



From the Minister of State for Industry

NBP m AT 22/11
DEPARTMENT OF TRADE AND INDUSTRY
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Norman Lamont MP

CONFIDENTIAL

The Rt Hon Peter Rees QC MP
Chief Secretary
HM Treasury
Treasury Chambers
Whitehall
LONDON SW1

22 November 1984

Dear Chief Secretary

REGIONAL DEVELOPMENT GRANTS - APPLICATION OF GRANT PER JOB LIMIT

Our policy on the new RDG Scheme has always been that projects of large firms would get grant only if, and to the extent that, new jobs are created. I have sought and obtained the advice of the Solicitor General on the proposed Order (a copy of his letter is enclosed) and the advice is that it would not be lawful to have a prescribed limit of nil for large firm projects where no jobs are created, as this would frustrate what the Act appears to intend - namely that at least some grant should be payable in respect of capital expenditure under an approved project.

The implication is that, if we approve a large firm project involving capital expenditure, some grant should be payable even if the project creates no jobs. And if we do not specify in the Order some limit on grant in respect of capital expenditure, grant on an approved project creating no new jobs will be at the full rate of 15% of that capital expenditure. This is clearly unacceptable. The situation is extremely unfortunate to say the least. However, I think I must accept the legal advice.

However it is not quite as bad as it appears. We will still in general be able to refuse to approve RDG projects of large firms where no jobs are expected to be created, because the Secretary of State can say that the main criterion by which he will exercise his discretion to approve such projects is whether or not they create jobs - though of course he must always entertain applications. The general policy for large firms therefore remains no job, no grant.

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There is a problem which relates to projects which are approved in advance on the basis that they will create new jobs, but in fact fail to do so. In this case the Act envisages that some grant is payable, and the Solicitor General's advice is that the minimum limit which it is safe to specify is £500. I therefore propose to include this figure in the Order as the limit on capital grant in the case of large firms which create no jobs. I would of course explain to the House that our general policy in the case of large firms remains no jobs, no grant. The exact wording will be cleared with the Solicitor General.

This proposal will involve some increase in expenditure, but this is likely to be less than £1m a year.

I hope you and your colleagues will be able to agree to this. In order to keep to our timetable, the above figure of £500 must be agreed by 3.00pm tomorrow. I should therefore be most grateful if you would let me know by then whether you agree.

I am copying this letter to the other members of E(A) and to the Solicitor General.

Yours Sincerely
Norman Lamont

NORMAN LAMONT

(Approved by the Minister and signed in his absence)

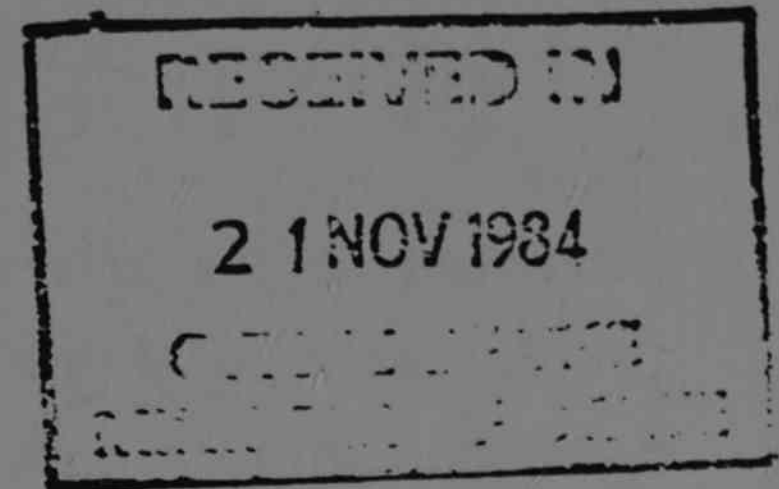
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ROYAL COURTS OF JUSTICE
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Norman Lamont Esq. MP
Minister of State
Department of Trade & Industry
1 Victoria Street
London SW1H 0ET

21 November 1984

Je m'adresse à Norman.

NEW SCHEME OF REGIONAL DEVELOPMENT GRANTS

I saw officials from your Department yesterday to discuss the vires of providing for a nil limit ⁱⁿ Article 5(1)(a)(ii) of the Regional Development Grant (Prescribed Percentage, Amount and Limit) Order. Mr Mason of Parliamentary Counsel was also present and assisted in clarifying for me the structure of the Act.

I regret that I was not persuaded by the arguments that a nil limit could lawfully be prescribed. These matters are of course very much ones of impression. It seems to me, however, that a court would be likely to hold that once the Secretary of State has exercised his discretion and approved a project for grant in accordance with Section 3 of the substituted Part II of the 1982 Act, Section 4 creates a mandatory obligation to pay a grant. It would find that it would be contrary to the intention of Parliament as expressed in the Act for an undertaking in whose favour the Secretary of State has approved a project to receive no grant at all by virtue of the limit prescribed for the purposes of Section 4(1)(b). It would therefore conclude that the Secretary of State could not by Order take away in its entirety what had been conferred by Section 4. It is therefore unsafe, in my opinion, to provide for a nil limit in the Order in the case of large undertakings engaged in projects producing no jobs.

I examined with officials other ways of achieving your policy objectives - not to pay any grant to large undertakings creating no jobs. I was initially



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attracted to the idea that there would be no limit prescribed and that the Secretary of State would adopt a general policy of exercising his discretion in such cases by not approving the projects. I am informed, however, that the option is not open for practical and technical reasons. The only other option put to me was that a low limit should be prescribed for these cases. I agreed that this option would be lawful. However, such a limit should not be derisory. £500, in my view, would be defensible.

Jones,

Atkin

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NAPM

AT 26/4

CCNO

Treasury Chambers, Parliament Street, SW1P 3AG

Norman Lamont Esq MP
Minister of State for Industry
Department of Trade and Industry
1 - 19 Victoria Street
London
SW1H 0ET

23 November 1984

Dear Minister

REGIONAL DEVELOPMENT GRANTS
APPLICATION OF GRANT PER JOB LIMIT

attached

Thank you for your letter of 22 November.

As my office has indicated to yours by telephone, I must reluctantly accept this proposal. I do so on the basis that you can absorb the additional cost, estimated at £1 million, within the overall net expenditure totals which we previously agreed.

Yours sincerely

Peter Rees
PETER REES

[Approved by the Chief Secretary]

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