

CABINET

MINISTERIAL STEERING COMMITTEE ON ECONOMIC STRATEGY
SUB-COMMITTEE ON LOCAL GOVERNMENT FINANCE

CORRIGENDA TO E(LF)(86)1

The attached Report by Officials supercedes that previously circulated, earlier copies should be destroyed.

The replacement of domestic rates by the community charge (paras 2-7)
Administration of the community charge (paras 8-15)
Legislation, duties and sanctions (paras 16-27)
Inclusive Community Charge (paras 28-33)
Proposed charge for second homes etc (paras 34-41)
Payment and recovery of debts (paras 42-48)
Reliefs from the community charge (paras 49-60)
Summary of recommendations and follow-up action (paras 61-64)

REPLACEMENT OF DOMESTIC RATES BY THE COMMUNITY CHARGE

(a) Replacement of domestic rates

Scottish Office
16 June 1986

The community charge, payable by all adult residents, is to replace rates on domestic property occupied by those liable to pay the charge. The approach proposed below aims to avoid 'double taxation' (ie the payment by individuals of community charge plus non-domestic rates, which may be met indirectly, on the property where they live) in a way which minimises the need for exemptions from the community charge. Too many exemptions would increase the risk of avoidance. The Inland Revenue consider the following approach to be reasonably practicable for England and Wales, and discussions with the Scottish Assessors' Association confirm that it can be applied in Scotland.

2.1 The starting point is that all property now valued as domestic - broadly, ordinary dwellinghouses - will come out of rating. It means also that domestic property - such as second homes - which is not the permanent home of a registered resident will be removed from the rating system. The special arrangements proposed for such property are described at paragraphs 32-39.

2.2 Garages valued with houses would come out of rating on the basis proposed above but separate lock-ups (which are valued as non-domestic) would not. It is therefore proposed that separate lock-up garages below a specified size limit should also be removed from rating.

2.3 Other property not now valued as domestic, such as old people's homes, common lodging houses, and university and college halls of residence and hotels which are primarily residential, which constitute the permanent home of people who will be liable for the community charge, whether individually or through the collective community charge mechanism (see paragraphs 28-33 above) should be removed from rating. The mechanism for removal of such property is less straightforward than that used for domestic property. In particular, property of this kind may contain a clear element of commercial use

THE OPERATION OF THE COMMUNITY CHARGE

REPORT BY OFFICIALS

1. The Green Paper 'Paying for Local Government' (Cmnd 9714) proposes the replacement of domestic rates by a community charge payable by all adults over the age of 18. Paragraph 8.48 of the Green Paper states the Government's intention to introduce in the 1986/87 session of Parliament the legislation necessary to set up the community charge system in Scotland. This paper has been prepared following inter-departmental discussion of the detailed operation of the community charge, under DOE chairmanship. There is broad agreement to most aspects of the main proposals set out below. Differences of view which will require to be resolved at Ministerial level and areas of difficulty requiring further work are identified. The report is organised as follows:

- The replacement of domestic rates by the community charge (paras 2-7)
- Administration of the community charge (paras 8-15)
- Registration: Duties and sanctions (paras 16-27)
- Collective Community Charge (paras 28-33)
- Standard charge for second homes etc (paras 34-41)
- Payment and recovery of debts (paras 42-48)
- Reliefs from the community charge (paras 49-60)
- Summary of recommendations and follow-up action (paras 61-64)

REPLACEMENT OF DOMESTIC RATES BY THE COMMUNITY CHARGE

(a) Abolition of domestic rates

2. The community charge, payable by all adult residents, is to replace rates on the residential property occupied by those liable to pay the charge. The approach recommended below aims to avoid 'double taxation' (ie the payment by individuals of community charge plus non-domestic rates, which may be met indirectly, on the property where they live) in a way which minimises the need for exemptions from the community charge. Too many exemptions would increase the risk of avoidance. The Inland Revenue consider the following approach to be reasonably practicable for England and Wales, and discussions with the Scottish Assessors' Association confirm that it can be applied in Scotland.

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on which rates should continue to be paid. It is proposed that where the use of the property is predominantly 'residential' (in the sense of being the registered residence of community charge payers) it should be excluded entirely from rating. Where the 'residential' use is less than this, an apportionment should be made by the Valuation Office or Assessor showing the amount of value attributable to the residential use and which is not to be subject to rating. In many cases this would be relatively straightforward, for example flats over shops.

3. There will nevertheless be a few classes of property which, though people live there for substantial periods, are not residential in any ordinary sense of the term and will therefore remain wholly liable to non-domestic rates. Examples include prisons and hospitals where there is either no question of being able to recover a charge or a clear intention that it should not constitute a 'sole or main' residence. The same is generally true for large hotels catering for business trade. But there may be some people who are permanently resident and there is a question whether they should be expected to register and pay the community charge as well as an element of non-domestic rate through their hotel bills. The precise boundary line will therefore require further consideration but the principle should be to draw exclusions from liability to pay very tightly.

