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Dear Nigel
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ABOLITION OF DOMESTIC RATES ETC (SCOTLAND) BILL

You asked that the Prime Minister be kept in touch with progress on this Bill. Following L Committee's approval on Tuesday we intend to publish the Bill tomorrow.

I attach for your information a copy of a commentary on the Bill which will be placed in the Library, issued to the press and made available to the public on demand tomorrow. I am copying this letter to Joan MacNaughton (Lord President's Office), Steven Boyes Smith (Home Office), Robin Young (DOE), Jill Rutter (Chief Secretary's Office), Tony Laurance (DHSS) and to Colin Williams (Welsh Office).

Yours ever

Robert Gordon
Private Secretary

ABOLITION OF DOMESTIC RATES ETC (SCOTLAND) BILL COMMENTARY

Introduction

1.1 The Abolition of Domestic Rates Etc (Scotland) Bill contains the Government's proposals for the reform of local government finance in Scotland. This Bill will finally bring to an end, over a three year period, the system of domestic rating, a system which has now comprehensively been shown to be both unfair and unsatisfactory. In its place the Bill will introduce a system of community charges, payable by all the adults in each local authority area. Broadening the local tax base in this way will be fairer, as many more of the people who benefit from local authority services will now directly contribute something to the cost of providing them. And this in turn will enhance the accountability of the local democratic process as all electors will have a personal financial interest in the cost of the policies they vote for. Of course, as with domestic rates at present, there will be a rebate system to protect those on whom payment of the full community charge would be too heavy a burden.

1.2 The Bill will also begin to tackle the unfairness of non-domestic rates in Scotland. For too long business ratepayers have been liable to sharp, and often unpredictable, increases in the amount they have to find for rates. Under the Bill, increases in poundages in each area will be restricted to the rate of inflation. This is intended to protect business ratepayers during the period when Scotland alone has a reformed system of non-domestic rates. Work is in hand to achieve the harmonisation of the valuation for rating of non-domestic property north and south of the Border, an essential step before the Government's eventual aim of a uniform business rate can be applied in Scotland.

1.3 An important element of these reforms is a new system of grant support for local authority expenditure, the revenue support grant introduced by the Bill. The new grant system will provide equalisation based on the system of needs assessment already developed for rate support grant. It will be designed to ensure that, in each area, services at the level of assessed need can be provided for the same level of community charge. Where local authorities choose to spend more than the level of assessed need the cost will have to be met entirely out of the community charge. This will lead to greater accountability and generally to more responsible spending decisions. It will mean therefore that there is no longer any need for grant penalties to restrain excessive spending by local authorities.

The Timetable for Change

1.4 The phasing out of domestic rates will begin in the local authority financial year 1989-90, with complete abolition on 1 April 1992. As domestic rates are phased out the community charge will make up the balance and will have full effect in financial year 1992-93. Control of non-domestic rates and the replacement of rate support grant by revenue support grant will have effect as from 1989-90. Preparatory work will commence as soon as the Bill is enacted. The process of identifying the properties on which rates will be abolished, and the individuals who will be liable to pay the community charge, will begin in 1988.

Consultation

1.5 The Bill will provide the main structure for these changes. In preparing this structure the Government have taken careful account of the comments made by many organisations and individuals upon the proposals contained in the Green Paper "Paying for Local Government" (Cmnd 9714) which was published in January 1986. The remaining sections of this paper identify the main matters on which comments have been made.

1.6 Further consultation will be required as the Bill proceeds towards enactment and implementation in order to ensure a smooth transition from the present system to the new one.

ABOLITION OF DOMESTIC RATES

2.1 The Bill provides that domestic rates will be abolished with effect from 1 April 1992, and Part 1 sets out the procedures by which this will be accomplished. These consist of a series of steps to identify the domestic subjects in the valuation roll and the residential proportions of the value of other subjects on which domestic rates will be levied during the transitional period. Domestic subjects will disappear from the valuation roll on 1 April 1992 and rates will continue to be levied only on the non-residential proportion of the value of the subjects which remain.

Domestic Subjects

2.2 Clause 2 of the Bill defines domestic subjects. Most of these are already entered in the valuation roll as dwelling houses. Clause 2 also provides a power of prescription enabling the Secretary of State to include as domestic subjects other property or parts of property and this will be used to cover other types of property used wholly or mainly as residential accommodation, which will thus be excluded from the valuation roll. It would not be appropriate to exclude property used only partly for residential purposes, and Schedule 1 to the Bill therefore provides a mechanism for apportioning the value between the residential and non-residential uses. Domestic rates will be leviable on the residential portion until 1 April 1992.

