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Rt. Hon Nicholas Ridley MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON SW1P 3BE

Dear Secretary of State,

VALUATION FOR RATING : THE "ADDIS" AND "CAKEBREAD" CASES

You sent me a copy of your letter of ^{WILL REQUEST IF REQUIRED} 1 March to Nigel Lawson. You seek his approval, and that of colleagues, to your proposal to reverse, by legislative means, two recent Court decisions on rating, namely Addis and Cakebread. The idea is to insert two suitable provisions in the Local Government Finance Bill currently before Parliament, which are to have effect, in the case of the one reversing the Addis judgment, from the date of an announcement which you would make during this rating year (probably 8 March), and in the case of the one reversing the Cakebread judgment, from 1 April, that is to say the start of the next rating year. This degree of retrospection is seen as being essential to limit the financial damage to the rating authorities as a result of the judgments.

Subject to some points of detail set out below, I consider the retrospection proposed is defensible.

The Addis Judgment

In Addis you intend that any proposal for a change in valuation made before the date of your announcement shall be dealt with on the basis of the law as interpreted by the House of Lords; any proposal received on or after that date will be dealt with in accordance with the new law. Whilst persons submitting proposals on or after 8 March will not be able to claim that their proposal be considered under the old law as regards the period



up to that date, this seems an acceptable result, since proposals for revaluation are not, as I understand, appeals against valuations for that year, but applications to change the status quo. Therefore you would not be affecting accrued rights by preventing reliance on the old law, since no rights potentially arise until a proposal is made. By preserving the position of proposals made prior to 8 March, you would be respecting the expectations of their proposers that the old law will apply.

Your letter however recognises the possibility of "counter-proposals" being made by valuation officers on or after 8 March but before 31 March, which could have the effect of reversing any changes achieved by proposals made prior to 8 March based upon the House of Lords interpretation of the law. This would be clearly unacceptable, since accrued rights may be affected by the retrospection. It is not sufficient, in my view, to rely on the discretion of the valuation officers not to make such proposals; they should be prevented from doing so from the legislation.

A further point is that your announcement should set out in as much detail as possible how you intend the law to be amended, so as to give persons who are considering whether to make a proposal an opportunity to decide whether such a course would be worthwhile.

Your letter further indicates that you have not consulted Parliamentary Counsel as yet. It seems to me that this will not be an easy provision to draft. Your officials should therefore consult Parliamentary Counsel as a matter of urgency to check that a suitable provision can be drafted.



The "Cakebread" Judgment

This provision is more straightforward. Given the relatively short period of retrospection, I see no obstacles provided adequate notice of the change is given to the water authorities prior to 1 April.

I am copying this letter to the recipients of yours.

S.A. Parker

*Approved by the Attorney General
and signed in his absence.*

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