4. The detailed criteria and definitions to achieve these results will require careful consideration, in consultation with the Valuation Office and the Scottish Assessors. It is proposed that the primary legislation should provide that the detailed rules should be specified by Order.

(b) Liability for the Community Charge

5. All adults resident in a local authority's area are to be liable for the community charge, subject to certain minimal exclusions such as residents in property which remains in rating. It is proposed that the legislation should state the general liability in those terms, rather than making liability arise from registration. This has the presentational advantage of avoiding placing the primary emphasis of the legislation on setting up a registration system. In practice, however, the community charge register will be the main indicator of those liable to pay.

6. The test of residence in a local authority's area will be whether a person is solely or mainly resident there. This will depend on the facts of each case, and will be subject to appeal, to the Sheriff in Scotland. Further consideration will be given to the detailed appeal procedures required for England and Wales. Liability will run for the number of days a person is solely or mainly resident in a particular area, and will continue during temporary absences, but will cease if he moves his sole or main residence to another area. Where a person has his residence will be determined according to his own facts and circumstances. It therefore seems unnecessary to provide for any extensive formal definition of 'sole or main residence', and in particular no minimum qualifying period or other criteria will be prescribed in statute. This approach is similar to that taken in relation to "residence" for the purposes of tax law concerning relief on mortgage interest payments. The only refinement proposed is that, in order to avoid having to de-register and re-register students at the beginning and end of every term, they should be deemed to be solely or mainly resident in the area of their term-time address. Further consideration will however be necessary of the treatment of people whose sole or main residence is outside Great Britain and proposals will be put to Ministers in due course.

7. The definition of adult should include all people over the age of 18, except those in full-time non-advanced education in respect of whom child benefit is payable up to the age of 19. The Green Paper suggested that individuals should become liable at the start of the financial year following their 18th (or, as

appropriate, 19th) birthday. The local authority associations north and south of the border have argued that this is an unnecessary further complication, particularly when a rolling register, continuously updated, is envisaged (see paragraphs 12-15 below). On this view, therefore liability should begin on a person's 18th birthday or on the date when he leaves school if that is later. The approach in the Green Paper might be refined to make liability begin on specific dates (perhaps 1 April and 1 October) after a person's 18th birthday or the date when he leaves school. This would avoid the complexities involved when someone left school in early summer but later decided to return (to sit A-levels, for instance). The system will have to be identical throughout Great Britain and a decision by Ministers will therefore be required before the Scottish legislation can be finalised.

THE ADMINISTRATION OF THE COMMUNITY CHARGE

(a) Registration

8. The community charge register will be a public document listing all residents in a local authority's area liable to pay the community charge: the Green Paper argued that a public register would aid enforcement of registration. It has been suggested that it would reduce criticism or concern about the new register if it were arranged by names rather than by addresses. Arguments of practicality however suggest that the register should be arranged by addresses, with a note of the names of those at each address who are liable to pay. It is also proposed that the register should cover addresses where the residents are subject to a collective community charge (see paragraphs 28-33 below), and properties such as second homes (see paragraphs 34-41) which will attract a standard community charge liability. The names of those liable to pay these forms of charge would also be included in the register - note that for second homes only the name would be shown (the address of the owner would be kept in the local authority's private records).

9. As an essential database for the community charge register, the electoral register and the Valuation Roll, local authorities will need to maintain a comprehensive property list, or list of addresses. This need not be a statutory list, nor need it be public. But authorities will require to continue to have access to the information used to keep the valuation roll up to date at present (eg details of planning permission for changes of use and it will be necessary to ensure that there is nothing which inhibits the transfer of information within the community charge register/electoral register/valuation roll area.

10. Registration will be the responsibility of individual local authorities, who would need to exchange information about residents moving between areas (see paragraphs 14 & 15 below). There should however be no requirement for authorities to provide information automatically for a general pool - though authorities would be under a duty to provide relevant information to other authorities on request - and no provision for a national registration system. The authorities responsible for registration, as for administration of the present rating system, will be regions and islands in Scotland and probably districts in England and Wales. It is proposed that in Scotland registration should be the responsibility of a statutorily-designated local authority officer (the Community Charge Registration Officer), who will probably be the same individual as the present Assessor (responsible for valuation and rating) and Electoral Registration Officer, thus preserving the benefits of the statutory independence and objectivity of that officer. This statutory appointment need not however be created for England and Wales, where the present division of responsibilities is different.

11. The main responsibility for responding to local authority canvasses and providing supplementary information about residents arriving or leaving will lie with

an identified individual at each address. Because of difficulties of definition it is not proposed to use the term "head of household", which is used, though not tightly defined, in the electoral registration and census contexts, but to achieve substantially the same effect through the concept of a "specified" or "responsible" person. Normally, this will be the resident owner, main tenant or the present rateable occupier, but, with the agreement of the local authority, any other resident adult at the address could accept responsibility for providing the necessary information. In the minority of cases where no such person is identified or comes forward, it will be necessary to give the local authority power to nominate the person in question, with appropriate provisions for appeal.

