



Stage 3 Briefing

Building Safety Levy (Scotland) Bill

March 2026

Stage 3 Briefing

Building Safety Levy (Scotland) Bill

March 2026



Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

The Building Safety Levy (Scotland) Bill¹ (“the Bill”) was introduced by the Cabinet Secretary for Finance and Local Government, Shona Robison MSP, on 5 June 2025. The Bill’s introduction followed previous consultation by the Scottish Government on proposals for a Scottish Building Safety Levy in November 2024, which we responded to.² We submitted written evidence on the Bill to the Finance and Public Administration Committee of the Scottish Parliament (“the lead committee”) in August 2025.³ The Finance and Public Administration Committee’s Stage 1 Report on the Building Safety Levy (Scotland) Bill (“the Stage 1 Report”) was published on 11 December 2025.⁴ The Parliament approved the general principles of the Bill on 8 January 2026. The Bill completed stage 2 on 10 February 2026, and the Bill as amended at stage 2 was published on the same date.⁵

We welcome the opportunity to consider and provide comment on the amended Bill ahead of stage 3 proceedings scheduled for 17 March 2026.

This briefing includes the following key points:

- Our overarching concern regarding the Bill is that substantial detail is left to secondary legislation. It is therefore imperative that regulations are brought forward as soon as possible, to mitigate uncertainty and to avoid adverse economic impacts.
- We have previously highlighted the need for the levy to be proportionate and to avoid unfairness. We therefore welcome a number of amendments made at stage 2 and proposed ahead of stage 3 which we consider will add clarity to the Bill. We have commented specifically on **amendments 4 and 5** below.
- Whilst we welcome amendments made at stage 2 to strengthen consultation requirements throughout the Bill, we consider that it is important that

¹ <https://www.parliament.scot/bills-and-laws/bills/s6/building-safety-levy-scotland-bill>

² <https://www.lawscot.org.uk/media/2ptaidnq/24-11-18-tax-pllr-scottish-building-safety-levy-consultation-on-proposals-002.pdf>

³ <https://www.lawscot.org.uk/media/gemjdf11/25-08-15-tax-pllr-plc-building-safety-levy-s-bill-written-evidence.pdf>

⁴ [Stage 1 report on the Building Safety Levy \(Scotland\) Bill](#)

⁵ <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/building-safety-levy-scotland-bill/stage-2/spbill73as062026.pdf>



meaningful consultation takes place with the full range of stakeholders impacted by the Bill, not just those who represent the “interests of the residential property development sector”.

- It is important that the introduction of any levy is accompanied by an appropriate awareness-raising campaign and clear guidance to assist taxpayers and their professional advisers.

General Comments

We do not take a view on the policy principle of the introduction of a Scottish Building Safety Levy (SBSL).

We note that revenue raised from the SBSL will be used to fund building safety expenditure, and that the overarching policy aim as set out in the Policy Memorandum is to seek a contribution from the housebuilding sector to support the funding of the Scottish Government’s Cladding Remediation Programme.⁶

In our previous engagement with the Housing (Cladding Remediation) (Scotland) Act 2024⁷ and in our response to the Scottish Government’s consultation on proposals for a Scottish Building Safety Levy⁸ we welcomed measures to improve the safety of residents and owners of buildings with an external wall cladding system in Scotland, and recognised the importance of rapid progress being made as a priority, given the urgent need to remediate the safety issues posed by cladding.

Need for clarity and certainty on the face of the Bill

It is important that there is clarity and certainty in the law in order that individuals and businesses can guide their conduct appropriately.

Our overarching concern regarding the Bill is that substantial detail is left to secondary legislation.

Matters which will be determined by regulation include the tax rate, the detail of the definition of a residential unit, and how floorspace will be verified for the purposes of the Bill. These matters are fundamental to how any levy will work in practice, and clarity on these aspects will be particularly important to developers including those providing purpose-built student accommodation and build to rent. Other matters which will be left to regulations include reliefs, accounting periods, connected persons and group companies, and tax free allowances for tax payers.

