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## CABINET

MINISTERIAL STEERING COMMITTEE ON ECONOMIC STRATEGY  
SUB-COMMITTEE ON LOCAL GOVERNMENT FINANCEGREEN PAPER: PAYING FOR LOCAL GOVERNMENT  
INTRODUCTION OF THE COMMUNITY CHARGE

## THE FRAMEWORK OF DUTIES AND OFFENCES

Memorandum by the Secretary of State for Scotland

1. At its meeting on 19 June, in discussion of my Memorandum on the Introduction of the Community Charge (E(LF)(86)1) the sub-Committee invited me to circulate a further paper examining in detail where the responsibility for registration should lie and what sanctions should be used against householders and individuals who failed to register and notify changes.

2. I attach a note which has been agreed by officials of the departments involved as background to our further consideration. It takes account of the range of points recorded from our discussion of 19 June.

The General Approach

3. The note by officials explains the nature of the liability to pay the community charge, the role of the register as a mechanism for its administration and the need for an adequate flow of information to keep the register up to date. It confirms the earlier recommendation that there should be a rolling register and that the collection of information should be based primarily on canvassing heads of household. Parallel obligations should, however, also be placed on individuals, on the basis proposed below. I invite colleagues to agree that, for the reasons set out clearly in the note, this approach should be adopted.

4. The following matters require careful consideration and specific decisions.

Duties and Sanctions on Head of Household

5. Paragraph 11 of the Note by Officials recommends two basic duties to be imposed upon the head of household:-

1. To respond to canvass forms or other enquiries within a specified period of time.

2. To provide complete and accurate information as requested in the canvasses and enquiries.

Duties of this kind are well precedented, for example in relation to electoral registration, the preparation of the valuation roll and the Census, and I invite colleagues to agree that these duties should be imposed upon heads of household.

6. Paragraphs 13-15 of the Note by Officials review the arguments for the imposition of criminal or civil sanctions. I recognise that new criminal offences should not be created unless they are clearly necessary and that the possibility of using civil sanctions has rightly had to be considered thoroughly. It is clear, however, that this would be far from straightforward. I think it would be undesirable and inappropriate to give local authorities wide discretion to set the level of penalties, particularly in a matter in which they have a direct financial interest and where the head of household is not being penalised for failure to pay a tax for which he was himself liable. Such a course would certainly call for a new appeal mechanism. It might be possible to simplify things by opting for a flat rate civil penalty but even then the range of circumstances in which heads of household might default on their duties seem rather too wide for us to hope to avoid some kind of appeal system. It therefore seems to be altogether more appropriate and straightforward to follow the criminal sanctions route, where in accordance with established procedures there are opportunities for discretion to be exercised at all stages and where introduction of the provision for the use of fixed penalties could provide a means of limiting the implications for the workload of the courts. I therefore recommend to colleagues that, for the two duties defined above, criminal sanctions incorporating the use of fixed penalties should be agreed. I will circulate detailed proposals for the level of fines etc in subsequent correspondence.

#### Continuing requirements to provide information

7. The proposal in E(LF)(86)1 that there should be a continuing requirement on heads of households to notify changes between canvasses caused particular concern to colleagues on 19 June. The arguments are reviewed in paragraphs 16-20 of the Note by Officials.

8. In my view it is necessary to maintain within the system some means of obtaining information about new arrivals in particular and the choices are between the original proposal for a duty on heads of household or a simple requirement that those liable to pay the tax should register themselves and notify changes. There are important political considerations here. The questions of sanctions is also relevant. A continuing duty on heads of household would have to be backed up by some form of sanction and it might be difficult to devise something which was not too burdensome. On the other hand a duty on individuals to register themselves is so closely linked with their continuing liability to pay the community charge by virtue of being adult residents in the area that there need not be a specific offence associated with the registration duty: we could rely instead on penalties (discussed below) for those who had sought to avoid payment.

9. On balance I consider that it is preferable to proceed by imposing a duty on individuals, to ensure that they are registered and to notify changes. This will be a continuing duty, applying to all who are or become liable to pay the community charge. It would not undermine the practical arguments for basing the registration process on a canvass of heads of household but would provide a basis for proposing sanctions on individuals who avoid registration and hence their liability to pay.