(b) Operation of Registration System

12. There is agreement between Departments that the community charge register for each local authority area should, as proposed in the Green Paper, be a "rolling" register rather than a "fixed" register, and that it should be a public document, held on computer and available for inspection by VDU at any time, with prints of the register being made more readily available at intervals of possibly six months. Local Authority Associations both in Scotland and England and Wales recognise that this is the most practicable form for the register to take. The register will be established in the first instance by a comprehensive canvass of the population of each area based on existing rating and electoral registration records. It is proposed that this should take place in the spring or early summer of the year before the start of the community charge system (ie in 1988 in Scotland) to avoid any confusion with the autumn electoral registration canvass and to give time for the process of updating the register to get under way so that the system is well established before community charge payments actually fall due.

13. The register will be subject to a continual process of updating, depending on information from a number of sources. The primary source will be "specified" or "responsible" persons (see paragraph 11) providing information about resident adults in their households, either in response to a canvass by the local authority or separately when a change occurs. It is proposed that local authorities should have a duty to maintain an accurate register, undertaking canvasses as necessary in order to catch up on changes which may not have been notified. The Scottish Assessors' Association have argued strongly that, in order to ensure that local authorities provide adequate resources for registration, a formal requirement for the whole of a local authority's area to be canvassed in the course of every year is needed. It is proposed that any such requirement, along with the detailed provisions for the canvass required for the initial establishment of the register, should be included in secondary legislation made under a general power for the Secretary of State to prescribe the ways in which the rolling register should be kept up-to-date.

14. Further sources of information, envisaged in the Green Paper, might be other local authority departments (when application is made for the use of local authority services) and other local authorities (when, for instance, confirmation might be sought that a person had in fact been registered in a new area). The data protection issues raised by such exchanges of information, and the degree of co-operation required between authorities, are still under consideration. It seems likely, however, that specific statutory provisions will be required if information is to be passed between local authorities, or between departments of a single local authority for registration purposes, over and above whatever is required to comply with the Data Protection Act 1984.

15. Further consideration will also be given as to whether formal arrangements are necessary for information from other sources, such as information from solicitors about changes in property ownership, information from the registration system on

deaths and any Central Government information such as details of people receiving social security payments, to be used or made available for community charge registration purposes, and further proposals will be put to Ministers in due course. It is not however envisaged that any health service or national taxation records should be made available for these purposes.

REGISTRATION: DUTIES AND SANCTIONS

16. The Green Paper envisages (paragraph G9) that the primary duty to provide information for community charge registration purposes should rest with heads of household, and should probably require criminal sanctions for enforcement. The following alternative approaches in this policy area have been considered by officials. The nature of the duties to be imposed may best be considered in conjunction with the sanctions by which they are to be enforced.

Possible duties on individual residents

17. A duty on all residents to register themselves with the local authority would be logical, and would sit well with the proposal (see paragraph 5) that all residents should be under a general liability to pay the community charge. Arguments of practicality, however, do not support the proposition.

17.1 A duty on individuals to register would be easy to avoid, since local authorities would have no ready means of ensuring that all those resident at a particular address had in fact been registered.

17.2 If no specific sanctions were provided against non-registration (beyond the requirement to pay the back community charge which would be due anyway), the duty would not in practice add anything to the liability to pay and would be open to criticism on the ground of being unduly onerous and wide-ranging, and if there were civil or criminal sanctions there would be the risk of a large increase in workload for the courts, because of the larger numbers involved.

17.3 Those who were not capable of taking responsibility for their own registration could be unfairly exposed to the risk of any sanctions.

18. For all these reasons, a duty on individual residents is not recommended. Nor is it proposed to provide for any specific sanction against the non-payment of community charge, other than payment of the charge avoided: there would be considerable difficulty in assessing culpability in the variety of circumstances which might arise. One possibility, however, would be to charge interest on amounts outstanding.

Duties on the head of household (or "responsible person")

19. It therefore seems more satisfactory to rely on the head of household, or "responsible person" as defined (see paragraph 11) as the primary source of information for community charge registration purposes. This reduces the potential enforcement caseload, and has the advantage of depending on a person who is likely to change residence less often than the generality of the population and who is easier to pin down. The basic duty will be for "responsible persons" to provide, within a stated period (perhaps 28 days) information requested by the local authority for the purposes of community charge registration.

20. Those who have provided such information should also be under a duty to report changes of address or changes in household composition between canvasses. The fact that this duty existed would need to be made clear to the "responsible

person" on the canvass form. There would need to be an extensive education campaign, particularly in the early years of the new system, to ensure that people realised they were under an obligation to volunteer this information; and simple change of address forms would have to be widely available.

21. This approach leaves a gap in the system in that there is no automatic provision for new households to register themselves. This is not, however, a crucial omission: local authorities will generally be aware (for example, through having been informed by the outgoing household of their departure) that a new household has come into being and will send a canvass form to be completed by the head of household, who thenceforth will be responsible for notifying further changes.