⁶ Policy Memorandum at para 4 <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/building-safety-levy-scotland-bill/introduced/spbill73pms062025accessible.pdf>

⁷ <https://www.lawscot.org.uk/research-and-policy/influencing-the-law-and-policy/our-input-to-parliamentary-bills/bills-202324/housing-cladding-remediation-scotland-bill/>

⁸ <https://www.lawscot.org.uk/media/2ptaidnq/24-11-18-tax-pllr-scottish-building-safety-levy-consultation-on-proposals-002.pdf>



Whilst we recognise that some level of flexibility is appropriate, the need for such flexibility has to be appropriately balanced against ensuring there is clarity in the law, appropriate levels of parliamentary scrutiny underpinning legislative and policy developments, and meaningful stakeholder consultation. We consider that the Bill as introduced creates a significant amount of uncertainty, and that meaningful scrutiny is challenging when so much of the relevant detail is left to regulations.

Such uncertainty can also have economic impacts, and as contracts for the purchase of land for development are often agreed years in advance we understand that this uncertainty is already having an impact on purchase negotiations. From a commercial perspective, the levy is a cost that should be factored into the price/market value of each development site. However, that cost cannot be factored in unless and until:

- there is enough certainty about the rates and methodology of the levy, to allow the cost to be calculated; and
- the legislation (and subsequent regulations) has been passed: until then there is no legal basis for the deduction of a levy.

The lead committee concluded that the SBSL will have a ‘macroeconomic affect’ on the Scottish housing market.⁹ It is therefore imperative that regulations are brought forward as soon as possible, to mitigate uncertainty and to avoid adverse economic impacts.

We note that the Scottish Government has announced that it will delay the implementation of the levy in order to provide the housing industry with sufficient lead in time to prepare for its introduction.¹⁰ Whilst we consider this decision sensible in the circumstances, the ability of the housing industry to prepare will depend on the legislation and the detail which is to be set out in regulations being available at an early stage- and well in advance of the commencement date. Until such time as detail is available, purchase negotiations will continue to be impacted by the current uncertainty.

Proportionality and fairness

It is also important that the proposed levy is proportionate and avoids unfairness. The Bill at section 13 provides that the levy must be used by the Scottish Ministers “for the purposes of improving the safety of persons in or about buildings in Scotland”. This would appear to be much broader than cladding remediation. We previously called for clarification on whether “the purposes of improving the safety of persons in or about buildings in Scotland” will be further defined. We consider this important in determining whether the Bill is fair and proportionate, and will be effective in achieving its stated policy aims. We note that, whilst the lead committee recommended that the Scottish Government give further consideration

⁹ Stage 1 Report, para 79

¹⁰ Stage 1 Report, para 130

to amending the Bill to restrict the proceeds of the levy to cladding remediation only,¹¹ the Minister for Public Finance’s position is that “retaining the broader definition of “building safety expenditure” will ensure that revenue raised through the Levy can be spent for its intended purpose, without increasing administrative burdens in determining which funds were allocated to specific activities within the Programme or arbitrarily curtailing the ability of Scottish Ministers to fund cladding remediation work in comparison to their UK Government counterparts”.¹² We note, however, **amendment 4** tabled ahead of stage 3 in the Minister’s name, which adds to the definition in section 13. We welcome this additional clarification on the face of the Bill.¹³

We also note the discussion within the Stage 1 Report regarding the “polluter pays” principle¹⁴ and the lead committee’s conclusion that the levy should not be considered a ‘polluter pays tax’ given that it applies to all housebuilders some of whom were not involved with, or were unaware of, using unsafe cladding.¹⁵ We welcomed the lead committee’s recommendation that the Scottish Government considers legal options that would enable housebuilders to seek contributions for remediation work from others in the sector.¹⁶ We note the Minister for Public Finance’s position that “Housebuilders can already take legal action and seek damages against those in the supply chain whom they believe contributed to unsafe buildings”¹⁷ under provisions of the Building Safety Act 2022.

In our previous comments on the Bill, we highlighted the absence of a sunset clause.¹⁸ We noted that it would be appropriate for the SBSL to cease to operate once its objective in relation to cladding remediation had been fulfilled and suggested that the end date could be linked to progress of the Cladding Remediation Programme, or the requirement of the SBSL as a source of funding. However, we also highlighted the risk of economic impacts and unintended consequences of the inclusion of a sunset clause. Whilst we recognised that there are arguments both in favour of and against the inclusion of a sunset clause in this legislation, in the absence of such a clause we called for clarification on what safeguards are in place to ensure that the levy does not remain in place indefinitely. We consider that this is relevant to the proportionality of the proposed levy. We note that the Government has now adopted the lead committee’s recommendation¹⁹ of the inclusion of a sunset clause within the Bill at new section 51A, providing for the expiry of the Act after 15 years. This is subject to an ability

