

## Section 1 Contemporary issues

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### Chapter 3

# **Evolving devolution**

Mark Stephens

It is now more than 15 years since devolved administrations were established in Scotland, Wales and Northern Ireland. During this time each legislature has had control over many aspects of housing, planning and local taxation. However, taxation powers have been limited, and responsibility for social security, including housing benefit, were either legally or in practice retained by Westminster.

However, devolution has turned out to be a process and greater powers have been granted, or are in the process of being granted, to each of the devolved administrations. Moreover, the broad similarity in approach to policy between Westminster, and Wales and Scotland, ended abruptly with the election of the coalition in 2010.<sup>1</sup> Each parliament or assembly in the UK is now led by different political parties.

Now seems like an appropriate point to take stock of developments (for a ten-year assessment see the 2011/12 edition of the *Review*.<sup>2</sup>) In this commentary we outline the way in which 'asymmetric' devolution has occurred in the UK. We then examine the way in which four broad policies have evolved in different parts of the UK: discretionary housing payments and other aspects of social security; systems of local taxation; the private rented sector; and the right to buy. We have not covered housing investment, because it is discussed in Commentary Chapter 4, or homelessness, discussed in Commentary Chapter 5.

### Evolution of devolution

Scotland retained its own legal and education systems after the Act of Union in 1707, and the decentralisation of administrative functions dates back to the establishment of the Scottish Education Department in 1872, and the Scottish Office in 1885. The parliament established in 1999 following a referendum had both legislative powers and limited power over income tax (which has never been used). Legislative powers extend to all areas unless specifically 'reserved' in the legislation. Social security is one of the key areas to be reserved. Further powers are being granted under the legislation that followed the UK government's Calman Commission. However, this was overtaken by the independence referendum in September 2014. The vote (55/45) in favour of remaining in the union was much

closer than had been expected, and after one poll placed the 'yes' campaign in the lead, the leaders of the unionist parties published a 'vow' in a tabloid newspaper promising to devolve more powers as a priority. The resultant cross-party Smith Commission led to the current Scotland Bill that proposes further devolution, including greater powers over taxation and very limited control over social security. Current and anticipated finance powers are summarised in Table 1.3.1.

An important implication of the introduction of the Scottish rate of income tax (SRIT) in 2016 is that the block grant from Westminster will be reduced and that the revenues available to future Scottish Governments will depend to a greater extent on the relative size of the Scottish income tax base, even if the powers to vary tax rates are not used. Negotiations are on-going between the Scottish and UK governments about the financial settlement at the point when the SRIT is introduced.

Wales has enjoyed fewer powers under devolution than Scotland, reflecting in part the loss of a distinctive legal system in the sixteenth century, and the country's effective merger with England. However, this is changing. When the Welsh Assembly was established in 1999 following a referendum, it was given powers to pass only secondary legislation in devolved areas. In 2007, the National Assembly for Wales and the Welsh Government were separated, and the assembly was given limited primary legislative powers through 'Assembly Measures'. Twenty areas of policy are devolved, including housing, planning, health and education. The assembly's first Housing Act was passed in 2014 and introduces compulsory registration and licensing of private landlords, places a stronger duty on local authorities to prevent homelessness, and reforms the Housing Revenue Account subsidy system. Following the UK government's Silk Commission on Devolution in Wales, the Wales Act 2014 provides for greater tax raising powers, which are detailed in Table 1.3.1. As in Scotland, the introduction of the Welsh rate of income tax (WRIT) will mean that revenues over time will reflect the performance of the Welsh economy. The UK government has agreed to place a floor under the relative size of the block grant to Wales for the remainder of this parliament, but has made it clear that this is in lieu of the introduction of the WRIT.

Table 1.3.1 Sources of finance for devolved governments

Source	Scotland	Wales	Northern Ireland
Block grant	Determined by Barnett formula	Barnett formula floor of 115% of spending per capita in England for this Parliament	Determined by Barnett formula
Income tax (in all cases non-savings and non-dividend (NSND) income only)	1999-2016: Scottish variable rate (+/-3 pence)  2016: Scottish rate of income tax: UK rate reduced by 10 pence; SRIT may be varied equally across all bands  Scotland Bill grants power to set rates and thresholds	Wales Act 2014 allows for Welsh rate of income tax: UK rate reduced by 10 pence; WRIT can be varied across bands set by UK  In November 2015 UK government announced a referendum would not be needed; will require legislation	No
Local tax	Yes	Yes	Yes
VAT	Assignment: 10p of standard rate and 2.5p of reduced rate raised in Scotland to be assigned to Scotland (Scotland Bill)	No	No
Stamp duty	Yes (from 2015) Land and Buildings Transaction Tax	Yes (from 2018)	–
Corporation tax	No	No	From 2017
Other taxes	Landfill, APD, Aggregates levy (Scotland Bill)	Landfill (from 2018)	APD (long-haul flights)
Cumulative capital: borrowing limit	£2.2 billion	£500 million (from 2018)	£3 billion
Borrowing: capital annual	10% DEL	£125 million (from 2018)	£200 million
Borrowing: current cumulative	£500 million	£500 million (from 2018)	£250 million
Borrowing: current annual	£200 million	£200 million	–

