

1. MR POTTER ^{BHP 24/4}
2. ECONOMIC SECRETARY

FROM: G F DICKSON

Date: 20 November 1987

cc: PS/Chancellor - 12/2
Mr Anson
Mr Kemp
Mr Hawtin
Miss Peirson
Mr Fellgett
Mr Gibson
Mr Tyrie

COMMUNITY CHARGE: MARRIED AND UNMARRIED COUPLES

I understand from Mr Tyrie that you would like to know about any difference in the treatment of married and unmarried couples for assessment and payment of the Community Charge (CC).

2. It is the intention of the reform of local government finance that everyone should contribute to the Community Charge. Collection of the CC will be more difficult than rates; and in dealing with individuals, rather than property, problems and anomalies are inevitable. For example, spouses with no income will be unable to pay and will look to their partner to pay the charge. Therefore, joint and several liability for the CC is a necessary safeguard lest the wage earner does not pay both charges. This raises the question of differences in treatment for married and unmarried couples.

3. Discussions between Ministers and between officials earlier this year showed a clear intention that unmarried couples should not receive any advantage over married couples. Two potential ways in which they could have benefited were through Community Charge rebates and lack of joint liability. Both are covered by existing or forthcoming legislation.

Eligibility for CC rebates

4. At present means tested Social Security benefits, such as Supplementary Benefit, treat married and unmarried couples alike; their joint means are assessed for benefit. Housing benefit,

which will be used to make rate rebate payments from next year and Community Charge rebates from 1989-90 in Scotland and 1990-91 in England and Wales, will contain the same provision. Couples who are living together as man and wife will be jointly assessed for Community Charge rebates. There is therefore no advantage, in legislation, of being unmarried. Unmarried couples who obtain a CC rebate for one partner will be in breach of DHSS regulations and open to legal redress. The situation is in common with all Social Security benefits and not particular to the Community Charge. A number of people may end up dishonestly claiming CC rebate with their other benefits.

Liability for the Community Charge

5. It was agreed earlier this year and will be drafted in the Rates Reform Bill that both married and unmarried couples would be jointly and severally liable for the Community Charge. The liability would extend only from the date on which the couple began to live together or were married. Married couples who were separated would not be jointly liable.

6. Married couples will be shown as married on the hidden part of the register; nothing will be shown for unmarried couples. Joint liability for unmarried couples will only be determined at the time a joint summons is issued. If either party wishes to contest the summons, it will be heard in the magistrates court. The burden of proof will be on the couple to prove they did not live as man and wife. The court will probably take into account any decision on joint assessment for Social Security benefits in making their decision. Since local authorities may have no right of access to Social Security information, it may not always be easy to put forward their case.

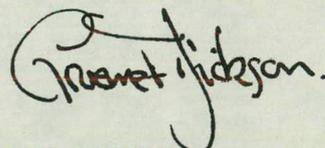
7. The advantage gained by couples through failure to establish joint liability may be significant. The court will still be able to fine the defaulting partner and to make an attachment of their earnings or to issue a distress warrant authorising seizure of their goods. But this would only apply to the defaulter; the other partner could claim ownership of all of the goods thereby frustrating the order. The court can then allow the debt to lie until it can be recovered.

8. If a local authority wish to establish that the joint liability of a married couple extends to before the date of their marriage, they will have the burden of proving that the couple lived together before being married.

9. Both the Social Security legislation and the Rate Reform Bill only address the position of couples living together as husband and wife. Those living together in different circumstances may well benefit compared to the married couple. Those eligible for Community Charge rebates could range from granny living with her family to a partner in a homosexual relationship.

Conclusion

10. Although the present situation is not perfect, it was reached after months of discussion between Ministers and between officials. It was the clear intention of Ministers that under the Community Charge proposals unmarried couples will not profit compared to married couples. Although it is difficult to provide a comprehensive cover for this intention, as it is in most legislation, it is unlikely that many will benefit. Those who obtain a CC rebate will be breaking the law as they would be with any DHSS benefit; and those who escape joint liability will enjoy the benefit of frustrating the courts powers. Couples benefiting in these circumstances are likely to be a small group compared to those dishonestly evading the CC in other ways.



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