2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon John Moore MP
Department of Health and Social Security
Richmond House
79 Whitehall
LONDON
SW1A 2NS

11 March 1988

Dear John

COMMUNITY CHARGE: ATTACHMENT OF BENEFIT

The meeting of E(LF) on 4 February agreed that there should be a scheme to enable the attachment of benefit broadly comparable to that for the attachment of earnings for those in arrears with their community charge. The Sub-Committee asked me to prepare such a scheme in consultation with you. I was grateful for your letter of 29 February on the subject.

There are a number of ways in which we could provide for deduction from benefits. The enforcement provisions we envisage for the community charge will involve the local authority in sending a reminder, followed by a summons, followed by an order empowering the local authority to use distress and/or attachment of earnings. We could simply add a third option, the attachment of benefit, with the same court proceedings as are necessary for distress and attachment of earnings. A local authority which obtained such an order could require DHSS in certain circumstances to deduct benefit to a prescribed maximum amount.

I agree with you, however, that this has presentational problems, and is a less flexible approach. It would also increase the workload of the Courts. The alternative would be to build on the existing procedures under which deductions can be made from benefit without the need for court procedures. I understand that it is currently possible for direct payment from benefit to be made to creditors without consent if it is in the interest of the claimant to do so. It seems to me that these precedents are the ones we should be building on.

I propose, therefore, that in implementing the decision of E(LF) we should develop an approach based on the arrangements already used for direct deductions, which do not need a court order. The details of such a scheme are set out in the annex to this letter.

You raise the matter of the maximum amount which can be deducted. I agree entirely that there should be no ring fencing of the uprating. E(LF) has, however, agreed that arrears of community charge should be met be deductions from benefit. This implies

either that community charge arrears should be given priority over the other kinds of debt which can currently be dealt with by direct deduction, or provision made so that when the existing priorities have been covered, an additional deduction can be made in respect of community charge arrears. This latter course, as explained in the annex, would entail an increase in the maximum amount deductible. It seems appropriate that, if we choose this course, the extra amount payable in respect of community charge arrears should be a weekly sum equivalent to 5% of the single person's allowance (£1.70), as is the case with other debts.

Where individuals who are in arrears with their community charge also face deduction from benefit for other purposes I would argue that the community charge should be given a high priority. The importance attached to the community charge is demonstrated by the fact that failure to pay will be punishable by imprisonment, an option not open in the case of other types of debt. I think colleagues would agree that it would be unsatisfactory if the system we adopt meant that community charge arrears could not be dealt with because of other debts.

I am sending a copy of this letter to other members of E(LF), to the Lord Chancellor, and to Sir Robin Butler. I should be grateful for colleagues' comments by ~~14~~ 18 March. I should like to announce our intentions fairly soon to avoid the risk of further alarmist stories in the press.

Yours ever
Nicholas

NICHOLAS RIDLEY

ANNEX

COMMUNITY CHARGE: DEDUCTIONS FROM BENEFIT

The system of direct deductions would be based on that for the deduction of housing costs set out in paragraph 3 of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987 (SI 1987/1968). There would also be the possibility of deductions being made by agreement with the claimant in appropriate cases.

The arrangements would provide that where a beneficiary is in arrears with his community charge the adjudicating authority may direct that payments of benefit may be made direct to the charging authority.

The arrangements would provide that the amount deductible would, as with housing costs, be the aggregate of two amounts:

a. an amount towards the debt, up to a maximum of 5% of the personal allowance for a single person of 25 or over (£1.70 when rounded up to the next 5 pence); and

b. an amount towards the continuing liability for the community charge, consisting of the actual weekly cost of the charge.

As with housing costs, there would be a power for the adjudicating authority to direct that the actual weekly amount should continue to be directly deducted after the debt has been discharged.

To ensure that these arrangements would be effective it would be necessary to make provision to ensure that community charge arrears were given an appropriate priority. Questions of priority are dealt with in paragraph 9 of Schedule 9 to the Regulations. There are two possible approaches:

a. the existing maximum deduction would be retained, but

community charge arrears would be given first priority;

b. the existing priority could be maintained, but paragraph 8 (which deals with the maximum amount which can be deducted in respect of all debts) could be amended to provide that when normal priority debts have been dealt with up to the maximum, a further deduction in respect of the community charge may be made, which would effectively increase the maximum deduction from 3 times 5% of the personal allowance of a single person aged 25 or over (£5.10 when rounded in accordance with the regulations) to 4 times 5% of that amount (£6.80).

Local Authorities (Rating and Capital Expenditure)

3.31 pm

The Secretary of State for the Environment (Mr. Nicholas Ridley): With permission, Mr. Speaker, I should like to make a statement about three issues which will require amendments to be introduced to the Local Government Finance Bill. Two relate to recent court decisions affecting rating, and one relates to the control of local authority capital expenditure in England and Wales.