Source: Includes HM Treasury (2015) Statement of Funding Policy: funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly.

Northern Ireland was the only one of the devolved nations to have had an elected assembly in the twentieth century. The Northern Ireland Parliament was suspended in 1972 and abolished the following year during the 'Troubles'. The current assembly was established following the Belfast/Good Friday Agreement in 1998, with the first elections held the same year. Full powers operated from the end of 1999. However, the assembly was suspended from 2002-07 and it is only since a power-sharing agreement was reached that it has been operational for a sustained period of time. A further breakdown of co-operation between the nationalist and unionist parties in 2015 was eventually resolved.

The assembly has full legislative powers (known as 'transferred matters') over a range of 'domestic' policies, including health, education and housing. However, in contrast to Wales and Scotland, the assembly also has formal legislative power over social security, pensions and child care. This provision dates from the era of the previous Northern Ireland parliament, when the welfare state was established and the UK government wished to maintain uniform standards across the UK. Consequently, Northern Ireland's legal control over social security became subject to the 'parity principle' whereby deficits in the Northern Ireland national insurance fund, and payments for social assistance benefits, were made good by Westminster. Whilst legally the Northern Ireland Assembly could choose to diverge from the system in Great Britain, it would have to bear the cost itself which would be implemented through cuts in its block grant from Westminster.

The Northern Ireland Assembly has limited tax raising powers: UK-wide taxes are generally 'excepted' although there is provision for new taxes. However, it has powers of domestic and non-domestic rates, and gained the power to vary Air Passenger Duty (APD) on long-haul flights in 2013. It will also receive power over corporation tax in 2017 to allow it to compete with the Irish Republic's rates that are lower than the UK. However, if the assembly does cut the tax, any lost revenue will be deducted from the block grant. Capital borrowing powers are set at £200 million per year, with a cumulative maximum of £3 billion. Other borrowing is limited to £250 million for cash flow purposes only.<sup>3</sup>

The block grants to the devolved administration will be reduced over the period covered by the UK government's Spending Review. Scotland and Northern Ireland will see an annual real reduction in resource funding of 1.3 per cent over four years up to and including 2019/20.<sup>4</sup> The annual real-terms reduction in Wales is lower, at 1.1 per cent. Funding continues to be allocated on the basis of the Barnett formula, which makes population-related adjustments from a base. This still contributes to different levels of 'identifiable' spending per capita. The Treasury estimates this to be 97 per cent of the UK average in England, 111 per cent in Wales, 116 per cent in Scotland and 125 per cent in Northern Ireland.<sup>5</sup> However, the allocation is most disputed in Wales due to its relatively low GVA (gross value added): in 2012 this was estimated as being 72.3 per cent of the UK average compared to 75.7 per cent in Northern Ireland and 94.0 per cent in Scotland (the third highest of any UK 'region').<sup>6</sup> There are persistent calls (notably in the Holtham Report<sup>7</sup> but most recently in a House of Lords Select Committee report<sup>8</sup>) for the Barnett formula to be replaced with a 'needs-based' alternative, but this would be especially problematic in the light of the commitments given by the leaders of the unionist parties during the Scottish independence referendum (see above). It is more likely that change will occur as greater fiscal autonomy is granted to Scotland and Wales, a point that reinforces the importance of the methods used in reaching a financial settlement for devolving income tax revenues.

### Social security

Although Westminster continues effectively to control social security, the devolved administrations have been able to exercise some control over discretionary housing payments, which were introduced to provide temporary assistance to households affected by housing benefit cuts. Further, the Scottish Government is being granted limited control over a range of social security benefits in the current Scotland Bill, whilst in Northern Ireland the *de jure* control over social security led to the first significant challenge to the 'parity principle'.

