



NEW ST. ANDREWS HOUSE  
ST. JAMES CENTRE  
EDINBURGH EH1 3SX

CC/NO

(1)

CONFIDENTIAL

Prime Minister

Content with

The Rt Hon Patrick Jenkin MP  
Secretary of State for the Environment  
2 Marsham Street  
LONDON  
SW1P 3EB

Yes, these proposals, subject to colleagues?

15 July 1983

Dear Patrick,

Mes 18/7

1. RATE LIMITATION LEGISLATION
2. LOCAL GOVERNMENT VALUATION AND RATING (SCOTLAND) BILL

Rate limitation

1. In this letter I am responding first to your minute to the Prime Minister of 29 June; and I then go on to the proposals for the Scottish legislation which will provide the counterpart to yours.

2. So far as concerns the proposals set out in your minute and the detailed paper attached to it, I am content for my interests with what you have in mind for selective action, though it will differ markedly in its administration, but not its effects, from the Scottish system. I see no difficulty in keeping the two systems distinct, based as they are on different traditions and statutes. The criteria which I employ for selective action are not approved in an Order, although I list them in the Reports which are laid before Parliament for approval by the Commons; and I agree with your exclusion of the idea of an annual Order from your White Paper.

3. On Parliamentary procedure I should find it helpful to adapt to composite Orders; and I would myself want to have composite Reports for Scottish local authorities planning excessive and unreasonable expenditure, given the amount of time that is required in the Commons for separate Reports to be debated. If composite Reports are not adopted, at least there is merit in debating the Reports in one day, even if they have to be voted on separately.

4. As regards the general scheme of rate-capping, I agree with what you say about different considerations applying in England, Wales and Scotland for the timing of the introduction of this reserve power. We should keep open at this stage when, if it becomes necessary, rate-capping is introduced in each country; and I absolutely agree with the need to allow some headroom in the limits if they are to be attainable without risk of legal challenge.

5. On default and obstruction I incline to the view that the inclusion of a power to take over the running of a particular local authority in the 1983-84 legislation would be regarded as provocative or defeatist and my preference would have been

to wait and see how matters develop. At all events nothing about such powers should, in my view, appear in the White Papers; and at present I have not included anything about such powers in the preparations for Scottish legislation.

#### Scottish legislation

6. When Cabinet discussed Local Government Organisation and Finance on 10 May (CC(83) Seventeenth meeting item 3) I was invited to agree with the Ministers concerned changes in the Scottish Rating System. I am now writing to seek your agreement, and that of colleagues to whom I am copying this letter, to the substance of the measures which I propose to include in the Bill which I intend to bring forward.

7. I propose that my Bill should include the provisions necessary to implement for Scotland those reforms (if not already in force here) which you are introducing and which should apply uniformly throughout Great Britain. That includes the need for local authorities to consult commercial interests prior to rate fixing. The Bill should also be the vehicle for purely Scottish provisions which do not exactly parallel yours but are intended to improve the valuation and rating system north of the Border in order to achieve more consistent results in some areas. I set out my proposals below and invite early agreement so that the Lord Advocate's Department may receive instructions for the preparation of legislation.

#### Rate and Expenditure controls

8. I already have powers to take selective action against individual local authorities to reduce either their rate or their grant or both on the grounds that their planned expenditure is excessive and unreasonable. These powers do not work in the same way as the powers you propose to take but they suit Scottish circumstances and I do not plan to make any fundamental changes. I do propose a power which will allow me to present a combined report to Parliament covering all the authorities which are the subject of selective action in a particular year. At present I have to lay individual reports before Parliament and I hope that a combined report will streamline the procedure. I commented above on your consideration of making public in some way the criteria on which you will base your selective action. I may be under pressure to do the same but I do not think legislation will be needed.

9. I propose a change to my power to withhold rate support grant from authorities generally to make it operate more fairly. At present any general abatement of rate support grant affects authorities according to the distribution of their share of rate support grant (except for very limited protection arrangements covering only those authorities within or close to guidelines). The change I propose will make it possible for me to relate directly loss of grant following a general abatement to an authority's overspending measured against guidelines.

10. Like you I also propose to introduce a requirement on local authorities to consult commercial and industrial ratepayers before setting their rate.

11. I am also proposing to take powers to limit the rate fund contribution to the housing revenue account.

12. I propose to take power to set a general limit on rate increases and will endeavour to make the form of my powers as similar as I can to those south of the

Border but since our timetable and my selective powers are different I do not expect to parallel your arrangements. I also propose that the use of general limiting power should be introduced by Affirmative Order in the House of Commons, not necessarily at the same time as that would apply in England or Wales.

#### Valuation Problems

13. Valuation in Scotland is undertaken not by civil servants but by assessors, employed by local authorities and responsible to the Courts for their valuations. There is no power to co-ordinate assessment by Scottish assessors and by valuation officers in England and Wales; and in practice there seems to be considerable divergence in their professional practices. The examples brought to my attention suggest that Scottish assessors, with support from the Courts, are rule-bound and indifferent to the ratepayer's ability to pay. In any comparison of values for 1978 (Scotland) and for 1973 (England) Scottish values come off worse. I have seen figures of anomalies for certain types of property and have no reason to doubt that the situation is a serious one. Rates-levels, while important, are only partly to blame.