First, it is central to the rating system that the value of a hereditament should reflect the physical condition of the property and the "state of the locality" at any particular time. But the basis for the valuation should be the property market conditions as they were at the date of the last revaluation.

For many years now the view has been that the expression "state of the locality" related to its physical state and its amenities, and that in order to make a case for a change in rateable value appellants had to show that there had been physical changes to the property or its locality.

This view was recently tested in the case of Addis *v.* Clement, which turned on whether a factory on the borders of the Lower Swansea Valley enterprise zone could rely on the introduction of the EZ, to seek a reduction in rateable value. The Court of Appeal upheld the traditional view by holding that the establishment of an EZ was not a change affecting the state of the locality. The House of Lords, however, took the opposite view.

Following that judgment, it appears that ratepayers may obtain changes in rateable value to reflect changes in market conditions since 1973. Many thousands of new proposals may result. In my view, changes in economic circumstances should be taken into account at the general revaluation in 1990.

I therefore propose to bring forward amendments to the Local Government Finance Bill so that, with effect from midnight tonight, proposals to amend current rateable values will be determined according to the law as it was understood to be prior to the decision in the Addis case. This means that changes will be taken into account only in so far as they relate to the physical state of the hereditament and its locality. Changes in economic factors will be taken into account in the 1990 and subsequent revaluations.

Proposals already made will be decided, where relevant, in the light of the law as decided by the House of Lords in the Addis case.

The second issue affects the rating of water hereditaments. Most such hereditaments are currently rated by statutory formula. Others, particularly sewage treatment works, have, however, always been treated as excluded from the formula and rated conventionally. The Court of Appeal has now held, in the case of Severn Trent Water Authority *v.* Cakebread, that the Water Act 1973 changed the statutory definition of a water hereditament so that those hereditaments previously excluded from the formula are covered by it, even though the formula did not make allowance for that.

This decision would give a continuing windfall benefit to water authorities. We have therefore decided to restore the law to the position previously accepted for many years, also with effect from midnight tonight.

These two decisions will affect the revenue of the local authorities concerned. Rateable values are of course constantly changing as a result of the appeals process and net additions to the rateable stock. Ordinarily, and by agreement with the local authority associations, rateable values, once set for a year, are not changed for rate support grant purposes, for that year or earlier ones. Exceptionally there is provision in section 67 of the Local Government, Planning and Land Act 1980 for authorities to be compensated if they suffer a reduction of more than a prescribed proportion of their rateable value in any year. This proportion is presently set at 2·5 per cent. It is not yet clear whether, as a result of these decisions, any authority will lose rateable value in excess of that level and, therefore, whether the existing arrangements will be triggered. While my right hon. Friend the Secretary of State for Wales and I are prepared to listen to representations on this, we see no need to extend the existing arrangements for compensation. We intend, by making our proposals effective from today, to limit the losses which might otherwise arise.

Thirdly, I have to inform the House that, once again, a minority of local authorities are employing artificial devices to incur capital expenditure and to undertake borrowing over and above the levels permitted to them under the existing capital control system.

Only a minority of authorities are involved, but the sums involved are large. Individual deals can give rise to future expenditure of several hundred million pounds. If all options granted under agreements recently entered into are taken up, several billion pounds of capital expenditure may be incurred. No Government could ignore evasion of their expenditure controls on this scale.

A number of different devices are being used. They fall into two classes. First, there are schemes under which local authorities are acquiring capital assets on terms which are outside the letter of existing capital controls — for instance, by the taking of medium term leases or by barter. Secondly, there are schemes under which local authorities are raising money by lease and leaseback or sale and leaseback of their operational assets. This is borrowing in fact, although it may not be borrowing in law. In effect, money is being borrowed by disposal of capital assets in order to finance deficits on revenue account.

Mr. Tony Banks (Newham, North-West): That is exactly what the Government are doing.

Mr. Ridley: Amendments have been made to the prescribed expenditure regulations for England and Wales. These will take effect from midnight tonight. But the amending regulations will be temporary in the first instance. My right hon. Friend the Secretary of State for Wales and I will consult local government and other interested parties about whether any changes or clarification are required before the amendments are made permanent. We have adopted this procedure to avoid any repetition of the events of 1986-87, when consultation preceded a change in the regulations and when nearly £2 billion worth of deals were rushed through in the interim.

The main changes made by the regulations are that, with some exceptions, acquisition of a leasehold interest in land for a term of more than three years will score as prescribed expenditure. The present limit is 20 years. And, regardless of term, prescribed expenditure will be scored on acquisition of a lease of property in which the authority

[Mr. Ridley]

holds a superior interest or which has during the previous five years been the subject of a development agreement to which the authority was a party. There are also some changes in the provisions about capital receipts where acquisition of the assets concerned did not involve prescribed expenditure.