#### Discretionary housing payments

Discretionary housing payments (DHPs) are not devolved to Scotland or Wales, so the schemes operated by Scottish and Welsh local authorities are part of the GB-wide system operated by DWP.

However, in Scotland the 'removal of the spare room subsidy' (RSRS, often called the 'bedroom tax') has been highly controversial, and became caught up in the politics of the referendum. The pro-independence campaign was keen to emphasise that Scotland would need to leave the UK in order to escape legislation such as the bedroom tax. Clearly, it was in the interests of the unionists to demonstrate otherwise. In May 2014 the UK government devolved the statutory cap on DHPs to Scotland from December 2014.<sup>9</sup> The Scottish Government decided to make £35 million available in 2015/16 to allow local authorities to fully mitigate the bedroom tax. This element now dominates the DHP budget in Scotland, as only £13.3 million of the total of £48.3 million is paid for by DWP.<sup>10</sup>

In 2013/14 Welsh local authorities received £7.1 million from DWP to operate the DHP. The cost of the bedroom tax in Wales is estimated at £22 million a year, and the Welsh Government has not sought to mitigate it fully. Instead it has prioritised investment in smaller properties and advice services, which it considers to be 'a more sustained and enduring response to the issue.'<sup>11</sup> It has made more modest sums (£1.3 million) available from its homelessness prevention fund. This is to be used to 'address the root problems behind people's circumstances in order to achieve long lasting change.'<sup>12</sup>

In Northern Ireland a different system of DHP operates. It is available only for private tenants, and is intended to make up part or all of the shortfall in housing benefit payments between the contractual rent and the benefit paid. However, now that welfare reform, including the bedroom tax, is likely to be introduced into Northern Ireland, the NIHE has announced that it will be available to social tenants as a means of short-term mitigation and to help tenants to downsize. However, NIHE stresses that the budget is limited and it seems that, as in Wales, it will not attempt to fully mitigate its impact.

#### Further social security devolution to Scotland

The Scottish Government will receive additional powers over social security as a result of the on-going Scotland Bill. At present only council tax reduction and the Scottish welfare fund are devolved. The bill currently proposes to devolve responsibility for social security benefits with a current value of £2.6 billion to the

Scottish Parliament. This represents about 15 per cent of social security expenditure in Scotland. The most costly benefits such as the state pension, universal credit, child benefit and pension credit remain reserved. However, the Scottish Parliament will have control over eleven benefits, the most costly of which is the disability living allowance (£1.47 billion). Discretionary housing payments are also to be devolved in whole. The bill also proposes to allow the Scottish Parliament to vary the housing costs element of universal credit, and to vary some administrative arrangements, such as the frequency of payment and whether the payment is made to the tenant/landlord. This is intended to defuse the controversy over the bedroom tax, but falls well short of the power to design a distinctive housing allowance system, even within the confines of the wider structure of the UK social security system.<sup>13</sup> It also means that the power can be exercised only for people who are in receipt of universal credit (as opposed to housing benefit).

The Scottish Parliament Welfare Reform Committee's report outlined a wide range of reforms that might be adopted.<sup>14</sup> The recommendations unsurprisingly include the abolition of the bedroom tax. This is intended not only to bring relief for those affected, but also to reduce the administrative burden on local authorities that is estimated to cost £1.5 million per year. Additionally, this policy would allow DHPs to focus on their original purpose, and greater emphasis could be placed on their role as a form of preventative expenditure, as is the case in Wales. The committee also followed the Scottish Government's preference to have the housing element in universal credit paid direct to the landlord as the default position, whilst allowing tenants to receive the money themselves if they so wish. Many other issues (notably payment for temporary accommodation from universal credit and the impact of proposed restrictions on 18-21 year olds) are also discussed.

#### **Northern Ireland, the 'parity principle' and welfare reform**

The Northern Ireland Act 1998, which established the current assembly, requires the UK Secretary of State for Social Security to liaise with their counterpart in Northern Ireland to ensure that a single system remains in place. In practice there

has been little divergence except in detail. However, the post-2010 benefit cuts were controversial in Northern Ireland and their implementation was delayed due to lack of political agreement, resulting in 'fines' amounting to £100 million a year for two years.<sup>15</sup>

Over this period several packages of measures to help mitigate the impact of welfare reform were proposed. These included direct payment of the housing costs element of universal credit to landlords, twice-monthly payments of universal credit to claimants, and a discretionary housing scheme to protect existing and future tenants from the bedroom tax.