#### Valuation Appeal Procedures

14. At present the law in Scotland is much more restrictive than that in England and Wales as to the basis on which rateable values may be changed on appeal between revaluations. This has given rise to numerous problems for Scottish ratepayers who find themselves, in certain circumstances, seriously disadvantaged compared with those south of the Border. I propose to bring our appeal arrangements more in line with those in your General Rate Act 1967 by changing the definition of a "material change of circumstances" which is the test to be satisfied in order that rateable values may be changed between revaluations: in future any decision of a court which has altered the value of lands and heritages on which an appellant wishes to found by way of comparison will be admissible and the existing exclusion of grounds relating to changes in rents and changes in the general level of valuations should be removed. I would retain the existing provisions for valuation as at the time of the roll (section 15 of the Local Government (Scotland) Act 1966) which are closely equivalent to your provisions. That would enable ratepayers - domestic and commercial alike - to raise appeals based on reductions in rents generally or a general drop in the level of valuations or values of comparables. This change would bring about a situation much closer to that operating in England and Wales at present.

15. I propose to introduce an explicit right for a new occupier of any lands and heritages to lodge an appeal on taking up occupation on the same basis as if he had been the occupier at the time of the last revaluation. This should remove the inequitable position whereby a new occupier finds he is time-barred from lodging an appeal when the previous occupier (perhaps because the premises were vacant or because they knew they were about to leave) did not lodge an appeal. I propose that these provisions should be effective from the date of Royal Assent and, as with other valuation appeals, should allow for values to be changed as from the beginning of the financial year then current. That would allow appeals to be lodged in summer 1984 which might lead to changes in value with effect from 1 April 1984.

16. After the last revaluation in Scotland in 1978 considerable problems arose from the failure of the appeal machinery to resolve a large number of cases within a reasonable time. The Lord Advocate and I have therefore been looking for ways to streamline the appeal machinery and I propose that improvements in

the structure should be included in the Bill. The details have still to be finalised but I hope my colleagues will agree that, subject to any clearance with Treasury on costs, this proposal is acceptable in principle and of purely Scottish relevance. At present the alternatives we are considering are the introducing of the Lands Tribunal as an appellate body of first instance to consider particularly complex cases; or the appointment of a Court of Session Judge as president of a local valuation appeal committee which is to hear a particularly weighty or difficult case. I will try to slim down (and so speed up) the present secondary appeal machinery in the Lands Valuation Appeal Court. The Lord Advocate is still to discuss the possibilities with the Lord President of the Court of Session to determine which route is likely to be the most practicable and most likely to achieve the desired results of uniform justice accompanied by speed but once these consultations are completed I shall be in a position to decide which option to choose and clear it with Treasury.

#### Specific Valuation Anomalies

17. To relieve the occupiers of certain classes of lands and heritages who are seriously disadvantaged by differences in valuation law and practice north and south of the Border, I propose to introduce specific measures to remove these anomalies.

18. In Scotland commercial reed beds are subject to valuation and hence to rates. In England and Wales they have been held to be eligible for agricultural derating. Since agricultural derating provisions were always intended to operate similarly north and south of the Border, I propose to remove such reed beds from valuation and thus save the commercial reed beds in the mouth of the River Tay from extinction.

19. The Rating (Caravan Sites) Act 1976 was introduced on a Great Britain basis. Considerable problems have arisen through the different practices of Scottish assessors and the Inland Revenue Valuation Office in applying the law. The Valuation Office has allowed Valuers in England and Wales to apply a discount of up to 40% to the aggregate value of individual caravans and this has resulted in static leisure caravans carrying significantly higher rate burdens in Scotland. Since Scottish methods have been upheld by the Courts, legislation is required to bring about an equitable position as between Scotland and England in the operation of the 1976 Act. I propose to take power to prescribe by order, subject to Parliamentary approval, a percentage derating to apply to the domestic element (ie the caravan values only) of these caravan sites with the intention that the percentage applied should be that which is in general used by the Valuation Office in aggregating caravan values. This should restore equality of treatment north and south of the Border. I propose also to introduce for Scotland the right of the individual caravanner to seek a separate entry in the valuation roll, along with the associated appeal rights. This would put the individual caravan owner on a par with those in England and Wales.

20. The final area in which we face serious problems in Scotland is that of the stadia for certain spectator sports. Race-courses and football grounds in particular carry comparatively high valuations. Some are now on the point of closure in large part because their current takings are not sufficient to meet their rates bills. While their position should improve at the next revaluation this cannot be guaranteed. I therefore propose to take measures to enable the burdens on this specific group of lands and heritages to be more closely aligned north and south of the Border, by introducing partial derating for specified classes of lands and heritages consisting of stadia for spectator sports. As with industrial derating, any order would run until the next revaluation either in Scotland or England and

Wales and on each such occasion the relative positions should be reviewed.

21. I appreciate that derating may be an awkward precedent for DOE, but the circumstances surrounding the need for it are unlikely to occur in England, and so offer no precedent as does the remedy. The alternative, to do nothing to help race-courses and football grounds crippled by a method of valuation that disregards ability to pay, is unthinkable and I invite your support for a long term system of improvement for the removal of valuation anomalies.

22. I also propose that the forthcoming Bill should be the vehicle for a number of very minor technical amendments to valuation legislation which will not have implications across the Border and in most cases will be of the nature of legal pre consolidation tidying-up amendments rather than substantive measures.

23. Once colleagues have agreed to the proposals I propose to publish a White Paper - at the same time or shortly after your equivalent White Paper - setting out my proposals in advance of their introduction. It would be helpful if this could be done early in the summer recess.

24. I am copying this letter to the Prime Minister, the Lord President, the Secretary of State for the Environment, the Secretary of State for Trade and Industry, the Secretary of State for Wales, the Chief Secretary to the Treasury, the Lord Advocate and Sir Robert Armstrong.

Yours ever,  
Cunze

LOCAL GOVT: Rating Reevaluation  
Pr 2



19 JUN 81