GM5611p

DEPARTMENT OF HEALTH AND SOCIAL SECURITY
Richmond House, 79 Whitehall, London SW1A 2NS
Telephone 01-210 3000

From the Minister of State for Social Security and the Disabled

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

9 August 1988

Dear Nicholas,

COMMUNITY CHARGE: ATTACHMENT OF BENEFIT

Following the E(LF) Committee decision, there has been some discussion at official level between our two Departments and a great deal of thought given to the practicalities of making deductions for community charge arrears from Income Support payments. My understanding is that, in England and Wales, local authorities will be able to apply to a magistrates' court for a liability order if a person is in arrears with community charge payments This could occur quite early if he has missed a few instalments and the liability order would then cover the whole of the year.

The local authority would then, as one option, be empowered to ask the Department of Social Security to arrange deductions from Income Support. The details would be put into regulations which would be made under the Local Government Finance Act.

I understand from officials that you wish to put the deduction details in a single set of regulations dealing with the whole range of enforcement measures which will be available to local authorities. While I can understand that this seems tidier from your point of view, it has disadvantages to us and we would prefer to make that part of the regulations ourselves.

As we see it, your regulations would deal with the procedures up to the point where the local authority applies to the Secretary of State for deductions to be made and our regulations would deal with the handling of such applications.

As you are aware, we already make a number of deductions for a variety of essential purposes - repayments of Social Fund loans and overpayments as well as deductions for payments to third parties for essential items like housing, fuel and water supplies and it is essential that this Department is, and is seen to be, in control of the deductions for community charge arrears to ensure that beneficiaries retain enough of their benefit to live from day to day.

E.R.●

It would be inconvenient if we had to amend your regulations when we wished to make adjustments to deduction rules across the board. Similarly, our local offices need to have a copy of the regulations to hand and it would be unwieldy for them if deductions for community charge were part of a much longer set of regulations most of which had no relevance to them.

I understand that your officials have suggested that our lawyers draft the regulations - which would in any event be essential - and that they appear in your complete set which would be signed jointly by Ministers of both Departments. However, you will see that we do not regard this as a satisfactory solution for a variety of reasons and I would be grateful if you will reconsider this aspect and agree to the deductions appearing in a free-standing set of regulations which we will make. Similar considerations apply to the passing of names and addresses to the Community Charge Registration Officer. As it is the Secretary of State for Social Security who decides, for the purposes of Schedule 2, what information should be prescribed, we think it is more appropriate that this should be in our regulations rather than your set which deals with the duties to provide information which the Schedule imposes.

Turning to the details of the deductions themselves, it seems to us to be sensible to fix the level of deduction at 5 per cent of the personal rate for a person aged 25 or over (currently £1.70) which is the amount set for other deductions of arrears. This amount would apply whether a liability order related solely to the beneficiary's own debt or was a joint liability with his partner and would not, in the latter case, be increased to £3.40.

The 5 per cent would be separate from the other direct deduction provisions and there would be no possibility of it being used for other purposes. Thus for the majority of cases we would not need to give it a priority ranking in relation to those items.

However, there will be some instances where the amount of Income Support payable is insufficient for a deduction to be made or the whole of the Income Support will already have been used for deductions relating to essential items and we will need the power to refuse community charge direct deductions in such cases. Equally, there will be some instances where the existence of a deduction for community charge arrears combined with other deductions uses all the income support and subsequently a debt arises for an essential item such as rent, fuel or water, non-payment of which could have disastrous consequences for the claimant and his family. We will need to have the power to stop paying the local authority in such circumstances.

The decision to deduct an amount from benefit will have to be made, as at present, by the adjudicating authorities with payment being made by the Secretary of State at such intervals as he determines - probably at quarterly intervals in arrears for economical administration. Any appeal from the adjudication officer's decision will be through the existing appeal system to a

E.R.

Social Security appeal tribunal in the first instance. I understand that you intend to introduce an appeal to a magistrates' court against an attachment of earnings order but there can be no question of an appeal against an adjudication officer's decision lying with a magistrates' court.

There are two aspects of deductions which are of particular concern. The first is where the debt is for a period when there was 100 per cent liability but the debtor is now on benefit. In such cases, the debt could take a considerable time to clear and, whilst the arrears are being paid, current debts may accrue. The local authority could not expect deductions on a second liability order whilst an existing order was being complied with, but I would hope that some discretion would be exercised by charging authorities or the courts in dealing with such cases involving people living on Income Support.

The second concern is the addition of costs - both legal and local authority - to a liability order. I understand that these have not yet been fixed and, although it is the intention to provide equity of treatment between those in work and those on benefit, I hope that such costs can be kept to an absolute minimum for those on benefit. On average, the arrears for a whole year's 20 per cent minimum liability will be relatively low and for reasons similar to those I have set out in the preceding paragraph, I think it would be counter-productive if the costs were disproportionately high in such cases. I think we will need to look at this question again when the level of costs becomes clearer.

Finally, I return to a topic John Moore first raised in his letter of 20 February. We shall be seeking a PES transfer for the substantial administrative costs involved in operating direct deductions for this purpose. We estimate that if 5 per cent of our Income Support cases required deductions. the additional cost for GB would be in the region of £6 1/2 million a year.

In general, I think we have reached agreement on a scheme to put into regulations. I have outlined some of our difficulties and concerns and I hope you will be able to agree the suggestions I have made and provide some reassurances on our remaining concerns.

I am copying this to other members of E(LF) and Malcolm Rifkind since separate regulations will be needed under the Scottish Act.

Yours ever,

Nick

NICHOLAS SCOTT