Sanctions on individuals who avoid payment

10. Concern was expressed at our meeting on 19 June that my original proposals contained no specific penalty on those who had been avoiding payment, beyond collection of the amount of community charge due from the date when it could be established that their residence in the area had actually begun. Paragraphs 21-24 of the Note by Officials review the options. As explained in paragraph 8, I do not think we need create a new offence of not registering, but can rely on penalties for avoiding payment. For the reasons given in the note I doubt whether a new criminal offence of avoiding payment would be desirable. A flat rate civil penalty, on the other hand, seems to offer a way of putting some teeth in the system without making it unduly burdensome or difficult to administer. I therefore recommend to colleagues that this course be adopted.

Recommendations

11. To sum up, I seek the agreement of colleagues to the following proposals:-

1. There should be a rolling register, based primarily on information collected by canvasses or other enquiries on heads of household.
2. The basic duties on heads of household should be as set out in paragraph 5 above and should be subject to criminal sanctions on the basis proposed in paragraph 6 above.
3. There should be a duty on individuals both to ensure that they are registered and to notify changes, but no offences specific to that duty should be created.
4. There should be a system of flat rate civil penalties for those caught avoiding payment.

M R

Scottish Office  
July 1986

## COMMUNITY CHARGE REGISTRATION LIABILITY, DUTIES AND SANCTIONS

### Note by Officials

1. In the course of its meeting on 19 June, E(LF) considered where responsibility for registration should lie and what sanctions should be used against householders and individuals who failed to register. The Secretary of State for Scotland was invited to circulate a paper examining the issues in greater detail. This note by officials has been agreed as background to that paper.

2. The note first explains the nature of the liability to pay the community charge, the role of the register as a mechanism for its administration and the need for an adequate flow of information to keep the register up to date. It then considers the collection of that information: the questions here are whether a system which relied entirely on information from individuals would be adequate or whether collection of information primarily from heads of household ('responsible persons', in the terminology of E(LF)(86)1) would provide better coverage. It then reviews in detail the duties which might be imposed on heads of households and on individuals, and the sanctions (civil or criminal) which might be applied. Finally, it considers the separate question of the sanctions which should apply to individuals who are caught avoiding their liability to pay community charge. A note on precedents for various forms of sanctions is at Annex A.

### BACKGROUND

#### Liability for payment

3. The basic liability for payment of the community charge will lie with individuals who are solely or mainly resident within a local authority's area. Liability will stem from residence, not from registration, but the proposed community charge register will nevertheless be the main indicator of those liable to pay. It will record the names and addresses of those liable to pay the community charge, the standard charge (second homes) and the collective community charge. The register will be conclusive as to the fact that the person to whom the entry relates is liable to pay the appropriate charge.

#### Nature of Register

4. The Green Paper considers two options:

4.1 a fixed register, based on an annual canvass establishing residence on a qualifying date and consequential liability for community charge in the next financial year.

4.2 a rolling register, recording all changes of address of residents as, or shortly after, they occur.

5. The degree of population turnover (estimated at 15% per year in Scotland) would make the operation of a fixed register difficult. It would quickly become out of date (even between the canvass and its date of coming into force) and would mean that, by the end of its year of operation, authorities were collecting community charge instalments from a significant number of people who no longer lived in their area. Equally, many living in the area would be paying instalments to other authorities. Given the need to keep track of these movements for payment purposes it seems sensible to opt for a rolling register. In tying liability to where

people are actually living at the time this strengthens accountability. Keeping the register as up to date and comprehensive as possible will, of course, lead to lower community charges as the burden is spread over more of those who ought to be paying. A rolling register is therefore favoured, both in principle and on practical grounds. Local Authority Associations in Scotland and in England and Wales recognise that this is the most practicable form for the register to take. It was part of the basis agreed between Departments as outlined in the officials' report attached to E(LF)(86)1. In Scotland, the register will be maintained by a local authority official known as the registration officer.