Eventually the Welfare Reform Bill was passed in 2015 with supporting legislation to follow during 2016, but this has meant that the principle of 'parity of timing' at least has been breached.<sup>16</sup> Some £585 million has been allocated from Northern Ireland Executive funds to 'top up' UK benefits over a four-year period. A working group was established to bring forward proposals on how this funding should be used, but there is at least agreement that tenants should not be affected by the bedroom tax.

#### **Local taxation**

The council tax replaced the community charge/poll tax across Great Britain in 1993 (see Table 1.3.2). The system was based on 1991 property prices, with properties allocated to one of eight bands. These were the same in England and Wales, but the thresholds were lower in Scotland reflecting lower average values. The council tax is a hybrid property tax and service charge. It is partially sensitive to the value of the property, but the single person discount reflects the desire to keep an element of a service charge that the then government wished to retain following the abolition of the community charge. It also had a GB-wide rebate system until April 2013. Thereafter responsibility for rebates was devolved to the English local authorities and the Scottish and Welsh Governments. Funds from central government fell ten per cent short of those required to maintain the old system, but the Scottish and Welsh Government have nonetheless retained it.

**Table 1.3.2 Local taxation arrangements**

	England	Scotland	Wales	Northern Ireland
Tax	Council tax	Council tax	Council tax	Property value
Introduced	1993	1993	1993	2007
Valuation year	1991	1991	2003	2005
Bands	8	8	9	None (cap at £400,000)
General freeze?	Yes (until 2016/17 when 2% increase for care services introduced)	Since 2007/08	No	No

Note: In January 2016, Moray Council became the first to suggest that it might 'break' the freeze.<sup>17</sup>

Properties have never been revalued in England or Scotland, although preparations were made for a revaluation in England in 2007. However, by the time the Lyons inquiry into local government had reported that year, the UK government had already announced (in 2005) that it would postpone revaluation until after the next election. Lyons recommended revaluation, and that additional bands should be added at the top end. However, he concluded that the council tax did provide an attractive mix of a property-based tax with an element of service charge.<sup>18</sup> Since it was a Conservative government that introduced the council tax, it is easy to see why it appears content with its design; however, it also shows no inclination to consider revaluation.

A revaluation did take place in Wales in 2005. Consequently, properties are now ascribed 2003 values, and are placed in one of nine bands, as an additional band was added at the top end. The addition of an additional band, often proposed as a way of making the system more progressive in England and Scotland, has had little impact in Wales because it affects only 0.4 per cent of all properties.<sup>19</sup> The effect was that four times as many properties moved up one or more bands than moved down; and two-thirds of net rises were among houses that had been in Bands A-C (i.e. at the lower end).<sup>20</sup> The Welsh revaluation and reform is often cited as proof

that change is possible. However, in one commentator's assessment, 'the nerve of Welsh politicians has failed after the fuss of 2005' and there has been no revaluation since then.<sup>21</sup>

The Welsh Government gained responsibility for the regulation governing council tax reduction schemes after the UK government abolished and localised the GB-wide council tax benefit scheme in 2013. In England, local authorities received a block grant that was ten per cent less than the cost of the former council tax benefit. A similar arrangement applied to Wales, where the Welsh Government has so far funded local authorities to maintain the old system.

The council tax has proved no less problematic for the Scottish Government. As in England, an independent review took place. It was chaired by Sir Peter Burt and recommended 'a new progressive Local Property Tax (LPT) be introduced, based on the capital value of individual properties and payable by households occupying properties (whether as owner-occupiers or as tenants) and by owners of second homes and unoccupied properties.'<sup>22</sup> Even though the modelling conducted for the committee suggested that two-thirds of households would be better or no worse off, and that reform would be progressive, the then (Labour) First Minister rejected the recommendations before the report had even been published.

The SNP, first elected as a minority administration in 2007, was committed to replacing council tax with local income tax, but failed to gain the support of the Liberal Democrats (who also supported local income tax) on this issue when it proposed to use its national tax-varying powers, instead of raising the tax locally. Since gaining an overall majority in 2011, the SNP has shown no appetite for reviving its income tax proposals, and instead has pursued a policy of freezing the council tax at the 2007/08 levels. The freeze will continue at least until the election in 2016. Each year the freeze costs the cumulative sum of previous years' freezes plus another £70 million, bringing the cumulative cost to £2.5 billion.<sup>23</sup> As in Wales, the Scottish Government and local authorities have funded the cut in UK government funding under the new council tax reduction schemes.