2.3 At the moment, there may be, in some cases, a single valuation roll entry for subjects part of which is a dwelling house. A typical example would be a shop with a flat above it. Such subjects may appear in the valuation roll as non-domestic. Provision already exists for the valuation to be apportioned for the purposes of levying domestic water rates and providing domestic rate relief. The Bill will achieve consistency of treatment in such cases by providing that there should be separate entries in the valuation roll for the dwelling house part of such subjects (which will become a domestic subject) and for the remainder, which will be subject to non-domestic rates. This is achieved by Clause 6.

2.4 In general, valuation roll entries for houses include garages, outhouses and similar buildings which are occupied along with a nearby house and the entire entry will be deleted from the valuation roll in 1992. Many lock-up garages are, however, valued and entered on the roll separately from houses (normally because they are physically removed from the site of the house) and as a result are separately rated. In the Government's view it is unfair to abolish domestic rates on combined

houses and garages but to leave them payable on properties such as separate lock-up garages when they are used for domestic purposes. The power of prescription contained in Clause 2 will be used to exclude them. The precise definition will require to be the subject of further consultation but is likely to rely on a simple size criterion set at a level which will cover most normal domestic garages.

Mechanism and Timetable

2.5 The detailed mechanism for the abolition of domestic rates provides that the assessor will be required to identify domestic subjects by means of a note entered in the valuation roll and also to enter in the roll the apportionments for part residential subjects. For existing subjects he will be required to do this by a prescribed date: this will be some months before the start of the new system, possibly at about the end of calendar year 1988, so that the basis on which domestic and non-domestic rates are to be levied will be established in good time. The entry in the valuation roll of a "domestic subjects note" or an "apportionment note" will attract the present provisions which relate to alterations in the roll, requiring notification to the rateable occupier and conferring on him rights of appeal. The Bill proposes that the Secretary of State should be able to prescribe classes of property to which this procedure will not apply and it is intended that he should do this for only the most straightforward cases, that is, dwelling houses entered as such at present. This will avoid a potential unnecessary administrative burden while still conferring adequate appeal rights.

2.6 Schedule 1 provides for domestic subjects notes to be added or deleted as necessary as property moves into and out of the domestic sector and for apportionment notes to be added, deleted or kept up to date. Again there will be notification procedures and appeal rights which will be on the basis discussed in the preceding paragraph.

2.7 On 1 April 1992 all domestic subjects will be deleted from the valuation roll and so will no longer be liable to domestic rates. Part residential subjects will remain in the roll and the apportionment of their valuation will continue to be shown after 1 April 1992.

Phasing Out Domestic Rates

2.8 Domestic rates will be phased out progressively over a 3 year period from 1 April 1989. The domestic rate to be levied in 1989-90, 1990-91, and 1991-92 will be respectively 60%, 40% and 20% of the base rate poundages described in paragraph 2.9 below. These will be payable on the rateable values of domestic subjects and on the proportion of the value attributable to the residential use of part residential subjects. As the domestic rate income increases, the level of community charges will rise to balance the books, thus achieving a smooth transition.

2.9 The base rate will be the rate poundage in 1988-89, reduced by the amount of the public water rate in the case of a regional or islands council. (This deduction is in order to avoid any element of double charging, since the whole cost of water supply will be met by separate charging arrangements.) The Bill also provides that the Secretary of State may prescribe a base rate for any individual authority. It is intended that this power should only be used if the Secretary of State is satisfied that the base rate for any authority has been distorted for any reason, for example by the abnormal application of balances in 1988-89.

In the case of rating authorities, there falls to be deducted from the base rate the domestic rate relief.

2.10 The revaluation planned for 1990 will not affect the rateable values of domestic subjects. There will therefore be no need to adjust the poundages determined on the basis explained above in order to maintain the steady annual reduction of domestic rate bills. The revaluation will, however, affect the values of part residential subjects and special provisions are therefore included to ensure that domestic rates are levied on values calculated by reference to the pre-revaluation level of values, so that they will be on a basis consistent with the prescribed domestic rate poundages.

2.11 The Bill will provide local authorities with considerable flexibility in the billing and collection arrangements which they may make for domestic rates during the 3-year transitional period. They may, for example, wish to continue their present procedures but it will be open to them to adopt the procedures based on the instalments arrangements for the community charge: this would mean that, while separate bills will be issued for rates and the community charge, ratepayers will be able to pay composite instalments during the transitional period.

NON-DOMESTIC RATES

3.1 In the Government's view differences in the rates burden on businesses from area to area, and the sudden sharp increases which can take place from year to year in rates demands, are damaging and unfair to businesses of all sizes.