Some authorities may as a result of the new regulations incur prescribed expenditure as a result of the exercise of options provided for in agreements already entered into. I and my right hon. Friends will consider issuing additional capital allocations where we are satisfied that the agreements were not entered into for the purpose of evading capital expenditure or borrowing controls.

Subject to the approval of Parliament to the necessary provisions, we propose to supplement the changes in the regulations with certain changes in the primary legislation. Those changes are as follows: to clarify that, when a local authority acquires land in terms other than freehold for cash, the amount of prescribed expenditure scored is the value of the interest acquired on the assumption that it was acquired freehold and for cash. That was the intention of the Local Government, Planning and Land Act 1980; to provide that where a local authority acquires property, or where works are carried out on a property which the authority owns, and valuable consideration for the acquisition of the works is given but not in money, then prescribed expenditure will be scored; to clarify that, where a local authority acquires an interest in or right over land and the interest or right does not confer a right of occupation, nil prescribed expenditure is scored only if the interest is neither a freehold nor a leasehold.

In addition, we intend to widen the statutory definition of prescribed expenditure to include the acquisition of share or loan capital in a body corporate and expenditure incurred in the discharge of obligations under a guarantee or indemnity relating to borrowing by a person other than the local authority.

All the legislative changes that I have outlined will be included in the Local Government Finance Bill. They will, however, be made effective from midnight tonight.

Dr. John Cunningham (Copeland): Is the Secretary of State aware that the effect of enterprise zones, which he now complains of and which he seeks to change by changing the law from midnight tonight, was always predictable and was forecast by my right hon. Friend the Member for Birmingham, Sparkbrook (Mr. Hattersley) speaking for the Labour party in 1980 when the Local Government, Planning and Land Bill became an Act? After eight years, the enterprise zone problems in that regard are now coming home to roost. They have resulted in increased rental values inside the zones, decreased rental values outside the zones and a consequent very large and continuing loss of income to local authorities as a result of rateable values being depressed.

Is the Secretary of State aware—I am sure he is—that the city treasurer in Swansea has calculated that the loss to the city's finances could be in excess of £1 million? Is the Secretary of State also aware that in Salford—another enterprise zone — the local authority has calculated that the Secretary of State's decision is likely to result in very large rate increases or a continuing loss of income to the city's finances?

There are 19 enterprise zones at the moment. In all those areas, local authorities and ratepayers have sustained and continue to sustain very large losses in income and therefore sustain extra penalties as citizens of those communities. In addition, is the Secretary of State aware that enterprise zones continue to attract the transfer of firms and companies across the boundaries, simply relocating companies from one area to another without necessarily or very often creating new jobs?

Why will the Government not recognise that attempts to ring-fence the economic effects of enterprise zones have failed and will continue to fail? Apparently the Government recognise that—at least privately—because in Monday's glossy press release document on policies for the inner cities, enterprise zones are relegated to a single sentence in 32 pages. The Government have abandoned their attempts to monitor the impact and effect of enterprise zones.

Will the Secretary of State make clear what redress will be available to local authorities and ratepayers in those areas? Although I welcome his commitment to listen to representations from the local authorities — that is certainly the right thing for him to do—it seems clear that in most cases the provisions in section 67 of the 1980 Act will not be adequate to allow him to compensate them. I ask him to reconsider the provisions to ensure, through legislation if necessary, that the local authorities and their ratepayers can be properly compensated.

The Secretary of State has also decided not to accept the decision of the courts. That means that, unless he makes arrangements for adequate compensation, the people involved will not be able to benefit from the court judgment. That is his intention, but if he does not intend them to benefit from the decision, it is surely incumbent on him to arrange for them to be properly compensated in some other way.

The Secretary of State has made an important and complicated series of technical financial announcements about local authority finance. Will he confirm——

Mr. Tony Banks: What about Westminster and the cemeteries, then?

Mr. Speaker: Order.

Dr. Cunningham: Will the Secretary of State confirm that the local authorities to which he refers have been acting within the law? Is it not strange that he has uncomplimentary things to say about them, but nothing to say about the banks in the City which are falling over themselves to facilitate these deals?

Mr. Dennis Skinner (Bolsover): That is because they are their friends.

Mr. Speaker: Order. Let us have an end of this chat across the Chamber.

Mr. Skinner: Why not speak to the bookie's runner?

Mr. Speaker: Order. I am referring to hon. Members on both sides of the House.

Dr. Cunningham: Why is it that yet again the Secretary of State has made a statement without mentioning the range of effects that are likely to follow? Will he confirm, for example, that his proposals will affect large and small local authorities right across the country, under Tory as well as Labour control? Will he confirm that the proposals will affect the capital programmes of many of those