The Scottish Government established a cross-party commission in 2015, chaired jointly by the minister responsible for local government and the president of COSLA (the body that represents most Scottish local authorities). All the parties represented at Holyrood participated, with the exception of the Conservatives, which established its own 'low tax commission.' The Scottish Government's Commission on Local Tax Reform reported in December 2015. Whilst it had not been charged with recommending a specific replacement to or reform of the council tax, it did conclude that the council tax should be replaced, and it did reach general agreement on a number of principles that should underpin its replacement. Its main conclusions were:<sup>24</sup>

- it was unpersuaded that a single tax instrument could deliver both fairness and autonomy to local authorities
- any reform of local tax would continue to include a recurrent tax on domestic property
- the tax base for a future property tax should be made more progressive
- land-value taxation is described as being 'promising', but it is suggested that further analysis is required
- the tax base should be broadened to include income if this is feasible.

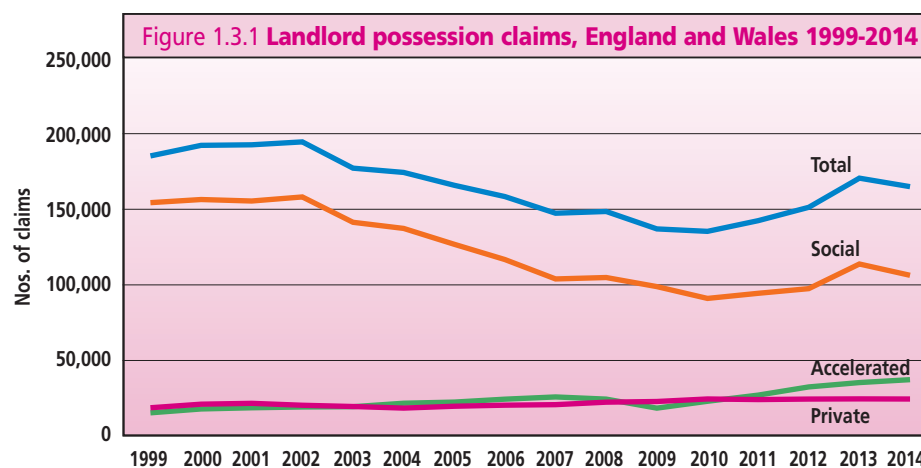
These recommendations are sometimes described as being the 'predominant view', suggesting that there was not unanimity (the dissent of a Labour MSP who was a member of the commission is noted regarding income tax). It is now up to the parties to decide on their own policies in advance of the next Holyrood elections in May 2016. However, arguably the most significant aspect of the report is that it suggests that the SNP has accepted that property taxation should have a role, and that it cannot rely on income tax alone.

The community charge was never introduced in Northern Ireland, which continued with its system of rates – based on 1976 rental values. The system was reformed in 2007, when a new system based on a percentage of capital values as of 1 January 2005 was introduced. It is made up of a district and regional rate. It is subject to a cap on property values of £400,000 and reliefs are provided for people on low incomes, disabled people and those aged over 70 or living alone.<sup>25</sup>

## Private renting

Broadly the same framework for private renting was introduced in the different nations of the UK in 1989. As a consequence assured shorthold tenancies (short assured tenancies in Scotland) have become the norm. These tenancies are characterised by the lack of security of tenure and absence of rent regulation or control. These characteristics have been regarded for many years as being essential prerequisites for attracting landlords back into the sector. However, as more people have become dependent on the sector, there has been growing concern that landlords have too much power over tenants. This is exemplified by 'no fault' evictions (whereby tenants are lawfully evicted simply because the tenancy has ended and the landlord wants vacant possession) and 'retaliatory' evictions (whereby the landlord gains possession of the property in 'retaliation' for a tenant demanding repairs).

Figure 1.3.1 shows that there has been a modest rise in possession claims from private landlords since the late 1990s in England and Wales, during which time the sector has doubled in size. However, the true picture is difficult to assess because there has been a marked rise in 'accelerated' claims, which are used when tenancies are nearing their end. The statistics for such claims do not distinguish between social and private landlords, although it seems likely that they arise predominantly from the private sector.



Source: Ministry of Justice (2015), Mortgage and Landlord Statistical Tables April-June 2015, Table 5.

### Tenancy deposit schemes

Each of the four nations now operates a mandatory tenancy deposit scheme (TDS). These were brought in in England and Wales from April 2007, in March 2011 in Scotland and in Northern Ireland in April 2013. They are intended to deal with the problem of tenants being unable to regain their deposit once their tenancy ends.