3.2 The Bill contains provision to cover the period when Scotland alone will have a reformed system of non-domestic rating. The Government have decided, as an interim measure in Scotland designed to end the imposition of ever-increasing rates burdens on business, to set a maximum non-domestic rate poundage which may be charged by each local authority.

3.3 As with domestic rates, the starting point will be determined by reference to the 1988-89 rate, on the basis explained in paragraph 2.9 above. A further adjustment will be made to eliminate the element of the base rate attributable to the cost of sewerage, which for non-domestic ratepayers will in future be subject to a separate rate.

3.4 The figure so calculated will be indexed upwards at the rate of inflation each year, as measured by the movement in the General Index of Retail Prices over the 12 months immediately before the mid point of the year before that for which the maximum is being prescribed. Thus, for example, the maximum prescribed for 1989-90 will be the base figure indexed by reference to movement in the RPI between the end of September 1987 and the end of September 1988. It is intended that the Government will prescribe the maximum rate well before the start of the financial year to which it relates, possibly as early as November.

3.5 It is proposed that local authorities should continue to be required to consult representatives of non-domestic ratepayers before

finally deciding at what level to set their non-domestic rate, within the prescribed maximum. It will be necessary to complete this process before the level of the community charge is determined.

3.6 The formula in the Bill calculating the maximum non-domestic rate provides for a downward adjustment in years of revaluation, in inverse proportion to the increase in total non-domestic rateable values in Scotland.

3.7 The Government plan to tackle the problem of non-domestic rates in the longer term by the introduction of a uniform business rate, the proceeds of which would constitute a central pool to be distributed amongst local authorities on a per capita basis. The Government have however concluded that implementation of this policy will have to await the harmonisation of valuation law and practice north and south of the Border. Revaluations on both sides of the Border (from which domestic subjects in Scotland will be excluded) are planned for 1990. The process of harmonisation is likely to be complex and probably cannot be carried very far until after that revaluation and until any remaining differences in the valuation practices have been dealt with. These matters are already under discussion with a view to identifying any necessary changes in practice and legislation, but are not dealt with in the present Bill.

COMMUNITY CHARGES

4.1 The Bill proposes the introduction of community charges to replace domestic rates. As with rates at present, these will be set by each local authority at a level which, taking account of other sources of income, will be sufficient to meet its expenditure each year. The cost of domestic water supply will be subject to a separate charge while the cost of domestic sewerage services will be met out of community charges as they are met out of rates at present, subject to the detailed provisions explained in paragraphs 6.1-6.5 below.

The Personal Community Charge

4.2 The personal community charge will be the basis of the new system. It will be a flat-rate amount determined each year by each local authority and the amount payable will be the sum of the charges determined by the regional council and district council for each area (except in the islands areas, where there will be a single charge).

Those liable to pay

4.3 The charge will be payable by all those aged 18 and over who have their sole or main residence in the area, including some people, such as resident foreigners, who are not listed in the electoral register. In many cases liability for the charge will rest directly with the individual resident, but, as proposed in the Green Paper, husbands and wives living together will have joint and several liability for each other's charges. To be effective in creating accountability the personal community charge must be payable by the whole adult population. In this respect it will differ crucially from the domestic rating system, where the tax base covers less than half the population, and where a complex pattern of reliefs and exemptions has built up over time. The Government have therefore decided that in principle there should be no

exemptions from liability to pay the personal community charge, and that it would be inappropriate to attempt to reproduce the pattern of exemptions and reliefs which form part of the rating system. The Government envisage however certain very limited exclusions from liability to pay the personal community charge:-

4.3.1. As proposed in the Green Paper, the Government consider it appropriate that those who are still in full-time non-advanced education should not be liable to pay the personal community charge for so long as they continue to be eligible for child benefit, that is until the age of 19.

4.3.2 The Government have decided that certain narrowly defined exclusions are justified in the case of those for whom the concept of accountability can at best be limited. These will cover prisoners serving custodial sentences, who by definition are for the time being removed from contact with the local democratic process, and patients in hospital whose stay is sufficiently long term for them to be considered to be resident there. For prisoners and resident patients in NHS hospitals these exclusions will be achieved by using the power of prescription relating to those resident in Crown property. Private hospitals will remain subject to rates (apart from any staff accommodation which will be treated separately as domestic subjects) and resident patients will not be subject to the personal community charge.

4.3.3. Circumstances may arise where residential accommodation remains in rating - for example where it would be impractical or inappropriate to provide for apportionment under the "part residential" approach. In these circumstances it is necessary for the avoidance of double taxation to exclude residents from liability to pay the personal community charge. There are unlikely to be many such cases: among them would however be private hospitals (see paragraph 4.3.2 above).

4.3.4. Those who are resident in premises which are subject to the collective community charge (see below) will have no individual liability to pay.