### Need for information

6. The choice of a rolling register nevertheless leaves open the question of how information should be collected and fed in to keep the register up-to-date. Three main sources of information are envisaged:-

6.1 Information elicited by the local authority in the course of canvasses, whether regular or ad hoc;

6.2 Information provided (other than in response to a canvass) by residents themselves, (either individually or heads of household);

6.3 Information from 'third party' sources - records of the use of local authority services, information from other public sector sources and information resulting from public scrutiny of the published register.

7. The main issue to be settled in relation to registration is how information is to be collected. The legislation will have to impose duties on members of the public to respond to local authority canvasses, and/or to place them under a continuing duty to supply information. Such duties might be placed either on individual residents, or on 'heads of household' (which definition is separately considered in paragraph 10 below) who would be responsible for providing information about all the residents in their household; or an appropriate combination of duties might be provided.

### INFORMATION FROM INDIVIDUALS

8. There would be logic in taking as the starting point a duty on each adult to register himself with the authorities wherever he was living, because he is liable to pay the community charge by virtue of his residence. Officials doubt however whether the register could be made sufficiently complete by relying solely on information from individuals. Canvasses would be necessary, but the basic problem with canvass is knowing how to address the forms in the first place. Even if a number were sent to each address, there would be no way of checking whether all those resident at the address had received forms or returned them. The only possible local database to start the process off would be the names on the electoral register: there would be justifiable criticism that this would be a very real incentive to people to avoid appearing on the electoral roll. Great reliance would have to be placed on other sources of information, eg DHSS records and on snoopers who pointed out omissions from the public register. Officials' conclusion is that a duty on individuals to register themselves may have a part to play in the overall combination of duties to be proposed (see paragraph 18 below) but on its own would fall far short of providing adequate coverage.

## INFORMATION FROM HEAD OF HOUSEHOLD (RESPONSIBLE PERSON)

9. Officials consider that, even if a duty to ensure registration were placed on individuals, (see paragraph 18 below) it would be necessary to base the register on a requirement for information to be provided at household level for the following main reasons.

9.1 Reliance would be placed on people likely to change residence less often than the generality of the population.

9.2 The 'responsible person' (see paragraph 10 below) would normally have a clearly-established legal connection - as owner or tenant - with the address in respect of which he would be required to provide information and so would be easier to pin down, for example, in cases where canvass forms were not returned.

9.3 It would reduce the administrative burden and cut the number of people being required to fill in forms. For example in Scotland there would be around 2 million 'responsible persons' - broadly the number of domestic ratepayers at present - compared with 3.86 million individuals liable for the community charge.

9.4 Correspondingly, it would reduce the potential enforcement caseload whatever route is chosen on sanctions (see below).

Thus, by the use of the concept of a 'responsible person' the advantages in registration terms of a property-based system would to some extent be imported into the community charge area, and the coverage of the register based on this approach would be better than relying exclusively on information from individuals.

Definition

10. The legislation would provide that the main responsibility for supplying information should lie with an identified individual at each address. Because of difficulties of definition it is not considered that the term 'head of household' is appropriate: it would however be possible to achieve substantially the same effect through the concept of a 'responsible' person. Normally, this would 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 - or more than one adult if more than one household was involved - could accept responsibility for providing the necessary information. This would, for example, allow joint owners or tenants to choose who should assume the responsibility. In the minority of cases where no such person was identified or came forward, it would be necessary to give the local authority power to nominate the person in question, with appropriate provisions for appeal.

## DUTIES AND SANCTIONS ON HEAD OF HOUSEHOLD (RESPONSIBLE PERSON)

11. Officials recommend that the basic duties which should be imposed by statute upon the head of household (responsible person) at each address should be as follows:-

11.1 To respond to canvass forms or other enquiries within a specified period of time.

11.2 To provide complete and accurate information as requested in the canvasses and enquiries.

Duties of this kind are well precedented, for example in relation to electoral registration, the preparation of the valuation roll and the Census.