¹¹ Stage 1 Report, para 147

¹² [Letter from the Minister for Public Finance to the Convener of 6 January 2026](#), at page 8

¹³ [Daily list of amendments for 3 March 2026](#)

¹⁴ Stage 1 Report, paras 113-123

¹⁵ Stage 1 Report, para 122

¹⁶ Stage 1 Report, para 123

¹⁷ [Letter from the Minister for Public Finance to the Convener of 6 January 2026](#), at page 7

¹⁸ <https://www.lawscot.org.uk/media/txll4pir/26-01-08-building-safety-levy-s-bill-stage-1-briefing-with-cover.pdf>, at page 6

¹⁹ Stage 1 Report, para 148



to extend by regulations which would be subject to the affirmative procedure and which would require a statement of reasons from Scottish Ministers

The inclusion of an expiry provision may change behaviour around land use and development. It may also have the scope for adverse uncertainty in the valuation of development sites if this provision were to operate so that the levy could be extended shortly before the sunset date. We think that it is important that any provision for extending the duration of the levy should be telegraphed with a significant period of notice (e.g. 2 years or longer). This could be implemented in part by the Scottish Ministers report (per section 45 of the Bill) including an assessment of whether or not the levy would be likely to be extended.

Strengthening consultation requirements

In our previous comments,²⁰ we note the limited provision for consultation within the Bill. We therefore welcome the amendments made to sections 6, 10 and 12 of the Bill at stage 2 to strengthen the consultation requirements. However, we consider that it is important that meaningful consultation takes place with the full range of stakeholders impacted by the Bill, not just those who represent the “interests of the residential property development sector” (which is not defined in the Bill). It is important to ensure meaningful engagement with stakeholders who have expertise in the building sector and will be best placed to identify potential unintended consequences.

Awareness-raising and guidance

It is important that the SBSL is accompanied by an appropriate awareness-raising campaign and clear guidance to assist taxpayers and their professional advisers. We consider it essential that guidance is published in advance of the introduction of the SBSL, to allow a sufficient lead-in time for taxpayers and their professional advisers to familiarise themselves with the requirements.

Comments on Sections of the Bill

Our comments below are focused on those sections of the Bill amendment at stage 2, or subject to proposed amendments at stage 3

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

Section 6 gives the Scottish Ministers powers to modify, by regulations, the types of buildings which may be taxable. Such regulations may modify any enactment (so-called Henry VIII powers) (Section 6(3)) and are subject to the affirmative procedure (section 48(1)). Before making regulations under this section, the Scottish Ministers must consult those specified in section 6(4). We note that the Delegated Powers and Law Reform Committee at stage 1 concluded that “the

²⁰ <https://www.lawscot.org.uk/media/txll4pir/26-01-08-building-safety-levy-s-bill-stage-1-briefing-with-cover.pdf>, at page 7



Scottish Government has not provided an appropriate justification for taking the power in section 6(3).²¹ The DPLR Committee recommended that the power to modify enactments in section 6(3) be removed at Stage 2. However, the Minister for Public Finance's position is that this power is required to allow the amendment of other statutes to achieve the desired alignment with the UK Government's England-only levy. The Minister has indicated that this is necessary to allow "Scottish Ministers to adjust primary legislation promptly to avoid market distortion and administrative challenges for cross-border developers."²²

Liability to pay levy (Section 8)

Section 8 provides that the person liable to pay the levy is the owner of the new residential unit on the date of either (a) the submission to a verifier of a completion certificate under section 17 of the Building (Scotland) Act 2003, if the subsequent building control event for that unit occurred on the acceptance of such a certificate, or (b) if earlier, the application for the grant of permission for the temporary occupation under section 21(3) of that Act, if the subsequent building control event for that unit occurred on the grant of such permission.

Section 8(2) provides that for the purposes of the Bill, where "owner" is used in relation to a residential unit and more than one 25 person falls within that description, "owner" refers to any such person jointly and severally. This subsection was amended at stage 2.

We have no specific comments on this section as amended.

Amount of Levy (Section 9)

Section 9 makes provisions regarding charging and rate of levy. The rate or rates of the levy are to be set by Scottish Ministers by regulation, and with reference to the area in square meters of the floorspace of the new residential unit in relation to which a taxable building control event occurs (Section 9(3)), with the methodology for determining and verifying floorspace to be set out in regulations. Regulations may set different rates for different purposes (Section 9(4)). Regulations made under this section are subject to the affirmative procedure.