### Licensing of mainstream private landlords

Provision for licensing mainstream (i.e. other than HMO) residential private landlords was made in the Housing Act 2004, which covered England and Wales. This was intended to address problems of poor quality landlords and anti-social tenants, particularly in areas of low demand. The act allowed local authorities to introduce 'selective' licensing, covering all or part of their area, on the grounds specified in the act. As a consequence a number of local authorities introduced licensing, including several in London. Their experience has been mixed: Manchester City Council, for example, decided to end its licensing scheme as administratively burdensome and failing to focus on the worst problems; on the other hand, Newham's three year-old scheme has been judged a success.<sup>26</sup> The UK government has also become more sceptical of licensing, instead stating a preference for voluntary accreditation. From April 2015, English local authorities wishing to introduce licensing that would affect more than one-fifth of private tenancies in their area must first seek confirmation from the Secretary of State,<sup>27</sup> and some proposals to do so have been rejected.

The mandatory licensing of mainstream private landlords was introduced in Scotland in 2006 (under legislation passed in 2004). Landlords and their agents are required to register with local authorities. The scheme is intended to identify – and disqualify – 'rogue' landlords. It has been criticised by landlord groups for being disproportionate to the scale of the problem: the housing minister revealed that only 40 would-be landlords had their registrations rejected in 2012.<sup>28</sup> However, the scheme has also been criticised for apparently minimal fines for errant landlords. Fees do not cover the cost of registration, and this may result in local authorities focussing on registration rather than enforcement.<sup>29</sup>

Landlord registration in Wales became mandatory in November 2015, under the Housing (Wales) Act 2014, with landlords being given one year to register with Rent Smart Wales (operated by Cardiff City Council). In addition to the 'fit and proper' person test applied in Scotland, the Welsh system requires landlords to be 'adequately trained'.<sup>30</sup> The Welsh housing minister described this as a 'landmark scheme [which] will drive up standards by making Wales the first country in the UK where managing landlords and agents are required to undertake training to ensure they are clear on their responsibilities'.<sup>31</sup> At its simplest, training for landlords is a one-day course which must be undertaken by November 2016.<sup>32</sup> Northern Ireland joined Scotland and Wales in making registration mandatory in February 2014, although landlords were given a 12-month grace period to comply.

### Tenancy reform

The Scottish and Welsh governments have each addressed the tenancy regime that has grown up over the past quarter of a century.

The Scottish Government established a group to review private sector tenancies and conducted a lengthy consultation regarding their future. As a consequence the Scottish Government has proposed '... a new private residential tenancy for the private rented sector which will improve security of tenure for tenants and provide appropriate safeguards for landlords, lenders and investors'.<sup>33</sup>

The Private Housing Tenancies (Scotland) Bill was introduced in October 2015. It will replace the short assured tenancy with a Scottish residential private tenancy. Following an initial fixed term (during which the tenancy cannot be ended by the tenant, and can be ended by the landlord only on specified grounds), the tenancy becomes permanent. The landlord does not have recourse to repossession on 'no fault' grounds, and can seek eviction only through one of sixteen grounds. These come under four broad categories: where the property is required for another purpose (including being sold or refurbished); where the status of the tenant has changed (e.g. ceases to be an employee of the landlord); tenant's conduct (including breach of tenancy and persistent rent arrears); and legal impediment to a continuation of the tenancy (e.g. the landlord ceases to be registered).



Further, the bill proposes that local authorities be entitled to apply to approve a 'rent pressure zone' covering all or part of their jurisdiction, within which a form of 'second generation' rent control would be permitted. Rent increases for sitting tenants would be limited for a maximum of five years, although landlords would nonetheless be able to increase the rent by a minimum of CPI + 1 per cent. In attempting to balance the interests of tenants and landlords, it is unsurprising that the proposed changes have been criticised for going too far by landlord groups, and not far enough by groups such as the 'Living Rent' campaign.<sup>34</sup>

In Wales, the Renting Homes (Wales) Bill has been passed and will introduce two kinds of tenancies: a secure contract (modelled on local authority tenancies) and a standard contract (modelled on the assured shorthold tenancy). Landlords will be obliged to provide tenants with a written statement detailing the rights and responsibilities of landlord and tenant. The 'default' tenancy in the private sector will be the standard contract. The bill outlaws 'retaliatory evictions', but does not introduce security of tenure or seek to regulate rents.