12. These duties might be enforced by criminal or civil sanctions. The issues to be taken into account in making a choice between these are discussed in the following paragraphs:-

### Criminal Sanctions

13. The legislation would provide that failure to comply with the above duties was a criminal offence, punishable on summary conviction by a fine not exceeding a specified level. The precedents for this approach are listed in Annex A: they include in particular duties on heads of household relating to the valuation roll and the electoral register. Because of the importance for local authority revenues of securing as complete a register as possible and the significant sums of money which members of the public would save if they escaped registration, there would be likely to be considerably more prosecutions than is the case at present under electoral or valuation law. This could have significant adverse implications for the workload of the courts. In Scotland prosecution is the responsibility of the procurator fiscal, but in England and Wales it would be a matter for the local authority. An element of discretion is always present in the criminal process and at least in Scotland it is likely that only the relatively more serious cases would be prosecuted. An important means of ensuring that the workload can be contained would be to provide for a fixed penalty system (explained in Annex B) which has the particular advantage of leaving open the possibility of prosecution for serious cases but providing a relatively swift means of disposing of the majority of cases in a manner which leaves the individual involved without a criminal conviction. It is recommended that, if criminal sanctions are adopted, these should include the application of a fixed penalty system.

### Civil Sanctions

14. On this approach the local authority administering the register (the registration officer in Scotland) would be empowered to impose a financial penalty on a head of household who had breached the above duties. The precedents for this approach lie for example in the VAT and income tax fields and are explained in Annex A. The civil penalties, however, always appear to be related to, and imposed on, a person who has himself responsibility for payment of the tax in question. An important issue which arises on this approach is whether the local authority should have discretion to apply or to vary the civil penalty in the light of its judgement of the circumstances of each case. If such a discretion were allowed there would have to be an appeal mechanism, either through the courts or to some form of tribunal. Once again there could be serious implications for the workload of the courts or tribunal depending on the extent of the discretion and the manner in which local authorities used it. The only alternative approach would be to have a fixed civil penalty which would be applied by the local authority automatically. This might be a flat rate or might be linked to the level of the community charge in the area. If the rules could be made sufficiently clear cut it might be possible to dispense with provision for appeals though the range of circumstances in which responsible persons might breach the duties would make this difficult to achieve.

### Consideration

15. The Green Paper indicates that criminal sanctions would probably be required. (paragraphs 3.44, G9 and G21). New criminal offences should, however, not be created unless they are clearly necessary. The arguments in favour of adopting them in this case are that they are well precedented in the valuation and electoral registration fields and that they offer a mechanism which provides scope for discretion to be exercised at all stages, so that only relatively severe cases are prosecuted if prosecuting authorities exercise their discretion appropriately. Civil sanctions on the other hand, are in tune with a recent trend following the report of

the Keith Committee towards using civil rather than criminal sanctions in relation to tax collection matters. Their adoption would raise important issues of principle: whether it is appropriate to apply civil penalties in this type of case, whether local authorities should have discretion to impose variable penalties (from which they would benefit financially), how the use of that discretion should be standardised and what appeal mechanisms there should be. If a flat rate, essentially automatic civil penalty were to be adopted the criteria would have to be clearly and carefully drawn if the need for an appeal mechanism were to be avoided. But in any case the lack of such a mechanism could give rise to public and Parliamentary criticism. Under either approach those serious cases which amount to fraud could be prosecuted under existing law.

#### CONTINUING REQUIREMENT TO PROVIDE INFORMATION

16. The above sections of the paper have dealt solely with the preparation and updating of the register through canvasses or other enquiries made by the local authority. The issue arises whether additional duties should be imposed so that local authorities are notified of changes of address occurring during the year and if so what these duties should be.

17. E(LF)(86)1 proposed that heads of household who had already completed canvass returns should be under a continuing duty to notify changes occurring during the year in information that they had already provided; this duty would need to be drawn clearly to their attention by a suitable statement on the canvass form. Doubts have been expressed about the desirability of imposing such a continuing duty to register other people whenever they arrive, particularly if it were to be backed up by criminal sanctions. It is also unclear who would be under the duty in respect of a new household formed or moving into the area during the year.