18 year olds

4.4 People will become liable to pay the personal community charge on their 18th birthday. The Green Paper suggested an alternative approach, of waiting until the beginning of the first full financial year after someone's 18th birthday. On consideration, however, this seems an unnecessary additional complication particularly since liability for the charge will be recorded in a rolling register kept continuously up to date, which will mean that many other individuals becoming liable during the year (for instance, by moving from one local authority area into another) will receive part-year bills.

Residence

4.5 The decision on whether an individual is liable to pay the personal community charge in a particular area will depend on whether he has his sole or main residence there. For the majority of people, with a single residence, there will be no doubt about this. For those who have more than one home or who regularly work away from home (perhaps

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spending substantial periods abroad or spending several days each week in a pied-a-terre) a decision will have to be taken on where their main residence is. There can be no simple rule such as counting the number of days spent in each place or setting minimum qualifying thresholds. Some people, such as those who live abroad for most of the time, may be considered to have no 'sole or main residence' in Scotland, and, if so, they will not be liable for the personal community charge, although any home they keep for their use in this country may be liable for the standard community charge (see below). A judgement will have to be made on the full facts of each case, and as with electoral law and rating law a body of case law will build up. The Government do not consider that it would be useful or practical to attempt to set down detailed criteria in legislation. What will constitute a person's sole or main residence will depend upon the full facts and circumstances of each case.

Students

4.6 The legislation makes special provision for students. The Green Paper proposed that they should be liable for the personal community charge: to avoid frequent registration and de-registration it was suggested that for the duration of their course they should be liable where they are resident for the purpose of attending the course. A number of those commenting on this proposal suggested that the charge would be an additional burden on students, many of whom make no direct contribution to rates at present, and that students should therefore be exempt from the charge. The Government have not accepted this argument. Students use local authority services and share in the responsibility for electing local councillors: in addition, many students at present make some contribution to domestic rates. The Bill will therefore provide that students resident in Scotland for the purpose of attending their courses will be liable to pay the personal community charge appropriate to their term time address throughout the period of their course. At the same time, the Government accept that students will require help to enable them to meet the charge. The Government do not consider it appropriate that this support for students should be provided through the social security system and have therefore decided that students eligible for grant (including those who, because of parental income, receive no grant payments at present) should receive a flat rate sum each year towards their personal community charge liability. This will be based on the average level of personal community charge in Scotland each year and will have regard to the level of assistance available under the rebate system. The detailed arrangements will be worked out well before the introduction of the charge on 1 April 1989, in the light of the Review of Student Support which is at present in progress.

Standard Community Charge

4.7 The abolition of domestic rates and their replacement by the personal community charge would mean that local authorities would lose a contribution towards the cost of services from those with second homes. The Green Paper recognised this and proposed that there should be a standard community charge in such cases. In developing these proposals in detail the Government have decided that the standard charge should in principle be payable in respect of all property including empty property which is removed from domestic rating and which is not used as someone's sole or main residence. This reflects the fact that all such property makes a demand on local authority services such as police and fire.

Scope of the standard community charge

4.8 The property subject to the standard community charge will be dwelling houses excluded from the valuation roll by virtue of the definition in Clause 2(5)(a). Property which remains in rating will not be liable for the standard charge. There is a power in Clause 2 to exclude certain properties from the category of those removed from rating by virtue of Clause 2(5)(a). The Government intend to apply this power to owner-occupied holiday caravans (not suitable for year-round use for residential purposes) and to small holiday huts and chalets, essentially those which are not suitable for all-year residential use, on which it would be unreasonable to impose the standard charge. They will continue to pay rates.

Those liable to pay

4.9 The person liable to pay the standard community charge will be the owner, unless there is a tenant to whom the property is let for a continuous period of 12 months or more. In the latter circumstances the Government consider it appropriate that the tenant, who is keeping on the property without a permanent resident, should be liable for the standard charge. The Bill therefore provides that in these circumstances the owner and the tenant should be jointly and severally liable.

Amount of the standard charge

4.10 The amount of the standard community charge will be determined as a multiplier of the personal community charge. The Green Paper proposed that the standard charge should be 2 units of personal community charge. However, on further consideration the Government take the view that in some local authority areas, for example those where second homes tend to be small or where the encouragement of seasonal visitors is important for the local economy, a lower multiplier may be appropriate. The Bill therefore gives local authorities a discretion to set the multiplier in the range from 1 to 2 units of personal community charge.

4.11 Where a property has no registered resident because it is uninhabitable it is intended that the standard charge will not be payable. It is also intended that there should be a 3 month period of grace following the date on which a property ceases to have a registered resident before the standard charge becomes payable: this will cover short gaps between tenancies, delays in selling a former house when moving to a new one, the time taken to clear and dispose of a family home following bereavement and so on. It is proposed that these exemptions should be achieved by use of the power of prescription contained in Clause 12 of the Bill.

