconsistent to apply the levy to these developments while exempting others that serve the same purpose. If we are to scale-up the affordable housing delivery through diverse funding models, it is essential that the levy framework evolves to support not disincentive development.

7. Are the arrangements for penalties and appeals as set out in the Bill appropriate?

We recognise that the proposals for penalties are broadly in line with standard Scottish Government practice.

8. Do you consider that the estimated costs set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?

Our key concern is that the costs of SBSL will make larger density schemes such as Build to Rent, where 100s of new homes are completed at the same time, now unviable. It may well do the same for more traditional housebuilding projects too.

This is because development viability is now the single biggest challenge obstructing housing delivery. Already BtR projects ongoing in England are losing money compared to five years ago. This means it will be more difficult and challenging to attract investment to this key market. In England, there are factors such as the Building Safety Regulator not present here in Scotland, thankfully. However, in Scotland, we have faced years of uncertainty due to the ongoing Housing Bill process, which has obstructed the deployment of significant capital.

Our fear is that having finally got a Housing Bill, which could potentially reassure investors, we will now face a further tax that could add millions of pound to large scale BtR developments that will further emasculate the ability of this sector to bring forward new rental homes on a variety of tenures in Scotland (in the last 12 years England has built some 130,000 new BtR homes including houses, apartment and mid-market rental: in Scotland we have delivered just 4000 due to repeated policy interventions and uncertainty).

9. Do you have any other comments regarding the Bill which have not been captured by the previous questions?

Our members have raised several other points regarding the Bill that we feel have not been fully captured. These relate primarily for the need for clear, unambiguous guidance and a well-defined implementation process, without which the levy risks causing more harm than good to the housing market.

First and foremost, we are seeking clear guidance on the transitional provisions. Our members are seeking clarity on the qualifying cut-off point for schemes already under construction when the levy comes into effect and what specific milestone must a project have reached to be exempt from the levy. This is particularly important for businesses using forward-funding models, where build costs are agreed with funders early in the process. Introducing an unplanned levy partway through construction would significantly affect returns and could jeopardise the financial viability of projects already committed. We are concerned that the current uncertainty is deterring investment and development in Scotland, with consented schemes being withheld from delivery due to the risk of having to pay the levy.

We must stress the importance of a discounted levy rate for schemes on previously developed land. We support the Government's intention for such a discount to support brownfield regeneration. A similar approach in Scotland as England would be welcomed. Not only would it stimulate investment in urban sites, but it would also align with broader policy objectives to reduce reliance on greenfield development. This would be a crucial measure to ensure the levy does not disproportionately penalise developers who are working to regenerate existing urban areas. Our members are also seeking clarity on when this levy rates will be finalised so that the associated costs can be factored into project underwrites as early as possible. Any delay or uncertainty

in this regard will risk slowing investment decisions and hindering project delivery across the sector.

As the Bill currently stands, high-density developments such as Build-to-Rent, PBSA and Co-Living will be caught in the tax. Our members have strongly relayed concerns over the implications should communal areas be counted within the chargeable floor area for levy calculations. Shared amenity space can often account for up to 10% of the total development area, so having a levy which includes communal areas will significantly affect development viability. We urge these spaces to be excluded from the chargeable floor area.

Another point we would seek clarity on is indexation of this levy. If this is to happen, what mechanism will be used for any such adjustments, and how frequently will they be made? To provide greater predictability and assist with project feasibility, we would advocate for a fixed rate that is reviewed periodically, such as every three years in line with inflation - a model adopted by the UK Government for its own levy. This would provide developers and funders with a stable basis for their financial models. Without this clarity, the risk of unbudgeted costs further undermines project viability and could lead to a stalling of investment. Indexation will have major implications for cost planning and funder underwriting, as the final cost of the levy could be unknown for years.