18. An alternative approach would be to rely on the fact that all adult residents are liable to pay the community charge by virtue of the fact of their residence in the area, whether they are registered or not. It would be logical to impose a explicit requirement on individuals to register themselves when they become liable for the charge, for example on moving into an area, and to notify changes. In considering this approach, Ministers will wish to take account of the possible objections on principle to a general duty to register; the risk of confusion under a system where duties were imposed both on heads of household and on individuals; and, on the other hand, the view expressed at E(LF) on 19 June that it would be unusual to introduce a new tax without introducing an obligation on those liable to pay it to declare themselves. The question of what specific sanctions, criminal or civil, might be associated with this requirement is considered below.

19. A third course would be to dispense with any duty aimed at picking up new arrivals or other changes between canvasses. Local authorities would then require to rely on indirect sources of information - for example from solicitors or landlords about changes of ownership or tenancy or from DHSS about benefit recipients. Such information flows were mentioned in paragraph 15 of the Report by Officials attached to E(LF)(86)1 and, in accordance with paragraph 18.2 of that paper will be the subject of detailed proposals to be put to Ministers in due course. It is clear, however, that any such flows of information will at best provide an imperfect means of identifying new arrivals. Authorities would therefore be driven to carry out more frequent canvasses.

#### Consideration

20. The choice here is finely balanced. The imposition of some requirement seems desirable in the interest of keeping the register as up to date as possible though it

cannot be claimed to be absolutely essential. Ministers may feel it is more consistent with the general liability for the community charge to place this requirement to ensure registration and notify changes on individuals than relying on information from heads of household.

## SANCTIONS ON INDIVIDUALS

21. When an individual is discovered, he will be registered, and the entry will show the date when his liability (ie residence) began. He will have rights of appeal against the entry, but once it is established he will be liable to pay the amount of charge he avoided. (Note that this is a separate matter from debt collection procedures, dealt with in paragraph 7.7 of E(LF)(86)1.)

### Sanctions for avoiding payment

22. Sanctions for avoiding payment (over and above back payments) could flow directly from the general liability to pay community charge set out in paragraph 3. A range of sanctions is possible.

22.1 One possibility would be to charge interest on the amount outstanding. This would at least ensure that an individual did not benefit financially from avoiding registration; but would not amount to a real penalty.

22.2 Avoidance of the liability might simply be made an offence. Precedents for this would be vehicle excise duty and TV licences (see Annex A). The potential increase in court workload would be very large. 3.86 million adults are estimated to be liable to pay the community charge in Scotland. If 5% were caught avoiding registration, the possibility of criminal proceedings would have to be considered in about 200,000 cases. The use of fixed penalties might be helpful in reducing the workload (see Annex B) but the net load of cases on Procurator Fiscals would be likely to be significant. (The total number of prosecutions in the District Courts in Scotland at present is 80,000 a year.)

22.3 There might be a civil penalty, in the form of an addition to the back payment due. This is precedented in income tax law. The issue which arises is whether on this approach local authorities should be allowed to set variable penalties according to their judgement of the seriousness of the circumstances with an appropriate appeal mechanism or whether there should be a flat rate civil penalty. The latter could be clear cut in this case: the date on which residence began would be clearly established (see paragraph 21 above) and the penalty might be charged if the individual had avoided registration for a substantial period (say 3 or 4 months).

22.4 There would in any case be the possibility of prosecution of those serious cases which amount to fraud (under the Theft Act 1978 in England and Wales, under common law in Scotland). This is precedented in the income tax field. Caseload on the courts would be likely to be relatively light, since given the burden of proof that is needed in such cases, few prosecutions would be likely to be brought.

### An offence of failing to register

23. A further possible approach, which might be an alternative to sanctions for avoiding payment, would be to have a specific offence of failing to register oneself or notify changes in accordance with the duty discussed in paragraph 18 above. This offence could attract either criminal or civil sanctions.

Consideration

24. If there is to be a duty on individuals, some sanction will need to attach to those who avoid payment of the community charge by avoiding registration. This could be either through a specific offence of failing to register oneself, or attaching financial penalties to failure to pay. It would be difficult to justify penalties for failure to pay without a specific individual duty to register.