22. It is clear that for the system to be credible some form of sanction will have to attach to the duty defined above.

Criminal Sanctions

23. The Home Office consider that the question of possible criminal sanctions requires further consideration. They point out that criminal offences are bound to catch large numbers of people who are not capable of completing official forms or who are unaware that persons staying with them may fulfil the statutory criteria for 'residence'. Public acceptability of the new charge could hinge in part on the means of enforcement. The Home Office suggest that further work should be undertaken and that non-criminal sanctions might provide a sufficient deterrent without the need for some or all of the proposed defences.

24. If criminal sanctions were adopted, they would have to be applied to offences based on:

- a. failing to provide within a specified period information in response to a canvass;
- b. providing false information in response to a canvass;
- c. having taken responsibility in response to an earlier canvass, failing to notify changes to the register as it applies to an address.

There are precedents for criminal sanctions in relation to a failure to provide information or providing false information in some areas including valuation and electoral registration. These particular precedents do not extend to voluntary information which has not been specifically sought. There are however some statutory obligations, backed up by criminal sanctions, to notify changes of address for driving licences for example. Criminal sanctions in the case of the community charge would however have to be invoked much more frequently and the duty to volunteer information would not be restricted to volunteering information applicable to the individual on which the duty fell.

25. In order to reduce the need for significant numbers of prosecutions to be brought under these provisions, it would be possible to provide that a fixed penalty should be available in relation to both offences for cases which are considered less serious. This would involve the possibility of a head of household being offered the opportunity to pay a fixed penalty as an alternative to a prosecution being brought. This would be set at a predetermined level - possibly in the range of £25-£50 - which would provide a deterrent, but would not be so high as to encourage guilty heads of household to opt for prosecution in the hope that a lower fine would be imposed. Opting for a fixed penalty would not lead to a criminal record for the head of household.

26. The details of a proposed fixed penalty system would require consideration by officials. In Scotland, an opportunity for judgment of the seriousness of the offence would be provided by the need for cases to be reported to the Procurator Fiscal and for him to decide whether to take no action, to offer a fixed penalty or to bring a prosecution. In England and Wales, where local authorities bring their own criminal proceedings, any discretion would have to lie with the authority itself.

Civil Sanctions

27. The alternative to criminal sanctions would be to make failure to discharge some or all of the duties subject only to civil penalties. The amount levied would be a multiple of the community charge avoided, with a ceiling of twice the total, and the local authority able to levy a lower penalty where (for example) the "responsible person", having been found out, co-operated with the authority in providing information. Civil sanctions are already widely used in the field of national taxation, and could in general be made to follow the pattern preceded there. However, in the case of the community charge, the penalty would not relate directly to the amount of tax for which the "responsible person" was himself liable: this might be seen as blurring the distinction between responsibility for registration and liability for payment. Moreover, because it would be essential to provide some form of appeal procedure against the sanction, there would still be additional work for the courts or any independent tribunal that was empowered to hear appeals.

COLLECTIVE COMMUNITY CHARGE

28. The purpose of the collective community charge, as envisaged in the Green Paper, is to assist collection and enforcement in cases where residents are so mobile that it would be very difficult or impossible to identify, register and charge them. The collective charge would apply to residents in certain types of communal establishment, and would be payable by the owner or proprietor of the establishment. Difficulty has however been encountered in defining the exact scope for the collective charge: in setting the boundary between categories of people who should be liable to be charged collectively because of the transient nature of their residence and others who should be registered and treated as individually liable to pay the community charge, there will inevitably be a conflict between the objectives of effective enforcement and increased accountability. There are also arguments (see paragraph 3) for exempting certain categories of people entirely from the community charge and leaving the institutions in which they live within the rating system. It is proposed that hospitals, prisons and most commercial hotels should be treated in this way.

29. Residents in the following broad categories of accommodation may be considered as potential candidates for collective community charge treatment:-

- Common lodging houses
- Homes for the old and disabled
- Hostels (for single homeless, ex-prisoners etc)
- Houses in multiple occupation
- Staff hostels attached to hospitals and other institutions
- University and college halls of residence

It is agreed that the principal criterion for application of the collective charge should be the transience of people's residence in the institutions in question. Final agreement has not however been reached between Departments, within that principle, as to which types of establishment should be assigned to the collective category.

30. On one view it is argued that in order to maximise accountability the community charge should be paid by as many people as possible and on an

individual basis. This would have the advantage of minimising the confusion for local authorities which would be caused if large numbers of people - particularly those living in accommodation which was not clearly institutional - did not require to be registered for community charge payment. This approach has the support of the Convention of Scottish Local Authorities and the Scottish Council for Single Homeless, who have argued that many residents in communal establishments such as lodging houses are no more transient than others living in the community. It is therefore arguable that all residents in the establishments listed in paragraph 29 should be registered individually, but that the local authority should have discretion, within tightly-defined limits, to impose a collective community charge in particular cases where individual registration would be entirely impracticable.

