



HM Treasury



UK Government



Scottish Government
Riaghaltas na h-Alba

Response to the Consultation on devolving powers for a Scottish Building Safety Levy

**A joint consultation response
by the UK and Scottish
Governments**

April 2024

Response to the
Consultation on devolving
powers for a Scottish
Building Safety Levy

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Contents

| | |
|---|-----------|
| Chapter 1 Introduction | 6 |
| Chapter 2 Summary of Responses | 8 |
| Chapter 3 Government Response and Next Steps | 12 |
| Chapter 4 Annex | 14 |

Chapter 1

Introduction

1.1 The Scottish Government is seeking the devolution of tax powers to introduce a Scottish Building Safety Levy to the Scottish Parliament.

1.2 The proposal was made in light of the scale of the cladding issue in Scotland; the Scottish Government faces a similar challenge to the UK Government on how to fund the associated remediation works. In 2021, the UK Government announced that it would introduce a Building Safety Levy, which will apply as a tax on any new development in England considered as “residential”, unless exempted. The revenues from this Building Safety Levy – expected to be around £3 billion over a 10-year period - will be used to fund work to repair buildings across England with historical building safety defects. The Scottish Government is, therefore, pursuing the devolution of the requisite powers to introduce an equivalent Building Safety Levy in Scotland.

1.3 The UK Government and the Scottish Government jointly held a consultation from the 8th January 2024 to the 19th February 2024, seeking views and evidence on this proposal.

1.4 The consultation posed two questions:

1 The UK and Scottish Governments would welcome any observations and evidence addressing the criteria set out in the Command Paper¹. In particular, do you agree that devolving the proposed tax power would not impose a disproportionate negative impact on UK macroeconomic policy or impede the single UK market in house building?

2 Bearing in mind there is no option to extend the UK Building Safety Levy to Scotland, do you agree that the power to introduce a Building Safety Levy should be devolved to the Scottish Parliament?

1.5 So, the consultation focused on whether or not to devolve a power that would allow the Scottish Parliament to introduce a Scottish Building Safety Levy. This response does not, therefore, comment on how the Scottish Government should use the devolved power, or on the design of a Scottish Building Safety Levy.

1.6 The consultation received 17 written responses. Representations were received from organisations and individuals from across the property, accounting, and law sectors. The UK and Scottish Governments are grateful to all the respondents who took the time to submit responses. Of the written responses received, eight were broadly in support of devolving powers for a Scottish Building Safety

Levy, six distinct responses were opposed, and two expressed no opinion. The Scottish Government also directly engaged with representatives from the industry trade bodies and other interested parties to discuss the consultation. Where roundtable events were held by the Scottish Government, representations were almost always reiterated in writing.

1.7 The UK Government and the Scottish Government have used these representations to inform the decision to devolve and receive the power.

1.8 This document provides a summary of the responses that were received and sets out the Government response and next steps.

Chapter 2

Summary of Responses

2.1 The UK Government set out in the Command Paper *'Strengthening Scotland's Future'* criteria intended to guide consideration of new tax devolution proposals. These reflect the UK Government's responsibility for the coherence of the UK tax system as a whole. They include the need to ensure that the proposed tax would not impose a disproportionate negative impact on UK macroeconomic policy or impede, to any degree, the single UK market. The other criteria that the UK Government considered during the consultation included:

1 the potential for the new tax to create or incentivise economic distortions and arbitrage within the UK;

2 the potential the new tax might create for tax avoidance across the UK;

3 the impact of the proposed tax on compliance burdens across the UK; and

4 the compatibility of the new tax with existing legislation.

2.2 The Command Paper goes on to say that the assessment would be informed by:

1 the policy rationale, intended tax base/taxable activity and expected revenue;

2 the expected distributional impact, impact on business and individuals and wider economic impact;

3 plans for the collection and administration of the tax, including means of ensuring compliance;

4 an assessment of any interaction of the proposed new Scottish tax with UK-wide taxes (including plans to protect policy and geographical borders). This should include the impact of any new tax on UK tax revenues;

5 any underlying material used to answer the questions above.

2.3 The responses received were varied in focus, with some concentrating on the devolution of powers, some opining only on the merits of a potential Scottish Building Safety Levy itself, and others to a combination of both. Most responses were focused on the design of a Scottish Building Safety Levy rather than the devolution proposal itself.