25. If no sanction is placed on individuals, there would be no cost in evading the community charge. As noted above, however, new criminal offences should not be created unless it is clearly necessary to do so. It can be argued that it would be unreasonable to create a specific criminal offence deriving from such a general liability as that to pay the community charge or from a requirement on individuals to register. Practical considerations of the likely workload would also argue against this course. A civil penalty on those who had sought to avoid their liability for the new tax would be consistent with established policy in the income tax and VAT fields. Given that there will, in any case, have to be a mechanism with appeals for establishing the date on which an individual's residence began (for the purpose of collecting back payments of community charge) it seems possible that workable arrangements for a flat rate penalty system could be devised, though it may be impossible to dispense altogether with the possibility of appeals.

## CONCLUSIONS

26. A satisfactory administration of the community charge calls for a register which is kept continuously up-to-date. Local authorities should therefore be able to conduct regular canvasses supplemented by other forms of enquiry as necessary.

27. It seems more practical to draw up and maintain the register on the basis of canvassing heads of household rather than individuals.

28. The basic duties on heads of household to respond to canvasses or other enquiries are clear cut and well precedented: there is a choice of criminal or civil sanctions on the basis discussed in paragraphs 13 to 15 above.

29. A continuing duty on heads of household or individuals to provide information between canvasses would improve the coverage of the register. The questions for Ministers are whether such a requirement could reasonably be imposed on heads of households or on individuals though a duty to ensure registration and notify changes, backed by what sanctions.

30. Sanctions are possible on individuals caught avoiding the community charge: the questions for Ministers are whether they wish to impose these and whether they should be criminal or civil.

Scottish Office  
June 1986

Precedents in other legislative codes

ANNEX A

It may be helpful, in considering the nature of the offences and penalties to be provided for in relation to community charge registration, to look at what is provided for in other legislative codes relating to registration and the payment of tax. The following are the main precedents identified.

- a. On electoral registration, regulation 75(1) of the Representation of the People (Scotland) Regulations 1983 provides for a fine not exceeding £100 to be levied on summary conviction on any person who fails to provide information requested by an electoral registration officer, or who provides him with false information. Regulation 28 of the Representation of the People (Scotland) Regulations 1986, approved by Parliament and shortly to come into operation, increases this maximum fine to £400. Similar provisions are available in England.
- b. On valuation for rating, section 7 of the Lands Valuation (Scotland) Act 1854 provides that any person who refuses to provide information, or who provides false information, to an assessor who requires the information to value the lands or heritages of which the person is proprietor, tenant or occupier, shall be liable on summary conviction to a fine not exceeding level 2 (£100) in relation to a refusal to provide information, or not exceeding level 3 (£400) in relation to the provision of false information. In England, s.82 of the General Rate Act 1967 provides for a maximum fine at level 2 (£100) for failure without reasonable excuse to comply with a similar request from the valuation officer, and for a maximum of 3 months' imprisonment, or a maximum fine at level 3, or both, for the provision of false information.
- c. It is an offence, carrying a maximum penalty at level 3, to fail to notify the Driver and Vehicle Licensing Centre of a change of name or address of a person holding a driving licence.
- d. On television licensing it is an offence under s.1 of the Wireless Telegraphy Act 1949, carrying a maximum fine at level 3, to operate a television set without a current licence. Section 2 of, and the Schedule to, the Wireless Telegraphy Act 1967 require a television dealer to notify the television licensing authorities of the name and address of the buyer or hirer of a television set and to provide various other details of the transaction. Non-compliance with this requirement, or the provision of false information, is an offence under the Wireless Telegraphy Act 1949, carrying a maximum fine at level 3.
- e. In the customs and excise field, a civil penalty amounting to a set multiple of the duty evaded may be imposed by the authorities on persons found evading excise duty. This is in addition to the criminal penalties which are available.
- f. Provision of false information on an income tax return is an offence which may be dealt with by the imposition of a civil money penalty or, in a very few more serious cases, result in a criminal prosecution mounted under the general law. Interest may be charged on tax which is paid late, whether due to providing false information or a delay in providing information.
- g. On vehicle excise duty, the Vehicle Excise Act 1971 provides for a maximum fine at level 3, or five times the annual rate of duty, whichever is the higher. As an alternative to prosecution, however, the offender may by agreement pay the Department of Transport a mitigated penalty of

£10 plus 1.5 times the duty outstanding.