31. On another view, however, it is argued that in order to maximise efficiency of collection and minimise costs to local authorities, a wider definition of the scope of the collective community charge would be appropriate. On this basis, residents in most of the establishments listed in paragraph 29 would by definition come within the ambit of the collective community charge. In the case of houses in multiple occupation local authorities would have discretion, within a defined range, to determine whether a collective charge or individual charges for each resident should be levied. This would meet the problem, found for instance in some London boroughs, of very high numbers of people (up to 30% of the population) living in houses in multiple occupations and moving address very frequently. It would clearly be quite unreasonable to expect local authorities to attempt to register all such people individually and follow up all their moves.

32. These approaches can be reconciled in practice if it is accepted that the basic presumption should be in favour of individual registration and liability but that local authorities (in Scotland the Community Charge Registration Officer) should have discretion within criteria (specified by Order) or in relation to classes of property (specified by Order) to proceed by the imposition of a collective charge. A right of appeal would be provided in all cases for the person liable to pay the collective charge (usually, the owner of the property) who wished to contest the categorisation of a particular property as subject to the collective community charge. It is proposed that the Scottish legislation should be drafted on this basis and that, in the light of further consultations between Departments and of responses to the Green Paper, detailed proposals for the use of the order-making power should be put to Ministers in due course.³³ It remains to be settled how the collective community charge is to be assessed. The main options are:

- i. for the local authority to determine (subject to appeal) a notional standard occupancy for the property, and levy that number of community charges, with the landlord keeping any gain if the property is over-occupied and bearing any loss if it is under-occupied;
- ii. for the landlord to be required to pay a number of community charges based on actual occupancy from time to time, with provision for the local authority to check the accuracy of his returns.

Officials do not regard a common approach between Scotland and England on this issue as essential. There is no question of requiring the landlord to register as individuals the occupiers of a property subject to the collective charge, but in other respects he will be subject to the general duties and sanctions concerning registration and liability to pay. Following further consideration by officials specific proposals will be put to Ministers.

STANDARD CHARGE FOR SECOND HOMES ETC

34. The Green Paper recognised that the removal of domestic property from rating would bring a bonus for the owners of second homes, which by definition are no one's sole or main residence. It therefore proposed that there should be a flat rate tax referred to as the 'standard community charge' levied on the owners of second homes.

Scope of the Standard Charge

35. It is difficult to devise a satisfactory definition of a 'second home' for incorporation in legislation: the range of circumstances to be coped with is too wide and any definition would lend itself to avoidance mechanisms. The recommended approach is to start by regarding second homes as a sub-set of all the residential property which is removed from rating and which is no-one's sole or main residence. In addition to second homes this will include property which is let on short-term lets, is awaiting a new owner or tenant, or which is in uninhabitable condition.

36. The present rating treatment of such property varies. Second homes pay full domestic rates. In Scotland, rates continue to be paid on property which is empty and unfurnished for three months, after which it is not rated; after six months authorities have a discretion to reimpose rates which is seldom if ever exercised. In England and Wales, where property is empty and unfurnished the first three months are rate-free and thereafter authorities have discretion to levy rates: many do so, particularly in urban areas.

37. It is proposed that the standard charge should apply to all domestic property excluded from rating which is no one's sole or main residence for community charge purposes, with suitable exemptions which are discussed below. The justification for making the charge on all such property would be that it makes some call on local services, such as police and fire, and that it is sensible to continue provision for a tax on empty houses as an incentive to get them back into use. In addition, of course, there is the argument mentioned above in relation to second homes that it would be unreasonable for them to go scot free, particularly when their owners may be regarded as a relatively more affluent group.

38. It will be necessary to provide for exemptions from the standard charge. For example, houses may quite reasonably have no registered resident when they are awaiting a new tenant or awaiting sale and in those circumstances it would be unreasonable for the landlord or owner to become immediately liable to pay the standard charge. It is suggested that a period of grace of three months be allowed in those circumstances before the standard charge becomes payable. It is proposed that provision should be made in the legislation for categories of exemptions to be specified by Order, to provide flexibility in administration.

Amount of the standard charge

39. The Green Paper proposes that the standard charge should be two units of community charge, in the expectation that this will leave second home owners broadly unaffected by the removal of domestic rates. DOE and the Scottish Office reckon that the standard charge should be set at one unit of community charge for the following reasons:-

39.1 Most second homes are holiday homes or weekend cottages or small pieds-a-terre, with below average rateable values, and it is clear from many of the comments made so far (in correspondence from MPs and members of the public) as well as from the limited statistical information available that the imposition of two units of community charge would be a significant additional burden in a majority of cases.

39.2 Setting the charge at two units will encourage attempts at avoidance, with claims that one spouse or another member of the family has his or her main residence at the second home. A single unit of charge would reduce, though not eliminate, that incentive.