Collective Community Charge

4.12 The Green Paper recognised that certain forms of accommodation house people who are extremely mobile and for whom individual liability for the personal community charge, with its associated procedures for registration and collection (see below) would be impractical. It therefore proposed the mechanism of a collective community charge, to be payable by the proprietor of communal accommodation of this sort.

4.13 A number of those commenting on this proposal argued that individual registration should be adopted wherever possible. They pointed out that in many forms of hostel and lodging house accommodation, for example, the pattern of residence is often fairly stable. In many cases hostel accommodation is provided to encourage people to adopt a more settled way of life, and the residents in this accommodation are no less able than the population at large to cope with individual registration for the community charge. Others commented adversely on the suggestion, put forward for consideration in the Scottish Office paper on operational issues produced in February 1986, that the collective charge might be used more widely as a collection mechanism in many forms of communal accommodation such as halls of residence. It was clear that this would be an unwelcome burden on many administrators of communal accommodation.

Scope

4.14 In the light of these reactions the Government remain of the view that a collective community charge mechanism is necessary, but accept that its scope should be strictly limited. Clause 13 provides the framework for implementing this approach. It makes it clear that the main category to be subject to the collective charge are premises which are designated by the registration officer as constituting the sole or main residence of people who stay there for only short periods. In making this determination the registration officer is to have regard to such factors as may be prescribed by the Secretary of State. In doing so, he will make it clear that there must be a strong presumption in favour of individual registration and that premises should only be subject to the collective charge when it is clear that individual registration is not practicable.

4.15 There may, however, be cases where the use of the collective charge represents sound common sense for the residents of certain types of institutional accommodation, who may be very dependent, and the Bill makes provision for classes of property for which it is to be applied to be prescribed.

Those liable to pay

4.16 The collective charge will be payable by the owner of property designated as subject to it. As with the standard charge, where the property is let for a period of 12 months or more the owner and the main tenant will have joint and several liability for the charge.

Amount of the collective community charge

4.17 The amount of the charge will be a multiple of the personal community charge, and the multiplier will be determined by the registration officer (see below). The basis on which the multiplier is to be determined will be prescribed by the Secretary of State. It is intended to prescribe that the factors to be taken into account will include the number of adults typically resident in the premises, the extent to which this fluctuates and the extent to which the accommodation may be taken up by non-residents or by those under the age of 18 who would not be liable for the personal community charge. The landlord would be entitled to appeal against the determination of the community charge multiplier but, to reduce the administrative burden, changes will not be permissible at intervals of less than 3 months (Clause 17(1)).

Contributions from individuals

4.18 The landlord will be entitled to recover from each resident who would otherwise be liable for the personal community charge a contribution towards the collective community charge. No individual will be required to pay more than the appropriate proportion of the personal community charge for his length of stay in the premises. Thus, residence in premises for which the collective charge is payable will have similar financial implications to individual registration.

Registration Procedures

Registration Officer

4.19 The Bill will establish a Community Charges Register, to be administered by a Community Charges Registration Officer. The proposal that there should be a registration officer, put forward in the Scottish Office operational issues paper, has found widespread acceptance. The Secretary of State has decided that the duties of community charges registration officer should be conferred upon the assessor, the local authority official statutorily responsible for drawing up the valuation roll. This recognises the importance of the interface between the valuation system and the provisions which govern liability for the community charges, as well as the considerable experience of assessors in their role as electoral registration officers. The Bill imposes a clear duty on local authorities to provide registration officers with sufficient staff, accommodation and other resources to perform their functions.

4.20 In compiling the register and keeping it up to date the registration officer will have access to information which he holds in his capacity as assessor and as electoral registration officer. The latter information would continue to be available to him even if the posts of assessor and electoral registration officer were no longer combined, as they are at present in all authorities in Scotland. He will also have access to such other information held by the local authority as he may reasonably require to assist in fulfilling his duties. The Secretary of State will have power to prescribe certain classes of information which is not to be divulged: the power of prescription will be used after consultation with registration officers and others and it is at present envisaged that this will cover, for example, information held about individuals by local authority social work departments and the police.

4.21 The Government hope that certain information on changes in the use and occupation of property, made available to assessors at present on an informal basis, will continue to be made available to registration officers. In particular, the Secretary of State will be consulting the Law Society of Scotland with a view to considering arrangements whereby solicitors would remind their clients of the need to register and to inform the registration officer of any necessary changes in the register when property changes hands.