- h. On value added tax registration s.15 of the Finance Act 1985, implementing recommendations of the Committee on Enforcement Powers of the Revenue Departments (the Keith Committee), provides, in relation to late registration or non-registration for VAT purposes, for a civil penalty chargeable by the Commissioners of Inland Revenue equal to 30% of the tax lost, or £50 if that is greater or the circumstances are such that there is no relevant tax. This is subject to a "reasonable excuse" defence to the Commissioners or a value added tax tribunal on appeal. The penalty is not chargeable if a person has been convicted of an offence in relation to VAT payment, or has been charged a civil penalty for evasion to VAT under s.13 of the Finance Act 1985. In this case the penalty is equal to the amount of tax evaded, or sought to be evaded: if however the offender co-operates with the Commissioners, they (or a VAT Tribunal on appeal) may reduce the penalty, depending on the extent of the co-operation involved, to not less than half the amount which would otherwise have been chargeable.

2. It is clear that both civil and criminal penalties are preceded for offences which have some similarity with the avoidance of community charge registration and payment. In general, however, the more recently-enacted examples appear to follow the Keith Committee's principle that routine regulatory mechanisms should not, in the tax field be fenced with criminal sanctions. In some cases of course the criminal penalties may in effect be a dead letter, since prosecutions are never brought. In the civil penalty field, there are precedents both for fixed penalties and of penalties variable at the discretion of the regulatory authority, with provision for appeal to an independent tribunal: the VAT provisions contain both types.

## SANCTIONS: USE OF A FIXED PENALTY SYSTEM

If criminal sanctions are made available, a system of fixed penalties, similar to the systems now available for minor road traffic offences under the Transport Act 1982, would allow a high proportion of infringements to be dealt with without excessive demands being made on court time. The precise mechanism to be used is still under discussion. On the precedent of the 1982 Act's provisions for conditional offers by the procurator fiscal in Scotland it would probably involve the local authority reporting to the procurator fiscal the circumstances of cases where they were clear that a head of household had failed to provide relevant information, or had provided false information. The procurator fiscal will have several courses of action open to him in these cases. He may decide to mark the case 'no proceedings' (and where the evidence is insufficient he will be bound to do so), with or without the issue of a warning, or to make a conditional offer of fixed penalty or, if the circumstances warrant it, initiate criminal proceedings. Where a conditional offer of fixed penalty is made, the head of household could then choose whether to pay the fixed penalty or to decline to accept it in the knowledge that he would then be prosecuted, if he considered that he was not guilty or his offence did not warrant a sanction as high as the fixed penalty.

The level of fixed penalty would require further careful consideration. It would have to be high enough to provide a deterrent, but not so high as to encourage offenders to opt for prosecution in the hope that a lower fine would be imposed. An amount in the range £25-50 would be most likely to meet these criteria.

For these reasons it is recommended that the proposed system of fixed penalties be introduced for certain categories of offences, subject to a contingency fund provision allowing a system of value to be prescribed in regulations.

#### Background

2. The present arrangements for rating relief, and for the assessment in relation to rate payers in behalf of people living in the accommodation, were summarised in paragraphs 10-16 of the paper by officials attached to RLF/1981. Briefly, rate relief whether temporary or permanent, was available in respect of premises occupied for charity or for single purpose, the residence of a Minister of Religion, Warehouse, several types of accommodation occupied by the disabled, and (an important category in the context of Scotland) child abuse. In addition, an exemption is available in cases paid by employers for employees required to live in such accommodation. The two categories of exemption are strictly speaking value separate, which means that relief is dealt with through the valuation and rating system and the exemption is the Charitable or the Warehouse through the tax system. The latter are provided by those who benefit from them as advantages which may be set up the more from domestic rating to the community charge. It is therefore appropriate to consider them together.

#### Proposed System

3. During the consultation period on the Green Paper, a number of views were expressed on these issues. Some have been noted. The present system of rating relief was argued to be a general issue that the system was at present and it was suggested that the system should be simplified.