

PRIME MINISTER

Abolition of Domestic Rates Etc (Scotland) Bill:Exemptions from the Community Charge

[E(LF)(87)7 and 8; the Environment Secretary's minute to you of 10 April is also relevant]

DECISIONS

The Committee needs to decide whether Scottish Ministers steering the Abolition of Domestic Rates Etc (Scotland) (ADRES) Bill through the House of Lords should make concessions in response to pressure for further exemptions from the community charge. The main groups for whom exemptions are being sought are:

- i. the severely mentally handicapped;
- ii. the physically disabled;
- iii. other low income groups such as pensioners and participants in YTS and other MSC schemes;
- iv. university students.

For the handicapped and disabled exemption could either be on a personal basis, or on the basis of residence in certain categories of homes and hostels, or both.

BACKGROUND

2. The community charge proposed in the Green Paper "Paying for Local Government" was intended to be a universal obligation on all

adults. At the same time changes in the social security system which are due to come into effect from 1988/89 will limit housing benefit to a maximum of 80 per cent of an individual's rate or community charge liability. These measures will enhance accountability by ensuring that all those who are eligible to vote in local government elections will have to bear part of the cost of the policies their representatives follow. So far only two exemptions from the charge have been agreed, for long-term hospital patients and convicted prisoners: in both cases it can be argued that electoral accountability does not apply.

3. E(LF) has been at great pains not to make any further concessions unless and until it became clear that something more was needed in order to carry the ADRES Bill. Various suggestions for concessions have, therefore, been deliberately put aside since last September. A note of these, together with the current proposals, is attached at Annex A.

4. The moment has now come for taking the final decisions against a very tight timetable. The ADRES Bill is due to have its Report in the House of Lords on Tuesday 28 April (with Third Reading scheduled for 11 May). Scottish ministers are clear that the Lords will fight hard for some concessions in respect of the mentally handicapped, the disabled and students, and they propose a limited package on which they believe the Lords would settle. They fear that if this package is not delivered, the Lords will write in far wider concessions that the Government could not possibly accept. Any concessions made now will tend to weaken local electoral accountability, and will be likely to set the

scene for what is done in England and Wales. You will wish to ensure that any concessions that are offered are the very minimum that is needed to secure the ADRES Bill's Royal Assent on its present timetable.

MAIN ISSUES

5. E(LF)(87)8 proposes three concessions on compassionate grounds. E(LF)(87)7 deals with students. It will be convenient to take each group separately.

Mentally handicapped

6. An exemption for the severely mentally handicapped can be argued on the grounds that accountability cannot realistically apply in their case. It would be relatively restricted, applying to perhaps 120,000 people in Great Britain. Mr Ridley's minute to you of 10 April makes it clear that he could accept it. Mr Fowler may however oppose it on the grounds that it raises substantial problems of defining the degree of handicap which would qualify, and that it would in any case be invidious to classify mentally handicapped people in this way. At the earlier E(LF) discussion on this point you were keen that people who make great sacrifices to keep handicapped people at home should not be given a financial incentive to stigmatise them.

7. Despite the counter-arguments, an exemption for the mentally handicapped may represent the minimum possible concession. But, given the definitional problems, it might be advisable to take a

power to specify exactly which category of people would be eligible by Order rather than try to build a definition into primary legislation.

Residents of homes and hostels

8. An exemption for all residents of certain homes and hostels is more difficult to reconcile with the policy of increased accountability. A significant proportion of residents can be expected to vote, and to be able to pay at least a share of the community charge. It would exempt about 360,000 people in Great Britain, three times the number of severely mentally handicapped people. It would also clash with policies on care in the community, since it would exempt people resident in homes and hostels but not those with similar problems in the community.

9. Against this, Mr Rifkind and Mr Fowler can be expected to argue that residents of homes and hostels do not pay domestic rates, and are outside the housing benefit system. Making them subject to the community charge will involve substantial administrative costs in bringing them into the benefit system. Defining the difference between a hospital and a nursing home may also be difficult: but problems of this sort are likely to arise wherever the boundary is drawn. Above all, in present circumstances, the Lords' concern to do something for the old and decrepit may be a paramount consideration.

The Disabled

10. The case for higher rates of rebate (up to 100 per cent) for some disabled people seems to rest not on the argument that

accountability cannot apply, but on the ground that they have low incomes and high expenditure. But those whom Mr Rifkind proposes should be eligible (about 220,000 in Great Britain) are just those who qualify for special payments. It is not clear that after these payments they are worse off than other low income groups. If they are, a better approach might be to increase those payments, much in the same way as is proposed for students. The alternative proposed by the Scottish Secretary would break the 80% limit on rate and community charge rebate and set a precedent that could be very difficult to handle when the new housing benefit limits are brought into force next year. Mr Fowler may well argue against the proposal on those grounds.

Students

11. Mr Rifkind's proposal to change the basis of additional student grants from 80 per cent of the average community charge to 80 per cent of the actual charge in the relevant university town is a technicality which seems unlikely to sway Peers who oppose the Bill. It might be more difficult to apply in England than in Scotland - for example, an assumption that students at a college in central London live in the same borough is not realistic. But E(LF) has already recognised that different arrangements may need to apply south of the border.

12. It is far more difficult to see a logical case for requiring foreign students and others not eligible for grants to pay only 50 per cent of the community charge. (This would mean that students on grants paid 20% of the community charge, while foreign and other students not eligible for grants paid 50%.)

