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From the Private Secretary

25 January 1989

RATING APPEALS

The Prime Minister held a meeting this morning with the Chancellor, the Secretary of State for the Environment and the Solicitor General to discuss the Chancellor's minute of 23 January and the preceding papers.

I should be grateful if you and copy recipients would ensure that this letter is seen only by named individuals with a clear need to know.

The Chancellor said that, following further discussions with colleagues, the package put forward in his minute of 23 January incorporated some changes from the earlier proposals, in particular to leave the rights of domestic ratepayers unchanged. He believed that the proposals to limit the rights of non-domestic ratepayers to appeal against rateable values in the existing 1973 list were justifiable. The safeguard was that, if a non-domestic ratepayer faced a fundamental change in his circumstances, there was a statutory obligation on the Valuation Office to keep the 1973 list up to date. It was not satisfactory to take no action in the face of the severe difficulties the Valuation Office faced; that would result in severe disruption to the 1990 re-valuation with an outcome that would be much worse for the business community at large. The difficulty was exacerbated because, under present plans, it was envisaged that the rates of businesses during the initial transitional period for the new regime would be determined by the final valuation under the 1973 list; this gave an incentive to businesses to come forward with appeals against the 1973 valuations.

Continuing, the Chancellor said that he had already taken a number of actions to reduce the pressures on the Valuation Office, for example by providing for maximum overtime working, the re-employment of retired staff, the withdrawal of work on Right to Buy business, and the reduction of work undertaken for other Government Departments. This meant that the Valuation Office would now be concentrating only on valuations for tax purposes and the 1990 re-valuation for non-domestic properties. But, given the shortage of professional valuers both in the Valuation Office and in private practice, and coupled with the

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expected stimulus to the number of appeals against the 1973 list, all the measures taken were expected to deal with only about a half of the anticipated short-fall in Valuation Office resources.

The Solicitor General said that an extremely difficult dilemma was faced. If no action was taken to relieve the pressure on the system there was a likelihood of major injustices from 1990 onwards since the Valuation Office would have been unable to complete an orderly re-valuation. Opportunist appeals against the 1973 valuations would snarl up the system. Fairness and justice therefore demanded finding some mechanism for easing the position. He was satisfied that the latest proposals, including the statutory obligation on the Valuation Office to bring forward proposals to change the 1973 list where there were identifiable and meritorious changes in circumstances, was defensible and represented a satisfactory means of resolving the dilemma. But a key requirement was that the Valuation Office should ensure that they continued to process appeals in a businesslike and timely way.

The Prime Minister said that she remained most concerned about the proposed restriction on the rights of appeal for non-domestic ratepayers. In effect, the proposals meant there was a guillotine hanging over appeals; those cases which had not been completed prior to Royal Assent being given to the proposed legislation would be cut off in an essentially arbitrary way. Such arrangements would expose the Government to charges of authoritarianism and arbitrariness. There was a serious danger that, whatever was said about the proposed intention of the Valuation Office with regard to the processing of appeals, these assurances would not be believed. And it would only need one case where the Valuation Office procedures were found to have been lacking for the whole system to be exposed to judicial reform.

In discussion, the following points were raised:

- although it might be possible for the Valuation Office to adopt broad rules of thumb in carrying out a new valuation for domestic properties this would not be satisfactory for non-domestic properties. There had been major changes in property values and circumstances since 1973 and any attempt to adopt a broad brush basis to non-domestic re-valuation was likely to lead to a mass of appeals;
- it should be borne in mind that the appeal procedure was not just limited to the Valuation Office. Ratepayers had a right to go to the Superintending Valuer if they felt that legitimate cases were not being carried forward, and in the last resort to make representations to their Member of Parliament;
- it was recognised that, unlike residential property, for most businesses non-domestic rates could be offset against tax;

- particular attention had to be given to the position faced by small businessmen, for whom rates were often a major cost. It was essential that in whatever solution was adopted due attention was given to this problem.

In further discussion a number of possible alternative approaches were mentioned:

- rather than limiting all appeals by non-domestic ratepayers an attempt might be made to limit appeals to cases where there was "an identifiable and meritorious case". One variant of this approach would be to provide for penal costs against those who appealed and lost their case.
- as a quid pro quo for restricting appeals for lower 1973 valuations to identifiable and meritorious cases, the Valuation Office might make clear that they would not propose any increases in non-domestic valuations during the remaining 14 months, however justified such cases might be on merit;
- a statement might be made that, given the difficulties faced, the Valuation Office would from now on have to give first priority to the 1990 re-valuation and, as a result, appeals against the 1973 valuations would take longer to process, possibly lasting well into the 1990s;
- as a means of relieving the position of small businesses, provision might be made to maintain the rights of appeal for businesses below a given size or for particular classes of business;
- the proposed handling of the transitional arrangements for the new non-domestic rate might be reconsidered. Rather than the rates of businesses during the transitional period being determined by the final 1973 valuation, they might be based on the valuation actually in force on the day the proposals were announced. Appeals by non-domestic ratepayers against the 1973 valuations might still be allowed but any change would only then apply for the period to the end of 1989-90; this would greatly reduce the incentive for non-domestic ratepayers to appeal.

Summing up the discussion, the Prime Minister invited the Secretary of State for the Environment, in consultation with the Chancellor and the Solicitor General, to consider the position further. They should explore the various alternative approaches identified in the discussion, and come forward with revised proposals.

I am copying this letter to the Private Secretaries to those present at the meeting and to Sir Robin Butler.

*Yon
Pd*
(PAUL GRAY)

Alex Allan, Esq.,
HM Treasury.