40. The Welsh Office, on the other hand, reckon that the Green Paper proposals should be maintained for the present, partly on the grounds that a charge of two units is necessary to avoid a loss of income to local authorities in Wales in respect of second homes but more importantly because they do not wish to excite renewed public debate. This difference is unresolved at official level.

Special Cases

41. Even a single community charge would mean increased bills for many static caravans used as second homes, and for small holiday huts and chalets. For caravans situated on caravan sites, it would seem simplest to provide that they remain subject to rates, which would continue as at present to be levied on the site owner. For isolated holiday caravans, holiday huts and chalets, it would be possible to prescribe an exemption from the second home charge for properties not reasonably capable of use as a permanent dwelling. Thus only where 'mobile homes' etc were in fact used as a permanent residence would the occupiers be liable for the community charge. The detailed approach to these issues requires further consideration; officials will report on any difficulties which emerge.

PAYMENT AND RECOVERY OF DEBTS

42. All domestic ratepayers have the right to pay by monthly instalments, though only about half actually do so. This right should be carried over to the community charge. In the course of consultations in Scotland the clear advice of COSLA officials and CIPFA is that the present system of 10 payments should be modified to provide for 12 equal monthly payments, on grounds of simplicity of calculation and collection and ease of administration of rebates. It is proposed that this change be introduced.

43. It would, however, be sensible to provide for a minimum monthly payment, of perhaps £2. For individuals with bills, net of rebates, that were less than this local authorities would have discretion to require payment in fewer instalments. So a person with a net bill of £1 a month would have to pay £2 every two months. Such a system would reduce the risk that the costs of collection might be larger than the amounts due in some cases: it would be especially useful in the early years of the new system, when rates are being phased out and some community charge bills are still very small.

44. Most council tenants pay their rates and their rent together, at weekly or fortnightly intervals (though authorities are required to show the two separately in statements of how much they are paying). It seems appropriate to allow this arrangement to continue to help keep down collection costs provided the perceptibility of the community charge can be ensured. There should therefore be a power to prescribe the form of notice to be given of community charge liability. It is also proposed that all spouses, who are to be jointly and severally liable for each other's community charge, could make joint payments (though they would receive separate notification of their bill). Other family members should however be given their own community charge bills, and should be subject to the same rules about instalments as everyone else; it would be bad for accountability for the system to be extended so that there was a household community charge in any circumstances. Tenants receiving 100% rent rebates - who will be paying 20% of their gross community charge bill - should also pay by monthly instalments, subject to the proposed '£2 minimum payment' rule.

Debt Recovery

45. In England and Wales payment of rates is enforced through the use of distress warrants. These authorise the seizure of goods to the value of the amount owed. But, although about 600,000 warrants are obtained a year in England and Wales, less than 1% of these result in property being seized and sold. The number of warrants being passed to bailiffs has increased - by 15% in the last 3 years - yet the value of goods sold is rarely sufficient to pay off arrears.

46. With the community charge, liability for payment will rest with individuals rather than with householders; the number of people receiving bills will double, and many of those paying local taxes for the first time will have relatively little in the way of possessions that can be sold off to pay any arrears. Individual liability also raises the problem of identifying which goods in a household belong to which individual.

47. This suggests that distraint alone will not be sufficient to enforce payment of the community charge; some additional powers will be needed. We suggest the following:

47.1 A statutory requirement that all authorities should send final reminders before taking action for arrears. At present, unlike gas and electricity boards, they are not obliged to do so. This might reduce the number of summonses issued and help to reduce the load on the Courts.

47.2 The availability to the courts of 'time to pay' orders, allowing individuals to agree to pay off arrears by instalments. These would be especially useful where individuals were earning, but had managed their finances badly. It would take longer to get the money by this route than through distress; but the whole amount owed would be paid in due course.

47.3 The extension of the power for attachment of earnings to cover community charge arrears. Attachment of earnings would be similar in effect to 'time to pay' orders, except that the money would be deducted at source from the individual's wages.

47.4 Arrangements for deducting amounts owed from entitlement to DHSS benefits. This would be equivalent to attachment of earnings for those whose sole or main income came from state benefits.

48. In Scotland procedures on these lines have been recommended as regards rates in the report of the Scottish Law Commission on Diligence and Debtor Protection and are likely to be the subject of legislation in the 1986-87 Session. It is proposed that these procedures should be adopted in relation to the community charge in Scotland.

RELIEFS FROM THE COMMUNITY CHARGE

49. The Green Paper said no more than that the Government intends to preserve the benefits of the existing rate relief arrangements for charities in the form of a discount from collective community charges. (Paragraph G36). No reference was made to relief from non-domestic rates which charities enjoy in respect of a range of property such as churches and charity shops: it is proposed that these reliefs should continue.