### Right to buy

The right to buy (RTB) for local authority tenants in Great Britain and the house sales scheme for tenants of the Northern Ireland Housing Executive and housing associations has been subject to perhaps the widest divergence in housing policy across the nations of the UK since 2010.<sup>35</sup>

For almost all of the last UK Labour government, the devolved administrations in Scotland and Wales established in 1999 were also led by Labour. During this period, the terms under which right to buy could be exercised generally moved in the same direction, with qualification periods rising (at least for new tenants) and maximum discounts tightened, as concerns about the availability of affordable stock mounted. These policies placed very strong downward pressures on RTB sales. The value for money implied by the different versions of right to buy was assessed in a previous edition of the *Review*.<sup>36</sup> The story was a little more complicated in Scotland where the desire to introduce a 'single' social tenancy for HA and LA tenants implied giving them the same rights, including RTB. However, the right to buy for housing association tenants was introduced within the framework of the more restrictive 'modernised' right to buy (see Table 1.3.3) and was in any case deferred until the last quarter of 2012. Since then it has had no discernible effect on the sales figures.

**Table 1.3.3 Right to buy criteria in England, Scotland, Wales and Northern Ireland**

	England	Scotland	Wales	Northern Ireland
Qualification period	5 years (to be reduced to 2 years under Deregulation Act 2015)	5 years (if tenancy began after 30/9/02 = 'modernised' RTB) 2 years (if tenancy began before 1/10/02 = preserved RTB)	2 years (if tenant before 18/1/05) 5 years (if tenant on or after 18/1/05)	5 years
Discount: house	35% plus 1% p.a. up to 70% (raised from 60% in 2014)	20% plus 1% p.a. up to 35% (modernised RTB) 32% plus 1% p.a. up to max 60% (preserved RTB)	32% plus 1% p.a. up to 60%	20% plus 2% p.a. up to 60%
Discount: flat	50% plus 2% p.a. up to 70%	20% plus 1% p.a. up to 35% (modernised RTB) 44% plus 2% p.a. up to 70% (preserved RTB)	44% plus 2% p.a. up to 70%	20% plus 2% p.a. up to 60%
Maximum cash discount	£75,000 (since April 2012, now uprated by CPI to £77,900) £100,000 (London since March 2013, uprated by CPI to £103,900)  Previously £16,000-£38,000, depending on region	£15,000 (modernised RTB – no limit on 'old' RTB)	£8,000 (June 2015) £16,000 (2003-15) Previously £24,000	£24,000
Housing pressure exemptions	None	Introduced 2011	Introduced 2011	None
New homes exemptions	None	Exempt from scheme if tenancy began from 1/3/11. (New house = built or acquired after 15/6/08)	None	None
Abolition planned?	No	Scheme ended for new tenants after 1/3/11; scheme ends for all tenants on 31/7/16	Announced June 2015	No

Source: House of Commons Briefing Paper Number 07174, Comparison of Right to Buy policies in England, Scotland, Wales and Northern Ireland; Scottish Government, Your right to buy your home. A Guide for Scottish Secure Tenants.

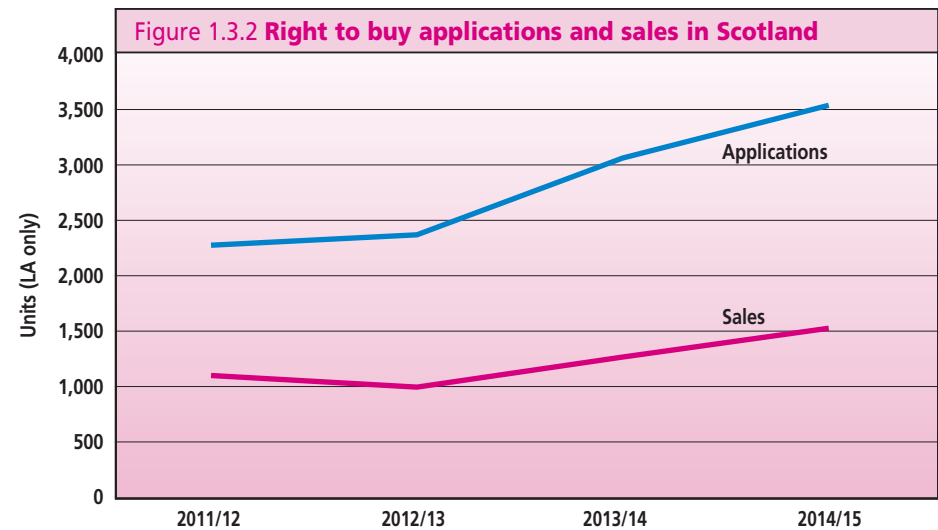
Since the election of the coalition in 2010, right to buy policy has diverged dramatically, with both the Scottish and Welsh Governments following the route towards abolition of the scheme. The Department for Communities is also reviewing the sales scheme in Northern Ireland. The right to buy was withdrawn from new tenants in Scotland in 2011, and will be ended altogether in July 2016. Figure 1.3.2 shows that there has been some uplift in applications and sales in anticipation of the scheme's withdrawal.

