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The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
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29. October 1986

Dear Lord President

ABOLITION OF DOMESTIC RATES ETC (SCOTLAND) BILL
COLLECTIVE COMMUNITY CHARGE

1. I am writing to seek E(LF) clearance, after interdepartmental discussions at official level, for the provisions to be contained in the forthcoming Abolition of Domestic Rates Etc (Scotland) Bill on the collective community charge.

Background

2. The Green Paper "Paying for Local Government" proposed that in order to deal with that part of the population which is extremely mobile and would be difficult to register individually for the community charge, a collective community charge, paid by landlords, should be levied in place of personal community charges. Officials have now considered the scope of the coverage of the collective community charge, and the administrative arrangements which will be necessary to give it effect.

Scope of Collective Community Charge

3. We propose that the Bill should enable the collective charge to be applied in two main sets of circumstances:

3.1 The first is designed to deal with the extremely mobile people mentioned in the Green Paper. We propose that the collective community charge should only be used in limited circumstances, where the local authority (in Scotland, the registration officer) is satisfied that it would not be practicable to register individually the residents living in particular premises. This will cover properties such as residential institutions, like some common lodging houses, whose residents may be relatively transient or where there may be other difficulties in enforcing registration and payment; and multi-occupied and shared housing whose residents are highly mobile, such as houses let as bed-sits or partly self-contained flats. This policy is being given effect by the inclusion in my Bill of an order-making power to prescribe criteria by which the transience of residents, and hence the justification for imposing the collective charge, should be judged.

3.2 Secondly, we propose an order-making power to prescribe classes of property which are to be subject to the collective community charge even if the criteria of transience are not met. This power would enable us to use the collective charge in properties such as geriatric homes, where individual billing and collection might be considered inappropriate for practical reasons. We will require to consider separately the question, which has been the subject of inter-departmental discussion, of the treatment of people resident in institutions such as hospitals, prisons and possibly certain types of homes for the old and infirm, which might be left in rating with their inhabitants exempted from the community charge. The drafting authority I seek below is without prejudice to this further consideration.

4. I am satisfied that the arrangements I propose are sufficiently flexible to allow the community charge to be applied as the different circumstances of different parts of the country require.

Administration of the Collective Charge

5. It is proposed that the landlord should be liable for payment of the collective community charge, and that he should be able to recover the amount of the charge from his tenants, who will thus be required to pay an amount of the same order as the charge they would have had to pay had they been individually registered. Since by definition the collective community charge deals in most cases with a floating population, detailed provisions (to be set out in regulations) are required on the setting of the collective charge in each case, and the mechanisms governing the amounts which landlords will be able to collect. It is proposed that the local authority (in Scotland, the registration officer) should set, in relation to each premises, a "collective community charge multiplier" reflecting the number of people who typically use the premises as their sole or main residence at any one time. The landlord would then be empowered to recover the charge from his tenants over the age of 18 (who would otherwise be individually liable for the personal community charge), subject to a maximum recoverable from each tenant of the amount of the personal community charge in proportion to each period of residence.

6. I propose that once a collective community charge multiplier is set, the landlord will be liable to pay the whole sum (in instalments during the year), but may request the registration officer to recalculate the multiplier from time to time if the level of occupation of his premises changes. I intend that recalculation should not be possible at less than a prescribed interval - I have in mind 3 months - to avoid an undue administrative burden. Occupancy rates could be checked by the local authority (registration officer), who would have access to the records of occupancy which landlords would be required to keep. It is not proposed, however, that local authorities (registration officers) should be granted any right of entry to premises for checking purposes.

7. I understand that, in discussion between officials, it has been suggested that a system such as I propose, under which there is a strictly determined liability on the landlord at any given time, might have the drawback of placing landlords under a financial penalty if the occupancy of the premises fell sharply for any reason. This could be seen as a disincentive to landlords to provide privately rented property. I consider that the arrangements I propose for Scotland will have sufficient flexibility to be perfectly defensible in the circumstances of the housing market here. I recognise that somewhat more flexible

arrangements may need to be developed in due course to cope with the problems of London, for example. These would, in essence, amount to providing greater scope for negotiation between landlords and local authorities about the amount due at any time. I am sure we can live with any such differences which may emerge in due course between north and south of the border.

Conclusion

8. I would be grateful for drafting authority to include in my forthcoming Bill the enabling powers necessary to set up the Scottish system on the lines discussed above. May I take it that I have agreement in the absence of comments by 7 November?

9. I am copying this letter to the other members of E(LF) and to Sir Robert Armstrong.

Yours sincerely

Malcolm Rifkind

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