50. The present pattern of reliefs from domestic rates is complex: some reliefs are defined by reference to the nature of the ratepayer (eg reliefs for charities) and others by reference to characteristics of those living in the premises (eg the

disabled, those recovering from illness) and in many cases these categories clearly overlap. Certain mandatory reliefs are specified in statute (not all of the same level) and local authorities have certain discretions on top of these. The main details are as follows:-

50.1 Premises occupied by, or by trustees for, a charity and wholly or mainly used for charitable purposes - 50% relief.

50.2 The residences of full-time ministers of religion - 50% relief.

50.3 Almshouses - 50% relief.

50.4 Accruals of rateable value in respect of additions to property which have to be made to treat or mitigate disability do not bear rates (ie disabled people living at home do not pay additional rates if their house has special adaptations such as an extra lavatory, special access, wider doors, or a lift).

50.5 No rates are payable on buildings used for the provision of the disabled of services for their welfare (or for their training or employment). This includes the provision of residential accommodation for the disabled and for the care of persons suffering from illness or for their convalescence. Many old people's homes and nursing homes thus pay no rates. (Where part of a building qualifies under this provision the rates burden will be reduced in proportion.)

51. Clearly, there are many anomalies in the present system. For example:-

51.1 In the area of charitable exemptions, much depends on who is the rateable occupier. Where the accommodation is "institutional", with the charity managing the property and paying the rates, reliefs will be available. But those who are tenants of self-contained houses provided by a charitable housing association will in all probability themselves be individual rateable occupiers and will obtain no reliefs: though often in such cases there may be a warden's house where the charity may be deemed to be the rateable occupier and relief can be obtained.

51.2 No rates are paid in respect of institutional accommodation occupied by the disabled whereas individual disabled people living at home are liable to pay the normal level of rates, being exempt only from rates on special additions to their houses.

52. Against this background there is no strictly logical basis for a carry-over of reliefs from the rating system to the community charge system. It would be a logically defensible position for Ministers to take that there should be no such reliefs. The main points to be argued in support of this position would be:-

52.1 The new system is a personal tax and individuals are not exempt from other personal taxes because they happen to live in accommodation provided by charities, are ministers of religion or are disabled.

52.2 If individuals cannot afford the community charge there will be a rebate scheme to help them.

52.3 With the ending of domestic rates charities and churches enjoying 50% rate relief at the moment on residential accommodation may obtain quite a substantial additional benefit (note that some will already have full relief of rates where local authorities exercise their discretion to provide this). Where there is a benefit they can use it to promote the charitable purposes of the organisation.

53. In case Ministers feel it necessary to make concessions, the following paragraphs review possible ways of carrying over some of the present pattern of reliefs.

Charities

54. It seems reasonable in the first instance to confine consideration for reliefs to those whose full board and lodging is provided by charities rather than bringing in any wider category of those who receive other forms of assistance from charities. As noted above however many housing associations are charitable and it does not seem reasonable that reliefs should in general be available to them. A possible tighter definition would therefore be those whose accommodation is in residential institutions occupied and run by charities. This would broadly match the intention stated in the Green Paper (paragraph 49 above) though we would not consider it necessary to frame a definition by reference to the application of the collective community charge, the scope of which may be rather more limited than envisaged by the Green Paper. A definition on these lines would not cover ministers of religion nor individuals such as caretakers in houses owned by charities. They could however benefit from the proposals concerning those occupying tied houses, discussed below.

Disabled people

55. Here too the strict logic of a personal criterion applying relief to all who are disabled would run too wide, leading to major erosion of the tax base and loss of income and accountability. A possible basis for exemption would be to use the criteria for identifying institutional accommodation of the type mentioned in paragraph 50.5 above. This would thus mean that the residents of most old people's homes and long-stay nursing homes enjoyed relief from the community charge.

Scale of relief

56. Read-across from the present system is particularly difficult: for charities the present level of relief is 50% whereas for institutions for the disabled, old people's homes etc 100% relief of rates is provided. As noted earlier charities will benefit from the complete ending of rates on residential accommodation so it might be reasonable simply to make the level of relief for the occupants of residential institutions run by charities 50% of the community charge. For consistency that might be applied to institutions for the disabled etc as well, but there would doubtless be complaints that this represented a worsening of their position.

Tactics

57. So far we have had few representations on this topic. Before reaching firm views, therefore, Ministers may wish to ask officials to initiate separate consultations with appropriate bodies representing charitable organisations, to establish their views on the implications of the Green Paper.

Tied houses

58. In most cases where an employer provides accommodation and pays the rates these are benefits on which the employee is liable to income tax. There are, however, certain special exemptions including cases where the employee is required by his employer to live in tied accommodation eg clergymen and some agricultural workers. The question is whether this present exemption in respect of rates should carry over in cases where the employer pays the community charge. It is arguable that employers who provide tied accommodation at present free of rent and rates will regard their employees' community charge liability as an accommodation cost replacing rates, which they should meet on behalf of those employees. It is clear that this is the position taken by the churches, who have already made this point forcefully in Scotland. It is also clear that there will be pressure for similar treatment in the agricultural community where tied accommodation is prevalent. It Such relief might either be confined to the employee above, or to payment in respect of him and his spouse or to the whole of his household.