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Mr Rifkind acknowledges that the charge is unlikely to deter foreign students, and that there is a good case for requiring them to pay. A 50 per cent charge would also be a completely new element of the arrangements, and could introduce substantial new problems for local authorities in determining eligibility. If this is indeed a price that has to be paid for getting the Bill through the Lords it is one that will result in a confusing system that may be difficult to present. At the outset of this exercise E(LF) considered Mr Baker's arguments for exempting students and Mr Rifkind's for including them as fully as possible. That point was settled in Mr Rifkind's favour. But a compromise between those two clear-cut points of view does look very awkward.

Financial implications

13. Some of the proposals would reduce income from the community charge. Others would also increase public expenditure, on administration or on benefits. None of these effects are quantified but it would be unrealistic for this to be done in any detail against the parliamentary timetable.

Tied houses

14. Mr Ridley also refers in his minute to you of 10 April to the taxation of payments which employers may make in respect of the community charges of employees and their families living in tied houses. The position is that such payments will count at tax-deductible expenses of the employer so long as they are part of the employee's contact of service. But from the employee's point of view they will be taxable income: this is the point

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Mr Ridley is keen to reinforce. However, this is not currently at issue. It has been accepted by all concerned in recent correspondence between Mr Rifkind, Mr Ridley and the Chief Secretary.

HANDLING

15. You will wish to ask the Scottish Secretary to describe the position on the ADRES Bill and to introduce both his papers.

16. Before the discussion turns to the specific proposals, you will wish to ask the Lord President to comment

- i. on the timetable for the Bill, and especially the time available for resolving any dispute between the Lords and Commons
- ii. on the mood of the Lords, as he sees it, and the general need for some concessions.

17. The two papers could then be discussed in turn. The Environment Secretary, the Welsh Secretary and the Chief Secretary will wish to comment on both papers. The Social Services Secretary has a major interest in the general proposals for exemptions, the Education Secretary in the proposals for students. The Home Secretary and the Chancellor of the Duchy have both expressed their support for the DHSS proposals on residents of homes and

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hostels, and the Chancellor of the Duchy will almost certainly wish to comment on the student dimension .

A.J.L.

A J LANGDON

22 April 1987

ANNEX A

Mentally handicapped, disabled, etc

1. E(LF) has considered the possibility of a concession in the ADRES Bill for the handicapped and disabled on two previous occasions. On 17 September 1986 (E(LF)(86) 3rd Meeting) it considered a proposal that a general power to grant exemptions by secondary legislation should be drafted on a contingent basis. On 20 November 1986 (E(LF)(86) 6th Meeting) it considered a proposal that Scottish Ministers should indicate that they were prepared to exempt the mentally handicapped from the community charge. On both occasions the Committee decided against making any concessions, although it recognised that these decisions might need to be reviewed in the light of Parliamentary pressure. On the second occasion the Scottish Secretary was asked to consider further how an exemption for the mentally handicapped should work, and in particular the level of handicap which might be the basis for exemption.

2. On 2 March the Minister for Social Services and the Disabled wrote to the Environment Secretary and other E(LF) members seeking agreement to the exemption of residents of residential care homes, registered nursing homes and hostels from the community charge, and the retention of these premises in non-domestic rating. This proposal would exempt about three quarters of the severely mentally handicapped from the community charge together with many others. It was supported in letters from the Home Secretary and Mr Tebbit, but opposed by the Secretary of State for the Environment and for Wales, and by the Chief Secretary, Treasury. Since the provisions in the ADRES Bill would be sufficient to achieve the proposed exemption by Order, a decision was not required urgently, and the issue has not been resolved.

3. The Scottish Secretary now proposes a package of measures in response to pressure in the Lords for widespread exemptions from the community charge. He recommends:

- i. full exemption for the severely mentally handicapped, on the basis of the definition in paragraph 7 of E(LF)(87) 8;
- ii. exemption for residents of homes and hostels as proposed by Mr John Major in his letter of 2 March: the homes and hostels would however remain subject to non-domestic rates;
- iii. provision for up to 100 per cent rebates for tightly defined categories of the disabled. He proposes that this concession should also be extended to domestic rates from 1 April 1988.

Only the first proposal requires an amendment to the ADRES Bill, although Mr Rifkind would want to announce the full package of concessions during Lords Report stage.

Students

4. The Committee considered the treatment of students under the community charge on 2 October (E(LF)(86) 4th Meeting). It accepted the Secretary of State for Scotland's proposal that students should be liable to pay the full charge at their term-time addresses; that they should not be eligible for rebates; but that there should be a flat rate addition to student grants to help them meet the cost. The extra grant was to be paid to all students eligible for a grant, whatever their parents' means, and was to be equal to 80 per cent of the average community charge. This would leave students paying 20 per cent of the charge on average, but more in high charge areas and less (or nothing at all) in low charge areas. The Committee rejected the Education Secretary's alternative proposal that students should simply be exempt from the community charge since applying the charge to them was no more than churning public money at considerable administrative cost. But E(LF) recognised that somewhat different arrangements might be needed in England and Wales in view of the wider range of likely community charges south of the border.

5. The Scottish Secretary now proposes a somewhat revised scheme. Students eligible for grant would still pay the charge, but would get additional grant (without a means test) equal to 80 per cent

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of the actual charge in their university town (which might or might not be where they actually lived in term-time). All other students, including overseas students, would be liable to pay 50 per cent of the community charge: this proposal would require an amendment to the ADRES Bill.

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