¹ <https://www.gov.uk/government/publications/strengthening-scotland-s-future-hm-command-paper>

2.4 Most respondents, regardless of their views on the devolution of the powers or on the merits of a Scottish Building Safety Levy, were understanding of the need to raise revenue for building safety remediation.

2.5 Largely, objections raised against the devolution of tax powers argued so either on principle, or because of concerns about additional complexity and compliance burdens. On the other hand, support for devolution was occasionally coupled with either outright criticism of a Scottish Building Safety Levy or recommendations for engagement and communication from the Scottish Government when the policy is designed. At close, the majority of responses were in support of devolving tax powers to the Scottish Government for a Building Safety Levy.

2.6 Responses in support of devolving tax powers for a Building Safety Levy in Scotland are as follows:

2.6.1 Some respondents noted that the UK Government should, on principle, devolve more powers to the Scottish Government. The locality of building remediation was highlighted to further advance the argument for devolving powers for a Building Safety Levy to the Scottish Government. One respondent noted that power should be relevant to the regulatory jurisdiction for the industries where it will be applied and that therefore, the Scottish Parliament is the appropriate authority to introduce a Scottish Building Safety Levy. In this vein, one respondent highlighted the benefits to the Scottish industry of a more efficient approach to a national tax (via a central collection agency), as opposed to its introduction through local authorities, as in England.

2.6.2 A number of respondents noted that, assuming the imminent introduction of a Building Safety Levy in England, the Scottish Government should also be given powers for a Scottish Building Safety Levy to preserve the UK single market. Further, given that there is no option to extend the UK Building Safety Levy to Scotland, failure to implement an equivalent Building Safety Levy in Scotland would result in distortionary cross-border effects.

2.6.3 Several respondents highlighted the necessity for a Scottish Building Safety Levy to be devolved on grounds of fairness. It was noted that this would ensure that the industry in Scotland also contributes to the costs of building safety remediation. Alongside this, another respondent highlighted the reassurance that a devolved Scottish Building Safety Levy would bring to affected homeowners in Scotland, helping to restore confidence in the housing market.

2.6.4 One respondent underlined that devolving powers for a Scottish Building Safety Levy would also support the already-progressing Cladding Programme within Scottish Government, as well as the upcoming Housing (Cladding Remediation) (Scotland) Bill. This was noted in the context of the Scottish Government's independent process

for assessing and regulating building safety, i.e. a Building Safety Levy in Scotland would operate better in a devolved context that considers these differences.

2.7 The responses objecting to the devolution of tax powers for a Building Safety levy in Scotland are as follows:

2.7.1 Some individual respondents (not within the housing sector or relevant organisations) argued that there should be no further devolution of any powers to the Scottish Government, as a matter of principle.

2.7.2 Some respondents suggested that introducing a Scottish Building Safety Levy would increase the price of new properties, which might exacerbate the UK housing crisis; i.e. the cost of a Scottish Building Safety Levy would be passed on to homeowners. Respondents were keen to encourage Scottish Government to investigate this possible issue further and establish safeguards to ensure the burden is not placed on homeowners.

2.7.3 Some respondents argued that introducing a Scottish Building Safety Levy creates additional complexity and administrative burden for housebuilders if the rates of the Building Safety Levy in Scotland differ from those in England. One respondent noted that this could largely be ameliorated by close alignment between the UK and Scottish systems for their respective levies, although this raises the question of why it is not a UK-wide Building Safety Levy in the first place.

2.7.4 Some respondents were of the view that introducing a Scottish Building Safety Levy would result in “double taxation,” noting that property developers already contribute to the Residential Property Developers Tax (RPDT) and in addition some developers have already committed to paying for the remediation of buildings they are responsible for. To this end, one respondent highlighted that considering the above tax and financial commitments there needs to be clearer understanding of how the monies paid are allocated to the Scottish remediation programme.

2.7.5 It was also suggested by respondents that a Scottish Building Safety Levy would disproportionately impact housebuilders who have not built any housing that requires remediation. Respondents noted this in relation to the possible cumulative impact on house builders as a result of Scottish legislation.

2.7.6 One respondent argued that the process for introducing a Scottish Building Safety Levy has not followed the procedure set out in the Command Paper Strengthening Scotland's Future (2010), and that the devolution proposal to the UK Government should have come from the Scottish Parliament. This would have allowed the Scottish Parliament to be able to draw on several years' experience of the

Building Safety Levy in England before deciding whether to seek the powers for a Scottish Building Safety Levy.