At stage 1, we note the lead committee's request that the Scottish Government considers calculating the levy based on market value of the property rather than total surface as a way of taking into account the particular features of local housing markets.²³ Whilst we were supportive of further consideration being given to the basis for calculating the levy, we note the Minister's explanation for the approach set out in the Bill.²⁴

We have no specific comments on this section as amended.

²¹ Stage 1 Report, para 170

²² [Letter from the Minister for Public Finance to the Convener of 6 January 2026](#), at page 11

²³ Stage 1 Report, para 83

²⁴ [Letter from the Minister for Public Finance to the Convener of 6 January 2026](#), at page 4

Reliefs and allowances (Sections 11-12)

Section 11 allows the Scottish Ministers to, by regulations, make provision for reliefs from the levy. Regulations made under this section are subject to the affirmative procedure.

Section 12 allows the Scottish Ministers to, by regulations, make provision for a “levy free allowance”, being a quantity of building control events within a financial year which may be deducted in the process set out in Section 10. Regulations made under this section are subject to the affirmative procedure.

We note that both of these sections were amended at stage 2 and that section 11 is subject to proposed Scottish Government amendments at stage 3.

The Bill as amended after stage 2 now requires Scottish Ministers to make regulations providing for reliefs (section 11(1)), and adds specific provision for relief for work to create or convert a new residential unit on brownfield land. It also includes the allowance of 29 building control events on the face of the Bill (section 12(A1)), and allows allow regulations to provide for carrying forward from the previous 2 accounting periods (section 12(2)(j)).

As noted above, much for the detail of how reliefs and the levy free allowance will operate is left to regulations. Until this detail is available, we are not in a position to comment further. We do, however, consider that allowing the levy free allowance to be carried forward to subsequent years- perhaps as a transitional arrangement- would assist SMEs by reducing pressure to delay completion of units from one year to the next. Similarly, the power for Scottish Ministers to make further provisions for and in connection with the levy-free allowance under section 12(1) could be used to set the allowance at a slightly higher level for the first two years to provide a buffer against the commencement of liability for the levy, which would assist SMEs.

We note **amendment 5** in the name of the Minister tabled ahead of stage 3, which would require Scottish Ministers to, as soon as reasonably practicable after the day on which subsection (1) comes into force, lay before the Scottish Parliament for approval by resolution a draft Scottish statutory instrument containing the first regulations under subsection (1). Subject to the approval of the Parliament, the Scottish Ministers must then make the regulations contained in the draft instrument. We consider that this requirement to lay draft secondary legislation as soon as reasonably practicable will be helpful in providing a degree of certainty to those involved in the building sector.

Proceeds of levy (Section 13)

Section 13 provides that the proceeds of the levy must be used by the Scottish Ministers for the purposes of improving the safety of persons in or about buildings in Scotland.



See our general comments, above, regarding this definition and the proposed amendments at stage 3.

Information sharing (Section 21A)

This section, which was added to the Bill at stage 2, allows the Scottish Ministers to make provision by regulations for information-sharing between Revenue Scotland and a relevant entity for the purposes of administer the levy.

We have no specific comments on this new section.

Part 7- Final Provisions (Sections 45-52)

Section 45 requires the Scottish Ministers to report on the operation of the Bill. The interval for reporting is to be determined by the Scottish Ministers. The report must be published.

In our previous response we welcomed the suggestion of a regular review of the operation of the SBSL. We therefore welcomed the reporting requirements in section 45 of the Bill, but noted that they left a significant degree of discretion to the Scottish Ministers. We therefore welcomed the lead committee's recommendation that the reporting requirements in section 45 of the Bill be strengthened so that the Scottish Government is required to report at mandatory intervals on the operation of the Bill. We consider that the three-year interval added to the Bill at stage 2 is appropriate.

Sections 49-52 relate to ancillary provisions, Crown application, commencement, expiry and short title. In respect of commencement, and in light of our comments above on the potential for uncertainty to have adverse economic impacts, we would welcome clarity on proposed transitional arrangements. There is no detail on this within the Bill. As noted above, contracts for the purchase of land for development are often agreed years in advance and uncertainty will continue to have an impact even with implementation delayed. This may have a bigger impact on SMEs than on larger-scale builders. We have commented on possible transitional arrangements at section 12, above.

We have commented on the expiry provision (Section 51A) in our general comments above.



For further information, please contact:

Jennifer Paton
Policy Team
Law Society of Scotland
DD: 0131 476 8136
JenniferPaton@lawscot.org.uk