



SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Chris Patten MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

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23/10

20 October 1989

Dear Secretary of State

COMMUNITY CHARGE: EXEMPTION FOR THE SEVERELY MENTALLY IMPAIRED

Following our announcement of the extension of this exemption to include people who are severely mentally impaired as a result of a degenerative brain disorder or of mental illness I have been considering whether or not this extension should be made retrospective in Scotland.

There are obvious problems with retrospection but following discussions I have just had with our local authorities I have come to the conclusion that we must provide for it. If we do not we will face criticism of our policy that will be difficult to counter: authorities will find themselves seeking payment of the community charge for part of this year from those exempted on these grounds.

Unfortunately we do not have the power to achieve retrospection by means of Regulations alone but will require a power in Statute. This would require a short and simple amendment to the Local Government and Housing Bill which would undoubtedly be welcomed on all sides. It would provide in effect that Regulations amending the definition of a person who is severely mentally impaired could provide that a person who met the new definition of severe mental impairment but not the old one (eg, typically, a person with Alzheimer's disease) and who met one of the qualifying conditions could be deemed to have been exempt from a date earlier than the date of the Regulations coming into force.

We have realised also that there is a possibility that any change to the definition of severe mental impairment might nullify the certificates issued to people under the old definition, thus requiring everybody who was already exempt to re-apply to their doctor for a certificate. This is clearly most undesirable and I would like to insert a short amendment preserving the effect of certificates already issued. This is an inevitable consequence of the policy change, and is purely technical.

While I am fully aware of the pressures that are upon the Lords at Report Stage I would be grateful for colleagues' agreement to our tabling these 2 minor amendments which would be taken with the rest of Part 9 of the Local Government and Housing Bill on Wednesday: obviously the amendments will have to be tabled on Monday, 23 October.

I am copying this to members of E(LG) Committee and to Sir Robin Butler.

Yours Sincerely
J. D. Halliwell

for **MALCOLM RIFKIND**

*(Approved by the Secretary
of State and signed in
his absence.)*