2.7.7 Some respondents argued that the consultation had been launched prematurely, because accurate responses and evidence could not be supplied until more information regarding the scale of remediation and scope of the power is known, i.e. “The standard and scope of remediation to be applied in Scotland; How maintenance defects post original construction will be addressed; Which industry actors should be contributing to remediation; and the number of affected buildings in scope.”

Chapter 3

Government Response and Next Steps

3.1 The UK and Scottish Governments acknowledge all views on the case for devolving powers to the Scottish Parliament for a Scottish Building Safety Levy.

3.2 The UK Government has set out the case for a UK Building Safety Levy. Given the Scottish Government faces similar challenges relating to remediating buildings fitted with unsafe cladding, the UK Government agrees with the representations made by several respondents that extending equivalent powers to the Scottish Government will allow the Scottish Government to address this issue.

3.3 Both governments acknowledge the concerns raised by some respondents that the Scottish Building Safety Levy could have an impact on the supply and price of new homes, and on the potential cumulative burdens faced by those operating in the residential property development sector. Modelling for the Building Safety Levy in England suggests that it will have a marginal impact on land prices, rather than increasing new property prices (which are largely set by the price of existing properties). The Scottish Government and the Department for Levelling Up, Housing and Communities will work together to monitor and evaluate the potential economic impacts of all Building Safety Levies in the years ahead.

3.4 Both governments also acknowledge the concerns raised relating to the process outlined within the 2010 Command Paper Strengthening Scotland's Future set out above. The consultation clearly outlined that, to allow the Scottish Government to introduce a Scottish Building Safety Levy in a timeframe that mitigates risk to public safety, legislating to devolve the necessary power and detailed policy development relating to the tax will overlap. . It is not a requirement to have experience of an existing UK tax power before a new tax power is devolved.

3.5 Concerns related to the design of a Scottish Building Safety Levy are not within the scope of this consultation. The Scottish Government has already committed to introducing a tax that is "equivalent" to the Building Safety Levy in England and will carry out a programme of engagement and consultation with those operating in residential property development sector and other stakeholders on the design of the Scottish Building Safety Levy. The Scottish Government will address

the concerns raised in this consultation regarding the prospective design of the Scottish Building Safety Levy as part of that consultation exercise.

3.6 Ultimately, proposals to devolve a tax power need the support of the Scottish and the UK Parliaments. The Scottish Parliament will, therefore, have an opportunity to scrutinise the proposed Order in Council and the further legislation that will be required to establish a Scottish Building Safety Levy.

3.7 This consultation has produced no evidence which would suggest that devolving the proposed tax power, as the UK Government is inclined to do, would impose a disproportionate negative impact on UK macroeconomic policy or impede the single UK market in house building. Nor was there sufficient evidence that the power to introduce a Building Safety Levy should be not devolved to the Scottish Parliament.

3.8 Having analysed the representations made, the UK and Scottish Governments are in agreement that the introduction of an equivalent power for a Scottish Building Safety Levy will help to achieve the objectives set out in the Command Paper, which ultimately informs the decision on whether or not to devolve a power. The additional consideration of the urgency of acting to protect the interests of those affected by unsafe residential building advances the argument for acting on this decision now.

3.9 **Therefore, the UK Government is willing to proceed with the devolution of the power to introduce a Building Safety Levy and the Scottish Government is willing to receive this power.**

Chapter 4

Annex

4.1 **Responses were received by the following organisations;**

- 4.1.1 Hilti (Gt. Britain) Limited;
- 4.1.2 Institute of Chartered Accountants of Scotland (ICAS);
- 4.1.3 Common Weal;
- 4.1.4 Shetland Islands Council;
- 4.1.5 National House Building Council (NHBC);
- 4.1.6 Bellway Homes Limited;
- 4.1.7 Chartered Institute of Building (CIOB);
- 4.1.8 Homes for Scotland;
- 4.1.9 Taylor Wimpey;
- 4.1.10 Royal Institution of Chartered Surveyors (RICS);
- 4.1.11 Built Environment Forum Scotland (BEFS);
- 4.1.12 Scottish Property Federation (SPF);
- 4.1.13 Keepmoat;
- 4.1.14 National Fire Chiefs Council (NFCC);
- 4.1.15 Argyll and Bute Council

4.2 **Footnotes**

- 4.2.1 [Strengthening Scotland's Future: HM command paper - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

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This document can be downloaded from www.gov.uk

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