4.22 The Bill also makes provision for exchanges of information between registration officers where necessary. For example this will enable them to check, in cases of dispute, whether an individual's claim to be registered elsewhere is valid.

Form of Register

4.23 The Green Paper favoured a rolling register, kept continuously up to date. A number of those who commented argued for a fixed register, based on residence at a particular date. But this could mean that many people would find themselves, in the course of a year, still liable to pay community charge to a local authority where they no longer lived. A number who responded favoured a rolling register. The Government remain of the view that this is more appropriate, and the Bill provides for it. The Registration Officer will be able to make entries at any time with immediate, retrospective or prospective effect and community charge bills may be issued or amended whenever changes occur in the register.

Drawing up the Register

4.24 As with the preparation of the electoral register, the prime source of information for the preparation of the community charges register will be canvasses. It is envisaged that there will be an initial canvass when the register is established. The timing and coverage of subsequent canvasses will be at the discretion of the Registration Officer, subject to a basic framework to be prescribed by the Secretary of State. This will, for example, require that the whole of the registration area should be covered by a canvass every year. This flexible approach is intended to enable the workload to be spread over the year, rather than coming at a peak as is the case for electoral registration. As well as canvassing the Registration Officer will be entitled to make ad hoc inquiries when he learns of a change in ownership or tenancy of property or otherwise has reason to believe that the circumstances may have changed.

4.25 The Green Paper proposed that the "head of household" should be responsible for responding to canvasses. There were 2 groups of responses to this proposal:-

1. that it was wrong to make one individual responsible for giving information about others; and
2. that the concept of "head of household" was both out-moded and difficult to define.

The Government reject the first of these criticisms, on the grounds that collection of information from a single person at each address is well precedented, for example in electoral registration and the census, and works well in those cases without placing an undue burden on individuals. It has, however, reconsidered the sanctions which should apply and no longer believes that criminal offences are appropriate (see below).

4.26 The second criticism is accepted. Instead the Bill provides that information should be provided by a "responsible person" at each address. This is defined simply as the owner-occupier or tenant-occupier of the premises. The registration officer would have power to designate any individual as the responsible person where he considers it appropriate to do so, and it is envisaged that he would use this power in cases where an owner-occupier or tenant-occupier could not readily be identified. Such designation would be subject to appeal to the sheriff. The Bill also provides that where there is more than one responsible

person they may agree amongst themselves who should assume the responsibility, subject to the approval of the registration officer. The Government believe that these provisions will provide a satisfactory basis for carrying out canvasses and making other inquiries associated with the establishment and maintenance of the register.

4.27 The Green Paper envisaged criminal sanctions on heads of household who failed to respond to canvasses or provided false information, on the precedent of the electoral registration system. However, on consideration of a number of responses to the Green Paper, the Government have decided that this would impose too heavy a potential stigma on individuals who may have been merely careless or dilatory. They now propose therefore that enforcement should be by means of a system of civil penalties. Under this the registration officer may impose on a responsible person who has failed to respond to canvasses or has given false information, and who cannot give a reasonable excuse, a civil penalty of £50. This will be a debt payable to the regional or islands council who appoint the assessor who is the registration officer. Where, however, there is repeated failure to provide information, or provision of false information, by people who do not have a reasonable excuse the penalty will be £200. Individuals subject to these penalties will have a right of appeal to the sheriff. Sums unpaid will be collected using the same procedure as for arrears of community charge. The Government believe that this system will provide sufficient sanction to maintain a high and accurate response rate to canvasses.

4.28 Enquiries will not be directed to individuals, other than those who are "responsible persons". The Bill will, however, place individuals under a duty after the register is established to notify the registration officer when they become liable for any of the charges or of any change affecting their circumstances. There is no explicit sanction, civil or criminal, associated with this duty but when individuals are registered they will be liable to pay community charge back to the date on which their register entry has effect ie the date on which the registration officer can demonstrate that their residence began. They will be liable to pay interest on the amounts outstanding. If the backdated period is 3 months or longer there will in addition be a surcharge of 30% of the amount due, subject to a minimum of £50 unless the person involved can satisfy the authority that he has a reasonable excuse for not having ensured that he was registered. There will be a right of appeal to the Sheriff against the imposition of the surcharge. Sums unpaid will be collected using the same procedure as for arrears of community charge.

Notification, Inspection, Rights of Appeal

4.29 When the registration officer decides that an individual is liable for one of the community charges an entry will be made in the register and a copy of the entry will be sent to the individual. He will be able to appeal to the Registration Officer and provision will be made in regulations for the procedures governing the determination of such appeals, including the holding of hearings if necessary. An individual aggrieved by the registration officer's determination will have the right to appeal to the sheriff.