The Welsh Government published a White Paper on the future of right to buy in January 2015,<sup>37</sup> and following a period of consultation announced a further reduction in the maximum discount (by half) as well as its intention to legislate to bring RTB to an end.

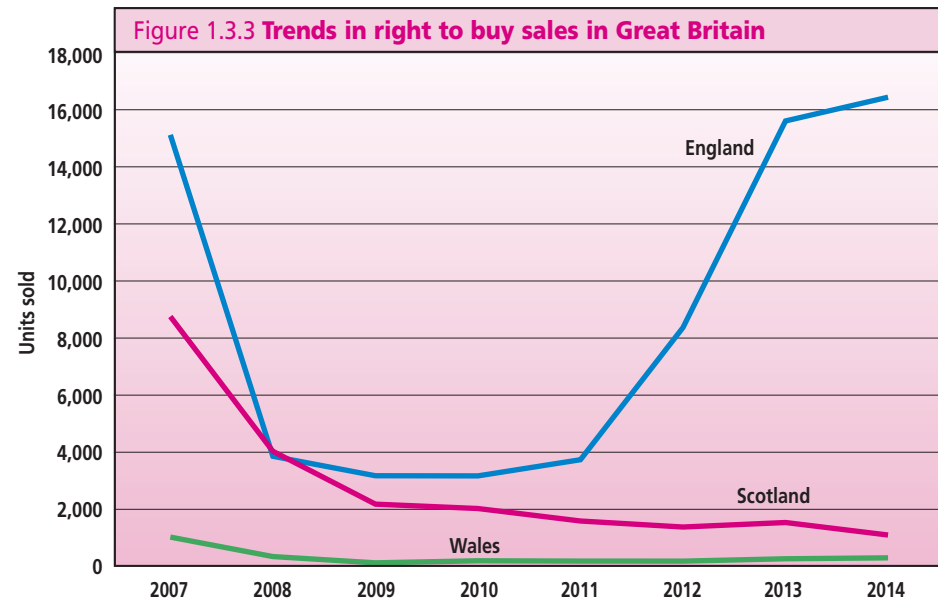
The effect of the lengthening of the qualification period to five years and the regionally-based maximum discounts caused right to buy sales to collapse in England. In 2003/04 there were 84,102 such sales, which had fallen to 22,519 in 2006/07 (before the credit crunch or financial crisis) (Compendium Table 20a). Thereafter they fell further, even dipping below the (declining) figure for Scotland (Figure 1.3.3). Under both the coalition and the majority Conservative governments, RTB policy has moved radically in the opposite direction in an attempt to 'reinvigorate' the scheme in England.

The coalition and Conservative governments' policy of 'reinvigorating' RTB has helped to restore sales levels in England to those of 2007/08, but not to those seen in the mid-noughties. The increase in maximum discounts and their indexation will be complemented by a reduction in the qualification period to two years.

However, the new majority Conservative government clearly sees the extension of RTB to housing association tenants as being an important element in its attempts to reverse falling homeownership levels. The voluntary RTB pilot is currently operated by five housing associations active in 24 local authority areas (and is discussed further in Contemporary Issues Chapter 1).



Source: Scottish Government, Housing Statistics for Scotland- Sales and Applications – Social Sector Summary.



Source: Compendium Tables 20a-c.

## Conclusions

This chapter has reviewed the evolving process of devolution across the nations of the UK, and has sought to illustrate areas of convergence and divergence in the ways in which these powers are used.

As things stand, devolution and housing policy is quite ‘messy’ given that different aspects of housing policy (or policies that affect housing) are either devolved or not. The most obvious asymmetry lies in housing benefit. Even in Scotland, where housing cost elements within universal credit are to be devolved, it is very difficult for devolved administrations to balance demand-side and supply-side subsidies.

Notwithstanding the limits to the powers of devolved administrations to do things differently, the radicalism of the UK government in reforming the social rented sector and in promoting homeownership is drawing England apart from the rest of the UK. So the power enjoyed by the devolved administrations not to do likewise is at least as important as their growing powers to change the narrower details of policies or how they are administered.

## References and notes

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