59. But there are tax policy arguments against any such relief. By definition, the community charge will be a "personal" liability unrelated to the property, and the grounds for this special treatment will therefore disappear. Moreover, in the case of rates it is possible for the Revenue to hold the line at exemption for some employees but not for others. It would be much more difficult to do this in the case of a community charge because it is a personal liability, unrelated not only to property but also to any requirement of the employment. The question of a tax exemption would be a Budgetary matter for Treasury Ministers with any legislation in a Finance Bill.

60. In view of these difficulties on the tax front Ministers may wish to consider the alternative of an exemption, in these cases, from the community charge itself. But as with charitable and disabled reliefs Ministers may feel the logic of the community charge, as a personal tax, points to a hard line. Employers who wished to meet the community charge liabilities of their employees in tied accommodation would still be free to pay them the pre-tax equivalent sum. However, strong representations against this would no doubt be made by the interests identified above.

SUMMARY OF RECOMMENDATIONS AND FOLLOW-UP ACTION

Agreed recommendations

- 61.1 The abolition of domestic rates should be widely drawn, excluding from rating domestic property, lock-up garages, residential non-domestic property (apportioned if necessary). (Para 2)
- 61.2 Exemptions from community charge should be confined to as few categories as possible, which might include prisons, hospitals, permanent residents in hotels. (Para 3).
- 61.3 Liability for community charge should be expressed in general terms without detailed criteria. (Para 5-6).
- 61.4 Community charge register should be public, showing names and addresses. (Para 8).
- 61.5 In principle, information to aid the registration process should be exchanged between authorities. (Para 10 & 14). (See also para 63.2 below)

- 61.6 Registration should be a local authority responsibility: there should be a statutory officer in Scotland (Para 10).
- 61.7 The main source of information for registration purposes should be the 'head of household' - referred to as 'responsible person' (Para 11).
- 61.8 The community charge register should be a 'rolling' register (Para 12).
- 61.9 There should be provision for a collective charge: the presumption should be in favour of individual registration, with criteria of people and classes of property appropriate for the collective charge to be specified by order (para 32).
- 61.10 There should be a standard charge on domestic property removed from rating, but no-one's sole or main residence (ie covers second homes) (Paras 34-37).
- 61.11 Payment and debt recovery procedures should be modernised (paras 42-48)

Points for Ministerial decision

- 62.1 Registration of 18 year olds: on birthday or set days of the year eg 1 April, 1 October. (para 7)
- 62.2 Registration: duties and sanctions - scope of offences, choice of criminal or civil sanctions. (paras 16-27)
- 62.3 Amount of standard charge (second homes): one or two units of community charge. (paras 39-40)
- 62.4 Reliefs for charities, disabled, occupants of tied houses: what view do Ministers take on reliefs and how should consultation be handled. (paras 49-60)

Points requiring further consideration and advice to Ministers in near future

- 63.1 Criteria for liability of those whose sole or main residence is outside GB. (Para 6).
- 63.2 Exchange of information between authorities (or authority service departments) access to new sources of information for registration purposes: how wide should these powers be, what legal inhibitions are there on exchange of information, should any Government information be available. (paras 14 & 15).
- 63.3 Assessment of collective charge: should it be based on notional or actual occupancy. (para 33).
- 63.4 Special cases on standard charge: how to deal with certain caravans, holiday huts or chalets. (para 41)

Details to be worked out for orders, regulations

- 64.1 Criteria for exclusion/apportionment to remove residential property from rating (para 4).
- 64.2 Details of canvass for registration: timetable, forms, etc (para 13)

64.3 Details of criteria of people and classes of property for application of collective charge. (para 32).

64.4 Exemptions from standard charge to cover, for example, empty and unfurnished or uninhabitable property. (para 38).

CABINET

CONFIDENTIAL STEERING COMMITTEE ON ECONOMIC STRATEGY
SUB-COMMITTEE ON LOCAL GOVERNMENT FINANCE

Social Security and the Community Charge
Memorandum from the Secretary of State for Social Services

Introduction

1. The report of the inter-departmental working group, chaired by my Department, has examined in detail different options for providing assistance with the cost of the proposed community charge. This follows up the point left to us in the Green Paper 'Paying for Local Government' and considers how people on low income might be assisted with the charge (Cmd 9714) paragraph 3.46.

2. The report deals with complex issues. Moreover, the discussion of the options considered in the report has to be seen in the context of the overall framework for reforming social security and local government finance and related wider political considerations on our future approach to social security. I summarise the relevant points below and suggest the main strategic issues we need to consider.

13 June 1986

The timetable for change
Social Security Reform

3. As colleagues are aware, the implementation date for the main social security reforms, including help with domestic rates through housing benefit, is 1 April 1988. The Social Security Bill is in Committee Stage in the Lords this month. We expect it to be passed by the Lords by the middle of next month by Royal Assent by the end of July.