4.30 In addition to receiving notification of their entries individuals will be entitled to inspect their entry in the register at any time. Full details of the register entry, which may include personal information

about individuals, will not be available for public inspection. All that will be open to the public will be a list of addresses with the names of those registered, in a format similar to the electoral register. This means that it will not be possible, for example, by casual inspection of the community charges register to determine whether a property is occupied permanently or is used as a second home.

Timetable for Establishing the Register

4.31 It is proposed that the Secretary of State should prescribe a date on which the initial canvass should begin. It is at present envisaged that this will be in early Summer 1988. At a subsequent prescribed date, probably in Autumn 1988, the register will come into force and at that stage notifications will be sent as explained above to all those who are the subject of entries. The procedures for keeping the register up to date including the obligation of individuals to notify changes in their circumstances will apply from then on. In the early months of 1989 the register will form the basis for determination of the amount of the community charge for 1989-90 and for the issue of bills.

Payment of Community Charges

4.32 Each individual will receive a bill showing the amount he is due to pay and identifying separately the regional and district community charges. The standard method of payment will be 12 monthly instalments though levying authorities will be able to offer other methods of payment. To spread the administrative burden the responsibility for issuing bills and collecting sums due will be split up on a similar basis to that for rates at present. Thus district councils, new town development corporations and the Scottish Special Housing Association will be responsible for issuing bills to and collecting payments from people whose registered address is in property owned by those bodies and the instalments arrangements can be adjusted to fit in with rent instalments. The others (those living in owner-occupied and privately rented accommodation, housing association accommodation etc) will receive bills from and make payments to the regional council.

4.33 The Secretary of State will prescribe forms of notification designed to ensure that those liable for the personal community charge have full, clear, and up to date information on the amounts they are paying in respect of that liability.

4.34 There will be no question of issuing "household bills": each individual who is registered will receive separate notification of the amount he is due to pay. Local authorities, new towns and the SSHA will, however, be free to offer joint payment arrangements for spouses.

Recovery of Debts

4.35 The arrangements for paying domestic rates by instalments mean that local authorities cannot take action to pursue arrears until after the mid-point of the year. The Government consider that this timetable is not appropriate in relation to the community charge. Instead, the Bill provides that if an individual is 3 or more instalments in arrears proceedings for the recovery of the community charge may be taken. Recovery may be by means of the summary warrant procedure similar to that used for rates, as modified by the legislation which the Government

propose to introduce in the 1986-87 session of Parliament arising out of the Scottish Law Commission's Report on Diligence and Debtor Protection.

COMMUNITY CHARGE REBATE SCHEME

5.1 The Bill provides for the introduction of a scheme of community charge rebates. The provisions of Clause 26 will enable modifications to be made to the existing framework in the Social Security Act 1986 under which the Secretary of State for Social Services prescribes housing benefit schemes. The intention is that the provisions should be widened to cover community charge payments as well as rent and rates. Detailed regulations will then be made by the Secretary of State for Social Services as he does at present for housing benefit.

5.2 The community charge rebate scheme is likely to follow closely the reformed housing benefit scheme to be introduced on 1 April 1988. The detailed provisions of the housing benefit scheme have been the subject of extensive consultations with local authority associations, including the Convention of Scottish Local Authorities and draft regulations prepared in the light of this work will shortly be available for consultation.

5.3 The starting point will be a system of income thresholds which will take account of personal and family circumstances (including, for example, age, number of children, and any permanent disability). Broadly speaking, someone whose income is equal to the threshold for his own circumstances will be entitled to the maximum rebate. For those with a higher income there will be a downward taper. As at present there will be a joint assessment for couples but non-dependent members of households will be separately assessed. During the transitional period from 1989 to 1992 housing benefit will apply to domestic rates as they are phased out.

5.4 There will be detailed consultations with Scottish local authorities in due course about the implementation of these arrangements

5.5 An analysis of the broad effects of the application of housing benefit to the community charge was contained in the Green Paper (Annex J). This gave detailed information on the pattern of gainers and losers and brought out the following main conclusions:-

1. Three-quarters of all households would either be better off or would lose less than £1 per week.
2. The main household type containing losers would be those with 3 or more adults. This reflects the broadening of the tax base which is an essential element of the community charge proposals.
3. Single pensioner households would do particularly well, with over 85% gaining.
4. Other single adult households would also fair well, with 80% gaining. This group contains one parent families.

WATER AND SEWERAGE

6.1 At present domestic consumers in Scotland pay for their water supply through a combination of the domestic water rate, leviable only on properties which have a public supply; and the public water rate, which is part of the rate determined by regional and islands councils. The whole cost of sewerage services to domestic properties is met from the regional or general rate. In the case of non-domestic properties water supply is increasingly charged by meter. Premises which have a public unmetered supply attract both the domestic water rate on a proportion, usually one half, of their net annual value and the public water rate. Non-domestic consumers contribute towards the cost of normal sewerage services through the regional or general rate and may also pay a trade effluent charge.

6.2 The proposals in Schedule 5 to the Bill provide for recovery of water and sewerage costs under the new system on lines broadly comparable with the present arrangements.

6.2.1. The domestic water rate and the public water rate will be abolished.

6.2.2. A personal community water charge will be payable by all those liable to the personal community charge whose registered address has a public unmetered water supply. There will be corresponding standard community water charges and collective community water charges in respect of properties to which the standard community charge and the collective community charge respectively apply.

6.2.3. Expenditure on the provision of domestic sewerage services will be met out of the community charges as it is at present met out of the regional or general rates.

6.2.4. Non-domestic consumers will be charged for water by meter or, if their supply is not wholly metered, they will pay a non-domestic water rate.

6.2.5. The cost of sewerage services to non-domestic premises will be met by a non-domestic sewerage rate. In addition trade effluent charges may be levied as at present.

6.3 The Bill lays a duty on local authorities not to discriminate against, or show undue preference to, any class or classes of consumer in apportioning water and sewerage costs. It also provides for the maintenance of separate water and sewerage accounts.

6.4 As explained in paragraph 2.8 above, domestic rate poundages during the transitional period would be reduced to remove the amount of the public water rate. This means that the need for a transitional period in relation to water charges can be avoided and they will be introduced with full effect in 1989-90. On present information it is estimated that the average community water charge per adult would have been £17 in the year 1986-87.

6.5 Similarly, the non-domestic rate poundage ceiling set for 1989-90 onwards will exclude the amounts of the public water rate and attributable to the cost of providing sewerage services. The new

non-domestic water rate and non-domestic sewerage rate will therefore be introduced in full with effect from 1989-90.

REVENUE SUPPORT GRANT

7.1 The Bill provides for central government to continue to provide financial support to local authorities, financed by general taxation. The present domestic, needs and resources elements of rate support grant will be replaced from 1989-90 by a simplified revenue support grant. This is provided for by Clause 25, and the details are set out in Schedule 4.

7.2 The process of fixing the revenue support grant will be similar to that used at present for rate support grant. The arrangements will involve, as at present, full consultation with the local authorities, through their representative association, and the detailed arrangements each year for determining the total grant and for allocating it among authorities will, as at present, be the subject of an order and report to be laid before the House of Commons.

7.3 The process of determining grant will start by the Secretary of State determining the estimated aggregate amount of grant payable to local authorities for the financial year in question. The estimated amount of specific grants will then be deducted, and what is left will be the estimated aggregate amount of the revenue support grants. This will be apportioned among authorities in two ways. First, the Secretary of State will determine how much of the estimated aggregate amount should be distributed among local authorities and distribute that amount among authorities on the basis of assessments of their relative need after taking account of their income from non-domestic rates. It is envisaged that this would be achieved through the continuation of the present "client group assessment" procedures, which are carried out in close consultation with the local authority representatives. The remainder of the grant would be divided up among authorities in relation to the size of their adult populations, ie by a straightforward payment per head of population. Because of the different scale of operation of different tiers of authority, the Secretary of State would have powers to determine a different per capita amount for different classes of authority (eg the grant payment might be £X per head for District Councils, £Y per head for Regional Councils, and £X + Y per head for Islands Councils).

7.4 It is also proposed that the Secretary of State should have power to alter the grant amounts arrived at by these procedures. This is to allow for adjustment of grant where that may seem appropriate, for example, to ensure that the grant entitlement of particular authorities does not change too dramatically between one year and another. This will be particularly important in the early years of the new system, in relation to which specific "safety netting" proposals are mentioned in the Green Paper. Schedule 4 also contains provision to allow the redetermination of grant settlements. There are various reasons why this may be necessary, the most common of which is likely to be changes in interest rates.

7.5 There are no provisions in the Bill to replicate the Secretary of State's present powers to abate the grant payable to individual authorities who exceed expenditure guidelines. This is because under the new arrangements the extra expenditure that authorities would incur in these circumstances would be reflected directly in the community charge. It is envisaged that the greater accountability arising from the community charge arrangements will discourage authorities from excessive spending.

There is however power, set out in Section 24 and detailed in Schedule 3, for the Secretary of State to propose a reduction in personal community charges where he considers that the total estimated expenses of a local authority in respect of any financial year are excessive and unreasonable. The procedures to be followed in such circumstances are similar to those that currently apply where the Secretary of State proposes a rate reduction.

SCOTTISH OFFICE
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